TRANSPORTATION DEPARTMENT[761]

Rules transferred from agency number [820] to [761] to conform with the reorganization numbering scheme in general IAC Supp. 6/3/87.

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GENERAL

CHAPTER 1
ORGANIZATION OF THE DEPARTMENT OF TRANSPORTATION

[Prior to 6/3/87, Transportation Department[820]—(01,A)Ch1]

761—1.1(307) Definitions.

"Commission" means the state transportation commission.

"Department" means the Iowa department of transportation.

"Director" means the director of transportation or the director's designee.

761—1.2(17A) Mission statement. The mission of the department is to promote a transportation system to satisfy user needs and maximize economic and social benefits for Iowa citizens, to encourage and support programs to provide commodity movement and mobility for all citizens, and to promote financing of the transportation system through user and nonuser sources in an equitable manner.

761—1.3(17A) Location and business hours. The main office of the department is located at 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1101. The department's business hours are 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays.

761—1.4(17A) Information and forms. Information, applications and forms may be obtained from the department or from the division or office which is responsible for the area of concern. Specific instructions may also be given in administrative rules.

761—1.5(307) History. The Sixty-fifth General Assembly created the department as of July 1, 1974, and transferred to it the duties and responsibilities formerly administered by the state highway commission; the Iowa aeronautics commission; the Iowa reciprocity board; the department of public safety relating to motor vehicle registration, motor vehicle dealer licensing, and operator and chauffeur licensing; and the Iowa state commerce commission relating to the regulation of railroads and motor carrier transportation. Certain duties and responsibilities relating to river transportation and public transit were also assigned to the department.

761—1.6(17A,307,307A) Commission. A seven-member transportation commission approves the departmental budget, develops a comprehensive transportation policy and plan for the state, identifies transportation needs, and develops programs to meet these needs. Other commission duties and responsibilities are broadly stated in Iowa Code chapters 307 and 307A. Inquiries and requests may be submitted to the commission at the address given in rule 1.3(17A).

761—1.7(17A,307) Director of transportation. The director of transportation is based in Ames and serves as the chief administrative officer of the department. The director is responsible for the management of the department and for statutory duties including but not limited to those listed in Iowa Code section 307.12. The following units report to the director:

1.7(1) The deputy director.

1.7(2) The divisions described in rule 1.8(17A,307).

1.7(3) The bureau of policy and information, which identifies, analyzes and develops options for transportation policy issues, coordinates the department's legislative program, and communicates transportation programs and information to the department and the public.

1.7(4) The bureau of transportation safety, which investigates methods of improving highway safety and administers risk management programs for the department.

1.7(5) The bureau of management, which provides management support, program evaluation and development, and administration of employee safety and environmental safety concerns.

[**ARC 7909B**, IAB 7/1/09, effective 7/1/09]

761—1.8(17A,307) Divisions. The department is made up of the following divisions, which report to the director:

1.8(1) *Administration division.* The administration division is based in Ames, telephone (515)239-1340, and provides general administrative support for the department in these areas: Management of facilities, equipment, and supplies; data processing and internal information services; toll bridge operations; auditing; and all phases of fiscal management.

1.8(2) *Air and transit division.* The address for the air and transit division is: Air and Transit Division, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)233-7870.

a. The office of aeronautics administers the Iowa Code provisions which relate to air transportation, including: airport development, registration and zoning; aircraft registration; state aircraft pool; safety promotion; public education and air service analysis. Telephone (515)239-1691.

b. The office of public transportation provides advice and assistance regarding financial, technical and management matters to urban and regional transit systems, compiles and analyzes data from transit systems, certifies providers of transit services for the purpose of coordinating these services, and administers state and federal funds for public transit assistance. Telephone (515)233-7870.

1.8(3) *General counsel division.* The department's general counsel is based in Ames; telephone (515)239-1521. It is made up of a special assistant attorney general and assistant attorneys general. It provides legal services for the department.

1.8(4) *Highway division.* The highway division's headquarters are in Ames; telephone (515)239-1124. The division is responsible for design, right-of-way acquisition, construction and maintenance of the interstate and primary highway systems, state park roads, and institutional roads; administers Iowa Code chapters 306 to 306C, 308, and 309 to 320; and assists counties and cities with their road and street systems.

Responsibilities for highway operations are divided among six districts. Each district has maintenance garages, maintenance offices, and construction offices which are listed in local telephone directories. The six district offices are:

District 1 1020 S. Fourth St., Ames, Iowa 50010	(515)239-1635
District 2 1420 Fourth St., S.E., Mason City, Iowa 50401-4438	(641)423-7584
District 3 2800 Gordon Dr., P.O. Box 987, Sioux City, Iowa 51102-0987	(712)276-1451
District 4 2210 E. Seventh Street, Atlantic, Iowa 50022	(712)243-3355
District 5 307 W. Briggs Ave., P.O. Box 587, Fairfield, Iowa 52556-0587	(641)472-4171
District 6 430 16th Ave. S.W., Cedar Rapids, Iowa 52404	(319)364-0235

1.8(5) *Motor vehicle division.* The motor vehicle information center telephone number is 1-800-532-1121. The division's headquarters are located at 6310 SE Convenience Blvd., Ankeny, Iowa; telephone (515)244-8725. The mailing address is P.O. Box 9204, Des Moines, Iowa 50306-9204.

The motor vehicle division is responsible for administering and enforcing Iowa Code provisions relating to:

a. The licensing and financial responsibility of drivers, including motor vehicle accident records and driver improvement.

b. The titling of motor vehicles and mobile homes, the titling and licensing of official vehicles, and the registration of vehicles. The division also issues handicapped identification devices.

c. The licensing of motor vehicle, mobile home and travel trailer dealers, manufacturers and distributors, and the licensing of motor vehicle lessors, salvagers and recyclers. The division also receives applications to discontinue or terminate motor vehicle franchises or to establish additional motor vehicle dealerships of the same line-make in the community.

d. The proportional registration of commercial vehicles operated in interstate commerce.

e. The size and weight of vehicles, including permit provisions for the movement of vehicles and loads of excess size and weight.

f. The payment of fuel taxes for interstate motor vehicle operations.

g. Carriers engaged in the business of transporting passengers or property for compensation, excluding railroads. This responsibility includes the issuance of operating authority for intrastate carriers and the registration of interstate commerce commission authority for interstate carriers.

h. Odometers. The responsibility includes the enforcement of federal odometer laws.

i. Vehicle equipment and safety.

1.8(6) *Planning and research division.* The planning and research division is based in Ames; telephone (515)239-1661. The division compiles statistical transportation data; prepares assessments of economic and fiscal impacts of legislation, policies and programs upon the state; coordinates state transportation planning, administers general transportation research projects; annually develops a program of transportation projects; prepares highway corridor studies; and conducts economic, social and environmental assessments of projects.

1.8(7) *Rail and water division.* The rail and water division is based in Ames; telephone (515)239-1140. The division administers state and federal funds for railroad track and grade crossing improvements, reviews and develops policy position recommendations on rail abandonments and mergers, performs track safety inspections, reviews and recommends financing projects to the transportation commission, promotes river transportation and coordinates river programs with other transportation modes, and administers other railroad and river related Iowa Code responsibilities assigned to the department.

[**ARC 7909B**, IAB 7/1/09, effective 7/1/09; Editorial change: IAC Supplement 2/23/11]

These rules are intended to implement Iowa Code section 17A.3 and chapters 307 and 307A.

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[Editorial change: IAC Supplement 2/23/11]

CHAPTER 2
PROVISIONS APPLICABLE TO ALL RULES

761—2.1(307) Definitions. The following definitions apply to all rules of the Iowa department of transportation unless otherwise stated:

"Commission" means the transportation commission of the Iowa department of transportation.

"Department" means the Iowa department of transportation.

"Director" or *"director of transportation"* means the director of the Iowa department of transportation or the director's designee.

This rule is intended to implement Iowa Code chapter 307.

[Filed 5/11/87, Notice 3/11/87—published 6/3/87, effective 7/8/87]

CHAPTER 3
Reserved

CHAPTER 4
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

761—4.1(22,304) General provisions.

4.1(1) *Scope of chapter.*

a. This chapter describes the provisions governing public access to records that are owned by or in the physical possession of the department. However, access to personnel and payroll records may also be subject to the rules of the department of administrative services.

b. This chapter does not affect the policy of the department to respond, without charge, to routine oral or written inquiries that do not involve the furnishing of records.

c. This chapter does not make available records compiled by the department in reasonable anticipation of court litigation or formal administrative proceedings. The availability of these records to the public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the department.

4.1(2) *Custodian.* The custodian of a record is the person who heads the departmental office responsible for that record. The department's Records Management Manual identifies the offices that are responsible for particular records.

a. As used in this chapter, the term "custodian" includes the custodian's superiors and the custodian's designees.

b. The custodian's designees may include but are not limited to the records center and the department's general counsel.

c. The custodian of a record is authorized to provide or deny access to that record in accordance with the provisions of this chapter. However, the custodian's authority to provide access to a confidential record is limited to the persons listed in subrule 4.4(2).

4.1(3) *Address of records center.* The address of the department's records center is: Records Center, Office of Document Services, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

4.1(4) *Records Management Manual.*

a. The department's Records Management Manual contains the records management information required by Iowa Code chapter 304.

b. Chapter III of the manual contains the descriptive information on records that is required by Iowa Code section 22.11. Chapter III, as revised through 2001, is made a part of these rules.

c. The manual is available for examination and copying at the department's records center and at various other departmental offices located throughout the state. A copy of the manual may be obtained at cost from the records center.

4.1(5) *Availability of open records.* Open records of the department are available to the public for examination and copying unless otherwise provided by rule or statute.

4.1(6) *Data processing matching.* All departmental data processing systems that have common data elements can potentially match, collate and compare personally identifiable information.

4.1(7) *Warranty.* No warranty of the accuracy or completeness of a record is made.

4.1(8) *Existing records.* A request for access shall apply only to records that exist at the times the request is made and access is provided. The department is not required to create, compile or procure a record solely for the purpose of making it available. EXCEPTIONS: See Iowa Code section 22.3A and subrule 4.4(5).

4.1(9) *Definitions.* As used in this chapter:

"Confidential record" means a record that is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the department is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7 or another provision of law, but that may be disclosed upon order of the court, the custodian of the record, or by another person duly authorized

to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

"Open record" means a record other than a confidential record.

"Personally identifiable information" means information about an individual in a record that identifies the individual and is retrievable by a unique personal identifier associated with the individual.

"Public" means those persons who are not officials, employees or agents of the department.

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

"Requester" means a member of the public.

This rule is intended to implement Iowa Code chapter 22 and section 304.17.

[**ARC 7909B**, IAB 7/1/09, effective 7/1/09]

761—4.2(22) Statement of policy and purpose. It is the policy of the department that free and open examination of public records is generally in the public interest. The purpose of these rules is to facilitate broad public access to open records and sound determinations with respect to the handling of confidential records.

This rule is intended to implement Iowa Code chapter 22.

761—4.3(22) Access to records.

4.3(1) *Submission of request for access.*

a. A request for access to a record shall be submitted to the custodian of the record. If the requester does not know the identity of the custodian, the request may be submitted to the records center at the address in subrule 4.1(3). The records center will forward the request to the custodian.

b. Notwithstanding paragraph *"a"* of this subrule, any request that may be related to a potential or an actual tort claim or other litigation shall be submitted to the following address: General Counsel, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. If the custodian receives a request of this nature, the custodian shall forward the request to the department's general counsel.

c. If a request for access is misdirected, department personnel will forward the request to the custodian.

4.3(2) *Office hours.* Open records are available during customary office hours, which are 8 a.m. to 4:30 p.m., excluding Saturdays, Sundays, and legal holidays.

4.3(3) *Form of request.* A request for access to a record shall reasonably describe the record requested. A request for access to an open record may be made orally or in writing. A requester shall not be required to give reasons for requesting an open record.

4.3(4) *Response to request.* The custodian shall provide access to an open record promptly upon request. However, if the size or nature of the request makes prompt access infeasible, the custodian shall fill the request as soon as feasible and give the requester an estimate of when the record will be available.

4.3(5) *Delay.* Access to a record may be delayed for one of the purposes authorized by Iowa Code subsection 22.8(4) or 22.10(4). The custodian shall inform the requester of the reason for the delay and the estimated length of the delay.

4.3(6) *Security of records.* No person may, without permission from the custodian, search agency files or remove any record from the place where it is made available. The custodian shall supervise the examination and copying of records and protect the records from damage and disorganization. Original paper records shall be released from department custody only upon court order. At least one certified copy shall be retained in the file if the original record is released.

4.3(7) *Copies.* A photocopy of an open record may be made on department photocopiers. If a photocopier is not available in the office where an open record is kept, the custodian shall permit its examination in that office and, if requested, arrange to have a copy made elsewhere.

4.3(8) *Fees.* The department may charge fees for records as authorized by Iowa Code section 22.3 or another provision of law. Under Iowa Code section 22.3, the fee for the copying service shall not exceed the cost of providing the service.

This rule is intended to implement Iowa Code sections 22.2, 22.3, 22.4, 22.8, 22.10, and 22.11.

761—4.4(22) Access to confidential records. The following provisions are in addition to those specified in rule 761—4.3(22) and are minimum requirements. A statute or another department rule may impose additional requirements for access to certain classes of confidential records.

4.4(1) *Procedure.*

a. *Form of request.* The custodian shall ensure that there is sufficient information to provide reasonable assurance that access to a confidential record may be granted. Therefore, the custodian may require the requester to:

(1) Submit the request in writing.

(2) Provide proof of identity and authority to secure access to the record.

(3) Sign a certified statement or affidavit listing the specific reasons justifying access to the record and provide any proof necessary to establish relevant facts.

b. *Response to request.* The custodian shall notify the requester of approval or denial of the request for access. If the requester indicates to the custodian that a written notice is desired if the request for access is denied, the custodian shall provide such notice promptly. The notice shall be signed by the custodian and include:

(1) The name and title or position of the custodian, and

(2) A brief statement of the grounds for denial, including a citation to the applicable statute or other provision of law.

c. *Reconsideration of denial.* A requester whose request is denied by the custodian may apply to the director of transportation for reconsideration of the request.

4.4(2) *Release of confidential records by the custodian.* The custodian may release a confidential record or a portion of it:

a. To the legislative services agency pursuant to Iowa Code section 2A.3.

b. To the citizens' aide pursuant to Iowa Code section 2C.9.

c. To other governmental officials and employees only as needed to discharge their duties.

d. To those persons as permitted or required by rule 761—4.9(22).

e. To persons authorized by the subject of the record in accordance with rule 761—4.5(22).

4.4(3) *Release of confidential records by the director.*

a. The director of transportation may release a confidential record or a portion of it to a person not covered in subrule 4.4(2) if the release:

(1) Is permitted by statute, rule or another provision of law, and

(2) Is not inconsistent with the stated or implied purpose of the law which establishes or authorizes confidentiality.

b. Before the director releases a record to a person not covered in subrule 4.4(2), the director may notify the subject of the record of the impending release and may give the subject a reasonable amount of time to seek an injunction.

4.4(4) *Mixed record.* A confidential record may, due to its nature or the way it is compiled or stored, contain a mixture of confidential and nonconfidential information. The department shall not refuse to release the nonconfidential information simply because the record is compiled or stored in this fashion.

4.4(5) *Information released.* If a person is provided access to less than an entire record, the department shall take measures to ensure that the person is furnished only the information that is to be released. This may be done by providing to the person either an extraction of the information to be released, or a copy of the record from which the information not to be released has been deleted.

This rule is intended to implement Iowa Code section 22.11.

761—4.5(22) Consent to release a confidential record to a third party. To the extent permitted by law, the subject of a confidential record may consent to its release to a third party. The consent must be in writing and must identify the particular record that may be disclosed and the particular person or class of persons to whom the record may be disclosed. The subject of the record may be required to provide proof of identity. Appearance of counsel before the agency on behalf of a person who is the subject of

a confidential record may be deemed to constitute consent for the department to disclose records about that person to the person's counsel.

This rule is intended to implement Iowa Code section 22.11.

761—4.6(22) Requests for confidential treatment.

4.6(1) A person may request that all or a portion of a record be confidential. The request must be submitted in writing to the custodian and:

a. Identify the information for which confidential treatment is sought.

b. Cite the legal basis that justifies confidential treatment.

c. Give the reasons why the person would be aggrieved or adversely affected by disclosure of the information. The person may be required to provide any proof necessary to support these reasons.

4.6(2) The custodian shall notify the requester in writing of the granting or denial of the request and, if denied, the reasons therefor.

4.6(3) If the request is denied, the requester may apply to the director of transportation for reconsideration of the request.

This rule is intended to implement Iowa Code section 22.11.

761—4.7(22) Procedure by which additions, dissents, or objections may be entered into records. Except as otherwise provided by law, the person who is the subject of a record may have a written statement of additions, dissents or objections entered into that record. The statement shall be filed with the custodian. The statement must be dated and signed by the person who is the subject of the record and include the person's current address and telephone number. This rule does not authorize the person who is the subject of the record to alter the original record or to expand the official record of any agency proceeding.

This rule is intended to implement Iowa Code section 22.11.

761—4.8(22) Notice to suppliers of information. When the department requests a person to supply information about that person, the department shall notify the person of the use that will be made of the information, which persons outside the agency might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these or other rules of the department, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, orally, or by other appropriate means.

This rule is intended to implement Iowa Code section 22.11.

761—4.9(22) Confidential records. This rule describes the types of departmental information or records that are confidential. This rule is not exhaustive. A citation of the legal authority for confidentiality follows each description.

As related to particular types of confidential information or records, this rule also includes exceptions to confidentiality, the rights of certain persons to have access, and permissible disclosures.

Descriptions:

4.9(1) Hospital, medical and professional counselor records of the condition, diagnosis, care or treatment of present or former patients or counselees. (Iowa Code section 22.7)

a. This category of records includes but is not limited to hospital, medical and professional counselor records of present or former departmental employees.

b. Notwithstanding this subrule, State of Iowa Employers Work Injury Report forms are not confidential.

c. The subject of a hospital, medical or professional counselor record has the right of access to it.

4.9(2) Trade secrets which are recognized and protected by law. (Iowa Code section 22.7)

a. The person who furnished the trade secret information has the right of access to this information.

b. Reserved.

4.9(3) Records which constitute attorney work product, attorney-client communications, or that are otherwise privileged. (Attorney work product is confidential under Iowa Code sections 22.7, 622.10 and 622.11, Iowa R. C. P. 1.503(3), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.)

a. This category of records includes but is not limited to:

(1) Investigations conducted in anticipation of tort claims or other litigation.

(2) Records directly related to threatened litigation over title.

b. Reserved.

4.9(4) Peace officers' investigative reports, except where disclosure is required or authorized by the Iowa Code. However, the date, time, specific location, and immediate facts and circumstances surrounding a crime or incident are not confidential except in those unusual circumstances where disclosure would plainly and seriously jeopardize an investigation or would pose a clear and present danger to the safety of an individual. (Iowa Code section 22.7)

4.9(5) Reports to the department which, if released, would give advantage to competitors and serve no public purpose. (Iowa Code section 22.7)

a. Examples of records which could in the proper circumstances be determined to be within this category include but are not limited to:

(1) Financial reports filed by contractors for departmental use in determining their eligibility to bid on projects advertised for letting. This includes financial information from these reports that is stored on computer.

(2) Documents submitted by firms for departmental use in certifying their eligibility as disadvantaged business enterprises.

(3) Prequalification forms filed with the department under rule 761—20.8(307). This includes the selection committee's working papers; however, the final selection committee report is not confidential once it has been approved by the appropriate division director. Selection committee activities may also fall under subrule 4.9(20).

(4) Financial reports filed with the department for the purpose of seeking certificates of self-insurance under Iowa Code section 321A.34.

(5) Copies of agreements between sign owners and landowners filed with the department in support of the issuance of outdoor advertising permits.

(6) Copies of private contracts between railroads and shippers or other private parties.

(7) Barge terminal surveys which ask for shipping and financial information from barge companies.

b. The subject of the record has the right of access to it.

4.9(6) Criminal identification files, except for the records of current and prior arrests. (Iowa Code section 22.7)

a. The custodian may disseminate criminal identification data to a peace officer, a criminal justice agency, or a state or federal regulatory agency if the custodian is satisfied that the need to know and the intended use are reasonable.

b. The custodian shall also comply with Iowa Code chapter 692.

4.9(7) Personal information in confidential personnel records of present or former departmental employees. (Iowa Code section 22.7)

a. Submission by an employee of an employment application form shall constitute authorization for the release of a copy of the employee's complete personnel records to the selecting authority.

b. Confidential personnel information relating to a particular program shall be released to that agency or company which is administering the program.

c. The subject of a personnel record has the right of access to it.

4.9(8) Communications not required by law, rule or procedure that are made to the department by identified persons outside of government, to the extent that it could reasonably be believed that those persons would be discouraged from making the communications if they were made available for general public examination. (Iowa Code section 22.7)

a. This category of records includes but is not limited to exit interviews for voluntary terminations.

b. Exceptions to confidentiality:

(1) A communication is not confidential if its author consents to its release.

(2) Information in a communication that can be disclosed without identifying its author or enabling others to ascertain that identity is not confidential.

(3) Information in a communication that indicates the date, time, specific location, and immediate facts and circumstances surrounding the occurrence of a crime or other illegal act is not confidential unless disclosure would plainly and seriously jeopardize a continuing investigation or would pose a clear and present danger to the safety of any person.

c. The author of a communication has the right of access to it.

4.9(9) Examinations, including but not limited to cognitive and psychological examinations for law enforcement officer candidates administered by or on behalf of a government body, to the extent that their disclosure could reasonably be believed by the lawful custodian to interfere with the accomplishment of the objectives for which they are administered. (Iowa Code section 22.7)

4.9(10) Information concerning the nature and location of an archaeological resource or site if, in the opinion of the state archaeologist, disclosure of the information will result in unreasonable risk of damage to or loss of the resource or site where the resource is located. (Iowa Code section 22.7)

4.9(11) Information concerning the nature and location of an ecologically sensitive resource or site if, in the opinion of the director of the department of natural resources after consultation with the state ecologist, disclosure of the information will result in unreasonable risk of damage to or loss of the resource or site where the resource is located. (Iowa Code section 22.7)

4.9(12) Those portions of the department's staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by departmental staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would enable law violators to avoid detection, facilitate disregard of requirements imposed by law, or give a clearly improper advantage to persons who are in an adverse position to the department. (Iowa Code sections 17A.2 and 17A.3)

4.9(13) The detailed minutes and tape recording of a closed session of the commission. However, if the closed session regards a real estate purchase, the minutes and tape recording shall be available for public inspection when the transaction discussed is completed. (Iowa Code section 21.5)

4.9(14) Vehicle accident reports submitted to the department by drivers and peace officers. (Iowa Code sections 321.266 and 321.271)

a. However, access shall be granted to those persons authorized by Iowa Code section 321.271.

b. Rescinded IAB 1/8/03, effective 2/12/03.

4.9(15) All information filed with the court for the purpose of securing a warrant for an arrest until the arrest has been made and the warrant has been returned. (Iowa Code section 804.29)

4.9(16) All information filed with the court for the purpose of securing a warrant for a search until the warrant has been executed and returned. (Iowa Code section 808.13)

4.9(17) Information obtained by the department from the examining of reports or records required to be filed or kept under the provisions of Iowa Code chapter 452A, except where disclosure is authorized by chapter 452A. (Iowa Code section 452A.63)

4.9(18) Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 72.3)

4.9(19) Except as required by Iowa Code section 6B.45, the parcel file for a right-of-way acquisition until title has passed to the state and all contract and relocation claims have been paid. (Iowa Code section 22.7)

4.9(20) Those records which, if disclosed, would diminish competition or would give an improper advantage to persons who are in an adverse position to the department. These records shall be kept confidential until the transaction to which they relate is consummated. However, if disclosure would reveal information which would hinder future competition, the records shall be kept confidential. (Iowa Code sections 17A.2, 17A.3, 22.7 and 313.10, Iowa Code chapter 553, and rules 761—Chapter 20)

a. Examples of records which could, in the proper circumstances, be determined to be within this category include but are not limited to:

(1) Detailed estimates of the cost of a proposed contract.

(2) Economic analyses for determining pavement types.

(3) Negotiations for a proposed contract.

(4) Methodology for determining unfair bidding practices or bid rigging.

(5) Price quotations solicited.

(6) The value of points assigned to a bid rating formula prior to the time set for public opening of bids.

(7) Laboratory testing reports of suppliers' products. These may also be trade secrets. The subject of the report has the right of access to it.

b. Reserved.

4.9(21) Income tax forms or rental, income or expense statements furnished by relocatees as documentation for relocation assistance payments. (Iowa Code sections 22.7 and 422.20, 5 U.S.C. §§ 552 and 552a)

a. The subject of the form or statement has the right of access to it.

b. Reserved.

4.9(22) Audit reviews for determining EEO contract compliance. (Iowa Code section 22.7, 5 U.S.C. §§ 552 and 552a)

a. The subject of the audit review has the right of access to it.

b. Reserved.

4.9(23) Tax records made available to the department. (Iowa Code section 422.20)

4.9(24) Personal information in motor vehicle records. (Iowa Code section 321.11 and 18 U.S.C. § 2721 et seq.)

a. This information may be disclosed only as provided in Iowa Code section 321.11, 18 U.S.C. § 2721 et seq., and 761—Chapters 415, 610 and 611.

b. The subject of the personal information has the right of access to the information.

4.9(25) A report received by the department from a physician or optometrist regarding a person who has been diagnosed as having a physical or mental condition which would render the person physically or mentally incompetent to operate a motor vehicle in a safe manner. (Iowa Code section 321.186)

4.9(26) Certain records regarding undercover driver's licenses issued to peace officers, as specified in 761—Chapter 625. (Iowa Code sections 22.7 and 321.189A)

a. The subject of the record and the head of the law enforcement agency employing the subject have the right of access to the record.

b. Reserved.

4.9(27) Records related to confidential plates issued for government vehicles. (Iowa Code section 321.19)

a. The head of the agency to which the vehicle is assigned has the right of access to the record.

b. Reserved.

4.9(28) Data processing software developed by the department. (Iowa Code section 22.7)

a. The custodian may provide, restrict or prohibit access to this software in accordance with Iowa Code section 22.3A.

b. Reserved.

4.9(29) Records containing information that would disclose, or might lead to the disclosure of, private keys used in a digital signature or other similar technologies as provided in Iowa Code chapter 554D, and records which, if disclosed, might jeopardize the security of an electronic transaction pursuant to Iowa Code chapter 554D. (Iowa Code section 22.7)

4.9(30) The portion of a record request that contains an Internet protocol number which identifies the computer from which a person requests a record. However, such record may be released with the express written consent of the requester. (Iowa Code section 22.7)

4.9(31) Certified transcripts of labor payrolls (also known as certified payroll records) filed by contractors for federal-aid construction contracts, in accordance with the following paragraphs. (Iowa Code section 22.7, 5 U.S.C. §§ 552 and 552a, 42 U.S.C. § 405)

a. The social security numbers in a certified payroll record are confidential. The record itself may be confidential if its release would give advantage to competitors and serve no public purpose.

b. The prime contractor and subcontractor, if applicable, that filed the record have the right of access to it.

c. Certified payroll records shall be released to the U.S. Department of Labor and Federal Highway Administration during investigations.

d. The custodian may release a certified payroll record with social security numbers withheld to representatives of the Iowa Labor Management Work Preservation Fund.

e. The custodian may release a certified payroll record with social security numbers withheld to persons outside the department other than the persons listed in paragraphs *"b"* to *"d"* according to the following procedure:

(1) The request for the record must be in writing.

(2) The custodian shall send a copy of the request by registered mail to the prime contractor. If the request is for subcontractor information, the custodian shall send copies of the request to both the subcontractor and prime contractor.

(3) The requested record shall not be released until 14 calendar days have expired from receipt of the request by the contractor(s). This gives the contractor(s) an opportunity to seek an injunction.

4.9(32) Information concerning an open or pending railroad accident investigation conducted on behalf of or in conjunction with the Federal Railroad Administration or National Transportation Safety Board to the extent necessary to prevent denial of funds, services or essential information from the United States government. (Iowa Code section 22.9)

4.9(33) All other information or records that by law are or may be confidential, with the following exceptions:

a. Records of the departmental library.

b. Reserved.

This rule is intended to implement Iowa Code chapters 22, 553 and 692; Iowa Code sections 6B.45, 17A.2, 17A.3, 21.5, 72.3, 313.10, 321.11, 321.19, 321.186, 321.189A, 321.266, 321.271, 422.20, 452A.63, 602.10112, 622.10, 622.11, 804.29 and 808.13; 5 U.S.C. §§ 552 and 552a; and 18 U.S.C. § 2721 et seq.

761—4.10(22) Release of confidential records. Rescinded IAB 1/8/03, effective 2/12/03.

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CHAPTERS 5 to 9
Reserved

CHAPTER 10
ADMINISTRATIVE RULES

[Prior to 6/3/87, Transportation Department[820]—(01,B) Ch1]

761—10.1(17A) General.

10.1(1) Rescinded, effective 1/7/87.

10.1(2) *Definitions.* The definitions in Iowa Code section 17A.2 and the definition of "small business" in Iowa Code section 17A.4A are hereby adopted. In addition:

"Commission" means the Iowa transportation commission.

"Department" means the Iowa department of transportation.

"Director" means the director of transportation or the director's designee.

"Written criticisms" means:

1. Petitions for rule making, objections filed pursuant to Iowa Code subsection 17A.4(4), and written and oral submissions received during rule making pursuant to Iowa Code paragraph 17A.4(1)*"b."*

2. Petitions for waiver of a rule tendered to the department or granted by the department under 761—Chapter 11.

3. Letters to the director criticizing or recommending changes to a rule.

10.1(3) *Address.* The address of the department's administrative rules coordinator is: Administrative Rules Coordinator, Office of Policy and Legislative Services, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

761—10.2(17A) Rule making.

10.2(1) *Notice of Intended Action—approval and content.* Written authorization to publish proposed rules under Notice of Intended Action in the "Iowa Administrative Bulletin" shall be made by the director. The Notice of Intended Action shall contain:

a. Either the complete text of the proposed rules or a summary of the subjects and issues involved.

b. The methods that persons and agencies may use to present their views on the proposed rules. In addition to providing for the submission of written comments, the Notice shall afford any interested person or agency the opportunity to make an oral presentation.

c. Any other information required by statute or rule.

d. Each commissioner shall be sent a copy of the Notice of Intended Action before its publication in the Iowa Administrative Bulletin.

10.2(2) *Notice of Intended Action—submission of written comments and written requests to make an oral presentation.*

a. With regard to proposed rules published under Notice of Intended Action, the department shall accept and consider, from any person or agency, written comments and written requests to make an oral presentation when prepared and submitted in conformance with the following:

(1) Comments and requests shall clearly state the name, address and telephone number of the person or agency authoring the comment or request and the number and title of the proposed rule as given in the Notice of Intended Action.

(2) If an oral presentation is requested, the general content of the presentation shall be indicated.

(3) Comments and requests shall be submitted to the office specified in the Notice of Intended Action. To be considered, they must be received by the office no later than the date specified in the Notice. The date shall be no less than 20 days after publication of the Notice.

b. The receipt and acceptance for consideration of written comments and written requests shall be promptly acknowledged by the department.

(1) Written comments received after the deadline may be accepted by the department although their consideration is not assured.

(2) Written requests to make an oral presentation received after the deadline shall not be accepted.

c. In addition to the formal procedures contained in this rule, the department may solicit viewpoints or advice concerning proposed rules through informal conferences or consultations as the department may deem desirable.

10.2(3) *Adoption and filing of rules.*

a. The director shall adopt proposed rules unless statutes specifically provide for commission adoption. The commission shall approve rules prior to their adoption by the director except as provided in subrule 10.2(5).

b. Upon adoption of proposed rules by the director or the commission, the director shall file them in accordance with Iowa Code section 17A.5.

10.2(4) *Regulatory analysis.* A request for issuance of a regulatory analysis shall be submitted to the department's administrative rules coordinator at the address in subrule 10.1(3).

10.2(5) *Nonsubstantive amendments to rules.* In reliance upon Iowa Code subsection 17A.4(2), rule making concerning nonsubstantive amendments shall be exempted from Iowa Code subsection 17A.4(1) and subrules 10.2(1) and 10.2(2). Because nonsubstantive amendments do not alter the meaning or consequence of a rule, it is determined unnecessary and contrary to the public interest to expend resources in publishing a Notice of Intended Action and providing an opportunity for public comment during the rule-making process. Nonsubstantive amendments may be adopted and filed by the director. Nonsubstantive amendments shall include the following:

a. Correcting the name, address or telephone number of an organizational unit within the department.

b. Updating references to the Iowa Code or the Iowa Acts to reflect the most current citation.

c. Correcting spelling, typographical or grammatical errors.

d. Eliminating references to gender.

10.2(6) *Concise statement.* If requested in accordance with this subrule, the department shall issue a concise statement of the principal reasons for and against a rule that has been adopted, incorporating therein the reasons for overruling considerations urged against the rule.

a. The request shall:

(1) Clearly state the name, address and telephone number of the person or agency authoring the request and the number and title of the rule which is the subject of the request.

(2) Be submitted in writing to the department's administrative rules coordinator at the address in subrule 10.1(3).

[1](3) Be delivered to the coordinator or postmarked no later than the thirtieth calendar day following adoption of the subject rule.

b. A requested concise statement shall be issued either at the time of rule adoption or within 35 days after the department's administrative rules coordinator receives the request.

10.2(7) *Registration.*

a. *Trade or occupational associations.* The state office of a trade or occupational association may register its name and address with the department to receive copies of Notices of Intended Action.

(1) The request must be in writing and indicate the subject matter and the number of copies of Notice of Intended Action it wishes to receive.

(2) The trade or occupational association shall reimburse the department for the actual costs incurred in providing copies to it.

b. *Small businesses.* A small business or an organization of small businesses may register its name and address with the department to receive notification of Notices of Intended Action and of rules adopted and filed without a Notice of Intended Action which may have an impact on small business.

(1) The request must be in writing and may indicate the subject matter of rules it is interested in. An organization requesting registration shall indicate how many small businesses it represents.

(2) At the discretion of the department, notification shall consist of either a copy of the rules or a summary of the subjects and issues involved.

c. *Submission and acknowledgment of requests.* Requests for registration under this subrule shall be submitted to the department's administrative rules coordinator at the address in subrule 10.1(3). The receipt of requests for registration shall be promptly acknowledged by the department. The acknowledgment shall either:

(1) Inform the requester that it is registered, or

(2) State that the request is incomplete and indicate the additional information required.

[1] Effective date delayed until adjournment of the 1991 session of the General Assembly by the Administrative Rules Review Committee at its August 15, 1990, meeting.

761—10.3(17A) Petitions for rule making.

10.3(1) The department shall accept and consider, from any person or agency, petitions for rule making when submitted to the department's administrative rules coordinator at the address in subrule 10.1(3) and prepared in conformance with the following:

a. Format:

IOWA DEPARTMENT OF TRANSPORTATION
800 Lincoln Way, Ames, Iowa 50010

PETITION BY (insert petitioner's name) FOR THE (insert one-adoption, amendment or repeal) OF (insert current rule number, if applicable, and brief description of subject matter)	DOCKET NO. _____ PETITION FOR RULE MAKING

(In separate numbered paragraphs, the petition shall include the following.)

1. The petitioner's name, address and telephone number.
2. The nature of the petitioner's interest in the matter.
3. The text or the essential terms and conditions of a proposed new rule, or the rule number and text of a rule proposed for amendment or a repeal. In addition, proposed amendments shall be illustrated to portray the changes in wording requested: Deletions are to be indicated by strike-throughs, and additions by underscoring.
4. The reasons for seeking the requested action, including any facts, views, data or arguments relevant to the request. Copies of statutes, rules or other supporting documents referenced in the petition shall be submitted as appendices to the petition or made available to the department upon request.

*5. If desired, a request to meet informally with the department to discuss the petition.

_____
(Signature of petitioner)

b. A petition for amendment or repeal of a rule shall pertain to a rule currently in effect at the time the petition is received by the department.

c. Petitions should be typewritten, although petitions legibly hand-printed in ink shall be accepted.

d. Rescinded IAB 6/8/94, effective 7/13/94.

10.3(2) The date of receipt of a petition is the day it reaches the department's administrative rules coordinator. The coordinator shall promptly notify the petitioner of the date of receipt and the assigned docket number.

10.3(3) If requested in the petition, the department shall schedule an informal meeting with the petitioner to discuss the petition.

10.3(4) The department shall notify the petitioner of the director's or commission's determination to grant or deny the petition. If the petition is denied, the notification shall include the reasons for denial.

[1] Effective date delayed until adjournment of the 1991 session of the General Assembly by the Administrative Rules Review Committee at its August 15, 1990, meeting.

761—10.4(17A) Declaratory orders. Rescinded IAB 11/8/06, effective 12/13/06.

These rules are intended to implement Iowa Code chapter 25B and sections 17A.1 to 17A.9, 17A.19, 307.10 and 307.12.

[Filed 5/22/75]

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[Filed 10/11/06, Notice 8/30/06—published 11/8/06, effective 12/13/06]

[1] Effective date of amendments to 761—10.2(17A) and 10.3(17A) delayed until adjournment of the 1991 General Assembly by the Administrative Rules Review Committee at its meeting held August 15, 1990.

CHAPTER 11
WAIVER OF RULES

761—11.1(17A) Purpose and scope.

11.1(1) The purpose of this chapter is to establish a general process for granting waivers or variances (hereinafter referred to as waivers) from the requirements of department rules. A waiver is an agency action which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person.

11.1(2) This chapter does not preclude the granting of waivers using another process if a statute or another department rule so provides. If the rule for which a waiver is sought has a specific waiver process of its own, this chapter is applicable only when it is specifically cited.

11.1(3) This chapter does not apply to contested case proceedings.

11.1(4) This chapter does not apply to rules that merely define the meaning of a statute or other provision of law if the department does not possess the delegated authority to bind the courts to any extent with its definition.

761—11.2(17A) Authority to grant waiver. The director of transportation may, in response to a written petition submitted in accordance with rule 761—11.5(17A), grant a waiver from the requirements of a rule. The decision to grant a waiver shall be made at the sole discretion of the director and is final agency action.

761—11.3(17A) Criteria, considerations and limitations.

11.3(1) The director shall not grant a waiver from the requirements of a rule unless the director or the department has jurisdiction over the rule and the waiver is consistent with any applicable statute, constitutional provision, or other provision of law. The director shall not waive any requirement created or duty imposed by statute.

11.3(2) The director may grant a waiver from the requirements of a rule if the director finds, based on clear and convincing evidence, all of the following:

a. Application of the rule will pose an undue hardship.

b. The waiver will not prejudice the substantial legal rights of any person.

c. The provisions of the rule subject to waiver are not specifically mandated by statute or another provision of law, and the waiver will not cause a denial of federal funds.

d. Substantially equal protection of the public health, safety, and welfare will be afforded by means other than that prescribed in the rule.

11.3(3) The department shall evaluate each petition for a waiver based on the unique, individual circumstances set out in the petition. The burden of persuasion rests with the petitioner.

11.3(4) A waiver, if granted, shall provide the narrowest exception possible to the provisions of the rule.

11.3(5) The director may place any condition on a waiver that the director finds desirable to protect the public health, safety, and welfare.

11.3(6) A waiver shall not be permanent, unless the director finds that a temporary waiver would be impracticable.

11.3(7) If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the director, a waiver may be renewed if the director finds all of the factors set out in subrule 11.3(2) remain valid.

761—11.4(17A) Decision on waiver.

11.4(1) The director's decision to grant or deny a waiver in response to a written petition shall be in writing and contain:

a. The name of the person to whom the decision pertains.

b. A citation to the rule or portion thereof to which the decision pertains and a brief summary of the rule's requirements that are pertinent to the requested waiver.

c. The relevant facts and reasons upon which the decision is based. If a waiver is granted, the decision must include the findings set out in subrule 11.3(2).

d. The scope and duration of a waiver if one is granted.

e. Any other conditions placed on a waiver if one is granted.

11.4(2) Reserved.

761—11.5(17A) Petition for waiver.

11.5(1) *Petitioner.* Any person may petition the department for a waiver from the requirements of a rule. The petitioner must have a real and direct interest in the matter.

11.5(2) *Form of petition.* A petition for a waiver from the requirements of a rule must be in writing and state clearly at the top of the petition that it is a "petition for waiver of a rule." The petition shall contain the following information where applicable and known to the petitioner:

a. The name, address and telephone number of the petitioner, and any license, permit or case number applicable to the requested waiver.

b. A description of and citation to the specific rule from which a waiver is requested.

c. The specific waiver requested, including its scope and duration.

d. The relevant facts and reasons the petitioner believes would justify the requested waiver. The petitioner should address each of the following:

(1) Why applying the rule will result in an undue hardship to the petitioner.

(2) Why waiving the rule will not prejudice the substantial legal rights of any other person.

(3) Whether the provisions of the rule are specifically mandated by statute or another law other than the rule.

(4) How substantially equal protection of the public health, safety, and welfare will be afforded by means other than those prescribed by the rule.

e. A history of any prior contacts between the petitioner and the department that are related to the requested waiver.

f. Whether the petitioner is currently a party to a rule making, declaratory order, contested case, judicial proceeding, or any other proceeding related to the requested waiver.

g. Information regarding the department's treatment of similar situations.

h. The name, address and telephone number of any public agency or political subdivision that also regulates the activity in question or that may be affected if the waiver were granted.

i. The name, address and telephone number of any person or entity that may be adversely affected if the waiver were granted.

j. The name, address and telephone number of any person who has knowledge of facts relevant to the requested waiver.

k. Releases authorizing persons with knowledge of relevant facts to furnish that information to the department.

l. The signature of the petitioner and the date signed.

11.5(3) *Submission of petition.* A petition for waiver from the requirements of a rule shall be submitted to the Office of Policy and Legislative Services, Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

761—11.6(17A) Action on petition. Following is the procedure for responding to a petition for a waiver from the requirements of a rule:

11.6(1) The department shall acknowledge receipt of a petition immediately.

11.6(2) Before a waiver is granted or denied, the department may request a petitioner to furnish additional information related to the petition.

11.6(3) The director shall issue a written decision to grant or deny a waiver within 120 days after the department receives the petition unless the petitioner agrees to a later time. However, if the matter is also the subject of a contested case proceeding, the decision to grant or deny a waiver need not be issued until after the final decision in the contested case is issued.

11.6(4) The decision to grant or deny a waiver shall contain the information set out in rule 761—11.4(17A).

11.6(5) Within seven days after the decision is issued, the department shall transmit it to the petitioner.

11.6(6) Failure to grant or deny a waiver within the required time is deemed a denial.

11.6(7) The director's decision on a petition for a waiver from the requirements of a rule is final agency action.

11.6(8) A petition for a waiver from the requirements of a rule is independent of a contested case proceeding. Submission of a petition does not delay the time to request a contested case hearing, to appeal a proposed decision in a contested case, or to file a petition for judicial review of a final decision in a contested case.

11.6(9) A petition for a waiver from the requirements of a rule is not required to exhaust administrative remedies before judicial review of a department action under Iowa Code section 17A.19.

761—11.7(17A) Modification or cancellation of waiver. The department may, after notice and opportunity for hearing, modify or cancel a waiver granted pursuant to this chapter if the director finds any of the following:

1. A material fact upon which the waiver is based is not true or has changed.
2. The petitioner withheld or knowingly misrepresented a material fact relevant to the propriety or desirability of the waiver.
3. The petitioner has failed to comply with the conditions set forth in the decision granting the waiver.
4. The alternate means for ensuring that the public health, safety and welfare will be adequately protected after the waiver is granted are insufficient.

761—11.8(17A) Records.

11.8(1) All records relating to waivers granted or denied under this chapter are open records. However, if a record contains personal information that is confidential, only the portion of the record that is nonconfidential will be made available for public inspection.

11.8(2) The office of policy and legislative services shall retain for five years records relating to waivers granted or denied under this chapter.

These rules are intended to implement Iowa Code sections 17A.7(2)*"b"* and 17A.9A and Executive Order Number 11, dated September 14, 1999.

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CHAPTER 12
DECLARATORY ORDERS

[Prior to 11/8/06, see rule 761—10.4(17A)]

761—12.1(17A) Definitions.

"Declaratory order" means the department's interpretation of a statute, rule or order as applied to specified circumstances. A declaratory order is issued in response to a petition for declaratory order.

"Director" means the director of transportation or the director's designee.

"Petition for declaratory order" means a formal request from a person or agency to the department asking how the department will apply a statute, rule or order based on a specific set of facts contained in the petition. The purpose of the petition is to seek binding advice from the department, not to challenge a decision that the department has already made.

761—12.2(17A) Petition for declaratory order.

12.2(1) Any person or agency may file with the department a petition for declaratory order. The subject matter of the petition must be within the primary jurisdiction of the department.

12.2(2) The petition must be submitted to the department's administrative rules coordinator at the following address: Administrative Rules Coordinator, Office of Policy and Legislative Services, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

12.2(3) The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

IOWA DEPARTMENT OF TRANSPORTATION
800 Lincoln Way, Ames, Iowa 50010

PETITION BY (insert petitioner's name) FOR DECLARATORY ORDER ON (insert number of statute, rule, etc. and brief description of subject matter)	}	DOCKET NO. _____ PETITION FOR DECLARATORY ORDER

(In separate numbered paragraphs, the petition shall include the following.)

1. The petitioner's name, address and telephone number.
2. The exact words, passages, sentences or paragraphs of statutes, rules, etc. which are the subject of the inquiry.
3. A clear, concise and complete statement of all relevant facts for which the order is requested.
4. The uncertainties or conflicting interpretations which arise when the cited statutes, rules, etc. are applied to the facts.
5. (Optional) The interpretation urged based upon the facts set forth.
6. The reasons for the petition and a full disclosure of the petitioner's interest.
7. Whether the petitioner is currently a party to a rule-making, contested case or judicial proceeding involving the controversy or uncertainty.
8. The names and addresses, when known, of other persons who may be affected by the declaratory order.

12.2(4) The petition must be dated and signed by the petitioner or, if applicable, petitioner's representative.

12.2(5) If applicable, the petition must also include the name, address, and telephone number of the petitioner's representative and a statement indicating the person to whom communications concerning the petition should be directed.

12.2(6) The date of receipt of the petition is the day it reaches the department's administrative rules coordinator. The coordinator shall promptly send an acknowledgement of receipt to the petitioner or, if applicable, petitioner's representative.

761—12.3(17A) Notice of petition. Within 15 days after receipt of a petition for declaratory order, the department shall provide copies of the acknowledgement of receipt and copies of the petition to all persons to whom notice of the petition is required by any provision of law. The department may also give notice to any other persons deemed appropriate.

761—12.4(17A) Action on petition.

12.4(1) A declaratory order or an order declining to issue a declaratory order shall be issued by the director.

12.4(2) The director shall not issue a declaratory order that would substantially prejudice the rights of a person who would be a necessary party and who does not consent in writing to the determination of the matter by a declaratory order proceeding.

12.4(3) The director may issue an order declining to issue a declaratory order on some or all of the questions raised in the petition for any of the following reasons:

a. The petition does not substantially comply with the required form.

b. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the department to issue a declaratory order.

c. The department does not have jurisdiction over the questions presented in the petition.

d. The questions presented in the petition are also presented in a current rule-making, contested case, or other agency or judicial proceeding that may definitively resolve them.

e. The questions presented in the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.

f. The questions posed or facts presented in the petition are unclear, vague, incomplete, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue a declaratory order.

g. There is no need to issue a declaratory order because the questions raised in the petition have been settled due to a change in circumstances.

h. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge a department decision already made.

i. The petition requests a declaratory order that would necessarily determine the legal rights, duties or responsibilities of other persons who have not joined in the petition or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of the petitioner.

j. The petitioner requests the department to determine whether a statute is unconstitutional on its face.

12.4(4) If the director issues an order declining to issue a declaratory order, the order must indicate the specific grounds for declining to issue a declaratory order and constitutes final agency action on the petition.

761—12.5(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the department and the petitioner and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the department. The issuance of a declaratory order constitutes final agency action on the petition.

These rules are intended to implement Iowa Code sections 17A.9 and 17A.19.

[Filed 10/11/06, Notice 8/30/06—published 11/8/06, effective 12/13/06]

CHAPTER 13
CONTESTED CASES

[Prior to 6/3/87, Transportation Department[820]—(01,B) Ch3]

761—13.1(17A) Definitions. The definitions in 761—Chapter 2 and in Iowa Code section 17A.2 are hereby adopted.

761—13.2(17A) Applicability.

13.2(1) This chapter of rules provides the minimum procedural requirements for department involvement in contested cases under Iowa Code chapter 17A.

13.2(2) Rules which apply to a particular type of contested case shall take precedence over this chapter of rules. If there are no other rules applicable to a particular type of contested case, it shall be conducted in accordance with this chapter of rules.

761—13.3(17A) Initiation of contested case.

13.3(1) The department may initiate a contested case proceeding to determine the legal rights, duties or privileges of a person as required by the constitution or a statute. Prior to initiating the contested case proceeding, the department, unless prohibited by statute, may attempt to settle the matter informally.

13.3(2) A person who is aggrieved by an action of the department and who is entitled to an evidentiary (contested case) hearing may:

a. Unless prohibited by statute, request an informal settlement.

b. Initiate a contested case by submitting a request for a contested case hearing.

c. Use both procedures.

13.3(3) A person may also request that the department resolve a controversy in accordance with rule 13.20(17A).

761—13.4(17A) Submission of request for informal settlement or hearing.

13.4(1) A request to the department for an informal settlement or a request for a contested case hearing shall be submitted in writing to the director of the office or division of the department which administers the matter at issue.

13.4(2) The request shall include complete names, addresses and telephone numbers for all persons involved and any attorneys representing them. The request shall also specify the mailing address to be used for all communications from the department.

13.4(3) A statute or rule may provide for submission of requests within a specified time period. A request shall be considered timely submitted if it is postmarked or delivered to the appropriate office or division of the department within the time period specified. Timely submission of a request shall be jurisdictional.

761—13.5(17A) Informal settlement.

13.5(1) An informal settlement may be handled by telephone.

13.5(2) If an informal settlement cannot be reached within a reasonable period of time, the department shall notify the person in writing that there has been a failure to reach an informal settlement, that the department's action or decision is sustained, and that the person may request a contested case hearing.

761—13.6(17A) Contested case decision. After a contested case hearing, a written decision will be issued by the presiding officer.

761—13.7(17A) Appeal. A decision by a presiding officer shall become the final decision of the department and shall be binding on the department and the party whose legal rights, duties and privileges are being determined unless either appeals the decision as provided in this rule.

13.7(1) No additional evidence shall be presented on appeal which shall be decided on the basis of the record made before the presiding officer in the contested case hearing.

13.7(2) The appeal shall include a statement of the specific issues presented for review and the precise ruling or relief requested.

13.7(3) An appeal of a presiding officer's decision shall be submitted in writing to the director of the office or division which administers the matter being contested. The appeal shall be deemed timely submitted if it is delivered to the director of the appropriate office or division or properly addressed and postmarked within 20 days after the date of the presiding officer's decision.

13.7(4) The director of the administering office or division shall forward the appeal to the director of transportation.

13.7(5) Failure to timely appeal a presiding officer's decision shall be considered a failure to exhaust administrative remedies.

13.7(6) The director of transportation may make a decision affirming, modifying or reversing the presiding officer's decision, or may remand the case to the presiding officer.

13.7(7) The decision of the director of transportation shall be the final decision of the department and shall constitute final agency action for purposes of judicial review. No further steps are necessary to exhaust administrative remedies.

761—13.8(17A) Motion for review. The director of transportation may, on the director's own motion, review the presiding officer's decision. The motion for review is subject to the same time limits as an appeal from a presiding officer's decision. If there is a motion for review, subrules 13.7(6) and 13.7(7) apply.

761—13.9(17A) Rehearings. An application for rehearing of a final decision under Iowa Code section 17A.16 shall be filed with the director of transportation.

761—13.10(17A) Maintenance of records. The department shall retain for three years from the date of the final decision copies of decisions received from presiding officers, decisions issued by the director, and related correspondence.

761—13.11(17A) Use of legal assistants or paralegals. The department may be represented by legal assistants or paralegals at contested case hearings.

These authorized legal assistants or paralegals shall be under the supervision of attorneys from the department's general counsel.

761—13.12(17A) Communications.

13.12(1) Each party to a contested case shall keep the department informed of the party's current address and telephone number, the name, address and telephone number of the party's attorney, if any, and the mailing address to be used for communications from the department.

13.12(2) Mailed notices, communications and decisions regarding the contested case shall be sent by first class or certified mail to the latest address which each party has provided to the department.

761—13.13(17A) Default.

13.13(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no continuance is granted, either enter a default decision or proceed with the hearing and render a decision in the absence of the party.

13.13(2) Any party may move for default against a party who has requested the contested case proceeding and who has failed to appear after proper service.

13.13(3) A default decision or a decision rendered on the merits after a party has failed to appear or participate in a contested case proceeding becomes final agency action unless, within 20 days after the date of the decision, either a motion to vacate is filed and served on the presiding officer and the other parties or an appeal of a decision on the merits is timely submitted in accordance with rule 761—13.7(17A). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate.

13.13(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

13.13(5) Timely filed motions to vacate shall be granted only for good cause shown. The burden of proof is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate.

13.13(6) "Good cause" for the purpose of this rule means surprise, excusable neglect or unavoidable casualty.

13.13(7) A decision denying a motion to vacate is subject to further appeal in accordance with rule 761—13.7(17A).

13.13(8) A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party in accordance with rule 761—13.7(17A).

13.13(9) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case shall proceed accordingly.

761—13.14 to **13.19** Reserved.

761—13.20(17A) Additional procedures when the department is not a party.

13.20(1) *Jurisdiction.* When the department is required by statute to administer a controversy to which it is not a party, the following additional procedures shall apply.

13.20(2) *Request.* A person who has an interest in a controversy and who is entitled to an evidentiary (contested case) hearing may submit a written request to the department to resolve the controversy.

a. The request shall state the facts alleged and the relief sought by the requester.

b. The request shall identify by name and address the persons involved and any attorneys representing them. The request shall also specify the requester's telephone number and the mailing address to be used for all communications to the requester from the department.

13.20(3) *Informal settlement.*

a. The department shall contact the persons involved, either by telephone or letter, and shall offer to assist the parties to reach an informal settlement of the controversy.

b. A controversy may be settled informally by the persons involved at any time before the department initiates a contested case proceeding.

c. When a controversy is settled informally, the persons involved shall each notify the department by telephone and confirming letter that the controversy has been resolved.

13.20(4) *Contested case.*

a. When the department is notified by a person involved in the controversy that there has been a failure to reach an informal settlement, or when the department determines that no progress toward a settlement is being made, the department shall send a written notice to the persons involved.

b. The notice shall specify the following: If the department is not notified of a settlement within 20 days after the notice is mailed, the department shall initiate a contested case proceeding.

These rules are intended to implement Iowa Code chapter 17A and Iowa Code section 10A.202.

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CHAPTERS 14 to 19
Reserved

CHAPTER 20
PROCUREMENT OF EQUIPMENT, MATERIALS, SUPPLIES AND SERVICES

[Prior to 6/3/87, Transportation Department[820]—(01,B)Ch2]

761—20.1(307) Scope of chapter. Unless otherwise provided herein, this chapter of rules pertains only to the procurement of equipment, materials, supplies and services by the Iowa department of transportation with funds from the department's operating budget or from the materials and equipment revolving fund established in Iowa Code section 307.47. Also, this chapter applies only to procurement from firms, as defined in subrule 20.2(2) herein.

761—20.2(307) Definitions. As used in this chapter, unless the context otherwise requires:

20.2(1) *"Department"* means the Iowa department of transportation.

20.2(2) *"Firm"* means any bona fide contracting entity including individuals and educational institutions. Except for educational institutions, the term shall not include governmental agencies or political subdivisions.

20.2(3) *"Competition"* means the efforts of three or more parties acting independently to secure a contract with the department to provide equipment, materials, supplies or services to the department by offering or being in a position to offer the most favorable terms.

"Favorable terms" includes, but is not limited to: Price, speed of execution, anticipated quality of the product to be provided judged according to the expertise and experience of the provider, or ability to produce a desired result or to provide a desired commodity.

20.2(4) *Methods of procurement.*

a. *"Formal advertising"* means procurement by competitive bids and awards involving the following basic steps:

(1) Preparing a request for proposals, describing the requirements of the department clearly, accurately and completely, but avoiding unnecessarily restrictive specifications or requirements which might unduly limit the number of bidders. The term "request for proposals" means the complete assembly of related documents (whether attached or incorporated by reference) furnished to prospective bidders for the purpose of bidding.

(2) Distributing the request for proposals to prospective bidders and advertising in appropriate media in sufficient time to enable prospective bidders to prepare and submit bids before the time set for public opening of bids.

(3) Receiving bids submitted by prospective contractors.

(4) Awarding the contract, after bids are publicly opened, to that responsible bidder whose bid conforms to the request for proposals and is the most advantageous to the department, price and other factors considered.

b. *"Limited solicitation"* means procurement by obtaining a sufficient number of quotations or bids from qualified sources:

(1) As is deemed necessary to ensure that the procurement is fair to the department, price and other factors considered, including the administrative costs of the procurement.

(2) As is consistent with the nature and requirements of the particular procurement.

(3) So that the procurement is competitive to the maximum practicable extent.

c. *"Negotiation"* means any method of procurement other than formal advertising or limited solicitation.

761—20.3(307) Procurement policy. It is the policy of the department to procure equipment, materials, supplies and services in the most efficient and economical manner possible. It is also the policy of the department that procurement shall be competitive to the maximum practicable extent.

20.3(1) *Formal advertising.* The formal advertising method of procurement shall be used whenever this method is feasible and practicable under the existing conditions and circumstances and the estimated, aggregate amount of the purchase equals or exceeds $50,000.

20.3(2) *Limited solicitation.* The limited solicitation method of procurement may be used if formal advertising is not feasible or practicable, or the estimated, aggregate amount of purchase is less than $50,000.

20.3(3) *Negotiation.* The negotiation method of procurement may be used if formal advertising or limited solicitation is not feasible or practicable, or in any of the following instances:

a. Procurement by negotiation is determined to be necessary and in the public interest during a period of man-made or natural disaster or emergency.

b. The estimated, aggregate amount of the purchase is less than $5,000.

c. The procurement is for architectural, landscape architectural, engineering, or related professional or technical services.

d. The procurement is for other professional services.

e. The procurement is for services to be rendered by an educational institution.

f. It is impracticable to secure competition through formal advertising or limited solicitation, such as when:

(1) Equipment, materials, supplies or services can be obtained from only one source.

(2) Competition is precluded because of the existence of patent rights, copyrights, secret processes, control of basic raw materials, or similar circumstances.

(3) Bids or quotations have been solicited, and no responsive bids or quotations have been received.

(4) Bids or quotations have been solicited, and the responsive bids or quotations do not cover the quantity requirements of the solicitation. In this case, negotiation is permitted for the remaining quantity requirements.

(5) The procurement is for electrical power or energy, natural or manufactured gas, water or other utility services, or the procurement is for construction of a part of a utility system or railroad and it would not be practicable to allow a contractor other than the utility or railroad company to perform the work.

(6) The procurement is for technical or professional services in connection with the assembly, installation or servicing (or the instruction of personnel therein) of equipment of a highly technical or specialized nature.

(7) The procurement involves maintenance, repair, alteration or inspection, and the exact nature or amount of work to be done is not known.

(8) The procurement is for commercial transportation.

(9) It is impossible to draft adequate specifications or any other adequately detailed description of the item or services to be procured.

(10) The procurement is for a part or component being procured as a replacement in support of equipment specially designed by the manufacturer, and the data available is not adequate to ensure that the part or component supplied by another manufacturer will perform the same function as the part or component it is to replace.

(11) The procurement involves construction where a contractor or group of contractors is already at work on the site, and either it would not be practicable to allow another contractor or an additional contractor to work on the same site or the amount of work involved is too small to interest other contractors to mobilize and demobilize.

g. The procurement is for experimental, developmental or research work or for the manufacture or furnishing of property for experimentation, development, research or testing.

h. It is determined that the bids or quotations received are not reasonable or have not been independently arrived at.

i. Procurement by negotiation is otherwise authorized by law including, but not limited to, Iowa Code section 73.19.

j. The manufacturer is willing to sell directly to the state at distributor cost.

761—20.4(307) Formal advertising procedures and requirements.

20.4(1) *Bidders list.* The department's purchasing office shall maintain current bidders lists by commodity classification.

a. These lists are developed using available sources such as technical publications, telephone books, trade journals, commercial vendor registers, advertising literature, Internet resources and targeted small businesses certified by the department of inspections and appeals.

b. Any firm legally doing business in Iowa may be placed on an appropriate bidders list or lists by submitting a written request to: DOT Director of Purchasing, Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

c. Subject to concurrence of legal counsel, a bidder's name may be removed from a bidders list or lists for any of the following reasons:

(1) When the bidder has failed to respond to three consecutive requests for proposals.

(2) When the bidder has failed to meet the performance requirements of a previous procurement.

(3) When the bidder has attempted to improperly influence the decision of any state employee involved in the procurement process.

(4) When there are reasonable grounds to believe that there is a collusive effort by bidders to restrain competition by any means.

(5) Where there is a determination by the civil rights commission that the bidder conducts discriminatory employment practices.

d. A bidder may appeal removal from a bidders list or lists by submitting the appeal in writing to the department at the address given in paragraph 20.4(1)*"b."*

20.4(2) *Request for proposals and solicitation of bids.* The department shall prepare a request for proposals complete with bidding documents, specifications and instructions to bidders and send (or deliver) the request for proposals to prospective bidders for the purpose of bidding.

a. In special situations (e.g., the procurement of new model equipment), the request for proposals may be marked "preliminary" and sent to prospective bidders requesting their review of the proposal to determine their ability to bid and meet the requirements of the procurement. The "preliminary" proposal process involves the following steps:

(1) A vendor's conference may be held to discuss the "preliminary" proposal when the item in question is a new acquisition for the department.

(2) Written requests for variations, deviations or approved equal substitutions to the proposal shall be accepted, evaluated and answered by the department.

(3) The proposal may be amended by the department to incorporate approved changes.

(4) A final request for proposals shall be sent to prospective bidders that participated in the preliminary process.

b. The method to be used by the department in evaluating bids received shall be disclosed in the request for proposals.

c. The request for proposals shall be sent to a sufficient number of prospective bidders so as to promote adequate competition commensurate with the dollar value of the procurement.

(1) Generally, the request for proposals shall be sent to all bidders listed on the appropriate bidders list for the item to be procured.

(2) However, where the number of names on a bidders list is considered excessive in relation to a specific procurement, the list may be reduced for that procurement by any method consistent with paragraph 20.4(2)*"c."*

(3) The fact that less than an entire bidders list is used shall not in itself preclude the furnishing of requests for proposals to others upon request, or the consideration of bids received from bidders who were not invited to bid.

d. The department shall publicize the procurement by advertising in appropriate media, giving the date and time of bid opening, a general description of the item to be procured, and the name and address of the person to contact to obtain a copy of the request for proposals.

20.4(3) *Instructions to bidders.* Each bidder shall prepare the bidding documents in the manner prescribed and furnish all information and samples requested in the request for proposals. The following shall be adhered to by all bidders when preparing and submitting bids:

a. *Bid preparation.* Bids shall be signed and prepared in ink or typewritten on the bidding documents provided. Telegraphic, telephonic, E-mail or facsimile bids shall not be considered.

b. Information to be provided by bidder. In the space provided, the bidder shall denote brand name, manufacturer's name, model number and any other required information to assist in identifying each item the bidder proposes to supply.

c. New merchandise. Unless otherwise specified, all items bid shall be new, of the latest model or manufacture, and shall be at least equal in quality to that specified.

d. Bid price. Where requested, the unit and total price for each separate item, and the total price for all items, shall be provided on the bidding documents. Alternate prices for approved substitutions may be submitted by attaching a bid marked as an alternate bid to the bidding documents. In case of error, the unit price shall prevail. If unit price is not requested on the bidding documents, the total price per item shall prevail.

e. Discounts. Bidders shall quote net discount price. No other discounts shall be considered in making the award.

f. Time of acceptance. The bidder shall hold the bid open for action by the department at least 30 days past the bid opening date.

g. Escalator clauses. Unless specifically provided for in the request for proposals, a bid containing an escalator clause shall not be considered.

h. Federal and state taxes. Except for specific items that will be noted in the request for proposals, the department is exempt from payment of federal and state taxes. These taxes shall not be included in the bid price. Exemption certificates shall be furnished to bidders upon request.

i. Delivery dates. In the space provided, the bidder shall show the earliest date on which delivery can be made. When the request for proposals shows the acceptable delivery date for an item, the proposed delivery date may be used as a factor in determining the successful bidder.

j. Ties and reservations. No ties or reservations by the bidder are permitted. Any tie or reservation stipulated by the bidder shall be sufficient grounds for rejection of the bid.

k. Changes and additions. No changes in or additions to the request for proposals shall be permitted unless a written request for a change or an addition is submitted to the department's purchasing office in sufficient time to allow an appropriate analysis and response to all bidders, and the change or addition is approved by the purchasing office. The purchasing office shall notify all bidders of approved changes or additions.

Any unauthorized change in or addition to the request for proposals shall be sufficient grounds for rejection of the bid.

l. Submission of bids. All bids shall be submitted in sufficient time to reach the department's purchasing office prior to the time set for the opening of bids. Any bid received after the time set for bid opening shall be returned to the bidder unopened. Bids received shall be dated and time-stamped by the purchasing office showing the date and hour received. By submitting a bid, the bidder:

(1) Agrees that the contents of the bid will become part of the contract if the bidder receives the award.

(2) Shall be assumed to have become familiar with the contents and requirements of the request for proposals.

m. Proposal guaranty. A proposal guaranty may be required as security that the bidder will execute the contract if awarded to the bidder. If required, each bid shall be supported by a proposal guaranty in the form and amount prescribed in the request for proposals. Bids not so supported shall not be read.

n. Withdrawal of bids prior to opening. Bids may be withdrawn prior to the time set for the opening of bids. Prior to opening, a bidder who withdraws a bid may submit a new bid.

o. Modification or withdrawal of bids after opening. After opening, no bid may be modified. A bid may be withdrawn after opening only if:

(1) The bidder submits, at least three days prior to contract award, a sworn statement asserting that the bid contains a substantial inadvertent error and that the bidder would suffer a serious financial loss if required to perform under the bid, and

(2) The purchasing director approves the withdrawal. The purchasing director may base the decision to approve or deny the withdrawal on any factors the purchasing director deems relevant,

including but not limited to the best interests of the agency, possible prejudice to other bidders or the bidding process, and the extent of financial hardship on the bidder if withdrawal is not allowed.

20.4(4) *Public opening of bids.* Bids shall be opened publicly and read aloud at the time stipulated in the request for proposals.

20.4(5) *Consideration of bids.* The department reserves the right to accept or reject any or all bids. Individual bids may be rejected for any of the following reasons:

a. Noncompliance with the requirements of this rule or of the request for proposals.

b. Financial insolvency of the bidder.

c. Evidence of unfair bidding practices.

d. For any other reason stated in this rule.

20.4(6) *Contract award.*

a. *Time frame.* Unless otherwise specified by the department in the request for proposals, an award shall be made within 30 days after bid opening if it is in the best interests of the state. If an award is not made within the applicable time frame, the procurement shall be canceled unless an extension of time is mutually agreed to by the department and the apparent successful bidder.

b. *Tied bids.* Bids which are equal in all respects and are tied in price shall be resolved among the tied bidders by giving first preference to an Iowa bidder and second preference to the bidder who satisfactorily performed a contract the previous year for the same item at the same location. If the tie involves bidders with equal standing, the award shall be determined by lot among these bidders. A tied bidder or the bidder's representative may witness the determination by lot.

c. *Small business.* Rescinded IAB 11/29/89, effective 1/3/90.

d. *Tabulation of bids.* A tabulation of bids with an award recommendation shall be sent to all interested parties including bidders at least ten days prior to contract award.

e. *Protests.* Any protest of the recommended contract award shall be submitted in writing to: Director of Purchasing, Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. A written protest must be received by the director of purchasing at least three days prior to contract award. The protest shall be considered by the authority making the contract award. This is not a contested case.

f. *Return of proposal guaranty.* Unsuccessful bidders' proposal guaranties shall be promptly returned by the department after award is made. The proposed guaranty of the successful bidder shall be returned in accordance with subrule 20.4(7).

20.4(7) *Contract execution and performance.*

a. *Execution.* The successful bidder shall enter into (execute) a formal contract with the department within 14 days after award.

b. *Performance bond and certificate of insurance.* A performance bond or certificate of liability and property damage insurance, or both, may be required for those contracts involving services or specially constructed equipment. If required, the performance bond and certificate of insurance shall be filed with the department within 14 days after award.

c. *Return of proposal guaranty.* The proposal guaranty of the successful bidder shall be returned following execution of the contract. However, if the successful bidder fails to execute the contract and file an acceptable performance bond and certificate of insurance (if they are required) within 14 days after award, or fails to comply with Iowa Code chapter 490, the award may be annulled and the proposal guaranty forfeited.

d. *Assignment of contract.* The contractor may not assign the contract to another party without written authorization from the department's purchasing office.

e. *Strikes, lockouts or acts of God.* If the contractor's business or source of supply has been disrupted by a strike, lockout or act of God, the contractor shall promptly advise the department's purchasing office. The department may elect to cancel the contract without penalty to either the contractor or to the department.

f. *Removal of trade-ins.* Rescinded IAB 2/5/03, effective 3/12/03.

g. *Payment.* Unless otherwise stated in the contract, payment terms shall be net following the department's receipt and acceptance of the item(s) procured and receipt of an original invoice.

h. *Liquidated damages.* The contract terms may provide for liquidated damages to be assessed if the contractor fails to complete the contract within the contract period.

20.4(8) *Additional requirements.*

a. The standard specifications as referenced and adopted in rule 761—125.1(307A), where applicable and not in conflict with this rule or with the requirements of a particular procurement, shall apply to formal advertising procurement activities.

b. If there are federal funds involved in a particular procurement, and the federal procurement regulations conflict with this rule, then the federal procurement regulations shall apply.

c. Procurement of motor vehicles shall include the calculation and reduction of life cycle costs as specified in Iowa Code section 18.3(1).

761—20.5(307) Limited solicitation of bids.

20.5(1) *Bidders lists.* The department shall use its current bidders lists (see subrule 20.4(1)) to the extent feasible and practicable. However, the solicitation will also be offered to any qualified bidder that has requested an opportunity to participate.

20.5(2) *Form of solicitation.* The documents soliciting bids shall be as detailed and complete as practicable for the time and resources available.

20.5(3) *Form of bid.* Bids shall be in writing when practicable. Written bids will prevail over oral bids in case of discrepancies, disputes or errors. Following is the order of preference:

1. Original, signed bid.
2. Electronic bid (facsimile, E-mail, Internet).
3. Oral bid (e.g., telephonic).

20.5(4) *Award.* The award shall be offered to that responsible bidder whose bid meets the requirements of the solicitation and is the most advantageous to the department. An Iowa bidder will be given preference over an out-of-state bidder when bids are equal in all respects and are tied in price.

761—20.6 and **20.7** Reserved.

761—20.8(307) Negotiation—architectural, landscape architectural, engineering and related professional and technical services. This rule prescribes procedures for the procurement of architectural, landscape architectural, engineering and related professional and technical services by negotiation.

20.8(1) *Prequalification.*

a. *General information.*

(1) When procuring any of these services, the department shall consider for contract award only those firms that are prequalified with the department in the category of work to be contracted.

(2) Prequalification of subconsultants is also required if a work category exists for the services to be provided by the subconsultant. If no category exists, normal methods of acceptance shall be used such as experience, typical licensure, certification or registration, or seals of approval by others. A subconsultant is a firm contracted to the "prime" firm for the performance of work contracted by the department to the prime firm.

(3) When another party (e.g., a political subdivision), under agreement with the department or as prescribed by law, must obtain the department's approval of a contract between the party and a firm for provision of any of these services, the firm to be awarded the contract must be prequalified with the department in the category of work to be contracted.

b. *Web site.* Application forms, descriptions of the categories of work for which firms may be prequalified, the minimum qualification standards for each work category, and a list of firms prequalified in each work category are available on-line on the department's Web site. The home page is www.dot.state.ia.us. Prequalification information is found by clicking on the link "Doing Business with the DOT" and then the link "Professional and Technical Consultant Utilization."

c. Consultant coordinator. Information regarding prequalification is also available from the Consultant Coordinator, Engineering Bureau, Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

d. Application forms. A firm wishing to prequalify with the department in one or more categories of work must submit Forms 102111 and 102113. An applicant firm may either submit the forms on-line or complete hard copies of the forms and mail them to the consultant coordinator. On-line submission is encouraged.

(1) On Form 102111, the applicant firm shall provide general information regarding the firm.

(2) On Form 102113, the applicant firm shall provide detailed information regarding the firm's qualifications to perform a specific category of work. A separate Form 102113 must be submitted for each category. The firm shall support its application for prequalification for a particular category of work on the basis of adequacy and expertise of personnel, specialized experience in the field or fields required, performance records, and the minimum qualification standards set forth for the category.

(3) The department does not recognize joint ventures for the purpose of prequalification. Each firm will be prequalified in terms of its own capabilities; i.e., the major, significant aspects of the work can be accomplished using the firm's own personnel and equipment.

This requirement does not preclude consideration during the department's selection process of joint ventures or firms in the practice of subcontracting for specialized services.

e. Initial prequalification.

(1) A firm may apply for prequalification at any time.

(2) The department shall evaluate each Form 102113 submitted in terms of the minimum qualification standards for the work category and, if applicable, the past performance of the firm on contracts with the department for work falling within the category.

(3) If the department prequalifies a firm for a particular category of work, the department will update its Web site to indicate the firm is prequalified for that category. If prequalification is denied, the department shall notify the firm; see paragraph *"h"* of this subrule.

(4) A firm's prequalification status for all approved categories of work is effective during the calendar year of application and for one year thereafter, to expire on December 31.

f. Reapplication and renewal. At least two months but not more than three months prior to the expiration date, the department shall advise affected prequalified firms to reapply. A firm that reapplies on-line need only revise its on-line forms. A firm that does not reapply on-line must submit new Forms 102111 and 102113. The department shall process reapplications in the same manner as initial prequalification. A firm's renewal of prequalification is effective for two more years, to expire on December 31.

g. Amendment or expansion of prequalification. A prequalified firm may submit amended prequalification forms or apply for prequalification for additional categories of work at any time.

(1) Amended forms shall be accompanied by a separate statement explaining the submission. The firm must first contact the consultant coordinator for instructions on how to proceed.

(2) If the submission affects the minimum qualification standards or if it is an application for prequalification for an additional category of work, the department shall process the submission in the same manner as initial prequalification. However, the prequalification expiration date assigned to the firm will remain the same.

h. Denial or cancellation of prequalification. Prequalification may be denied or canceled if the firm fails to meet the minimum qualification standards or if the firm's performance on a contract with the department was unacceptable. Prequalification may also be denied or canceled for good cause including, but not limited to, omissions or misstatements of material fact on the application forms that could affect the prequalification status of the firm.

The department shall notify the firm by E-mail or in writing of denial or cancellation, the reason(s) therefor, and the person to contact in writing to protest the department's action.

20.8(2) and **20.8(3)** Reserved.

20.8(4) *Preselection.* Prior to selecting a firm with which to initiate negotiations under this rule, the department shall document the need for outside services, a description of the needed services, the time

frame within which the work must be performed, and the method of selection to be used. One of the following methods shall be used to select a firm with which to initiate negotiations:

a. Selection committee—complete process. See subrule 20.8(5).

b. Selection committee—small contract process. See subrule 20.8(6).

c. Sole source or emergency selection. See subrule 20.8(7).

20.8(5) *Selection committee—complete process.* This method of selection is used unless another selection method is justified.

a. *Selection committee.* The department shall appoint a selection committee to:

(1) Review the credentials of the firms prequalified to perform the services needed.

(2) Determine which firms will be sent a request for proposals (RFP). The committee may limit the number of firms sent an RFP to eliminate the effort required by a firm that submits a proposal for the work but, based on the evaluation criteria, would have a limited possibility of being selected.

(3) Establish weighted criteria for evaluating the firms submitting proposals. See paragraph *"b"* of this subrule.

(4) Prepare an RFP and send it to the firms identified in subparagraph (2). The department shall also notify all prequalified firms that an RFP has been issued and post the RFP on the department's Web site.

(5) If necessary, interview firms submitting proposals.

(6) Evaluate the firms submitting proposals. Select the top (three or more) firms.

(7) Document the committee's decision-making process.

b. *Evaluation criteria.* The selection committee is responsible for establishing criteria for evaluating each firm submitting a proposal, assigning weighted values to the criteria, and rating each firm on each criterion. Evaluation criteria are tailored to the needed services. Typical evaluation criteria are listed below. The list is not exhaustive, nor is each criterion mandatory.

(1) Staffing expertise consistent with special project needs.

(2) Past experience with similar types of work.

(3) Performance evaluations by the department and references included in a firm's proposal.

(4) Proximity to the project area, particularly when extensive field services are required.

(5) Current workload and commitment of key personnel.

(6) Specific qualifications of key staff who will be forming the firm's project team.

(7) Resources the firm has available and proposes to use on the project, including the firm's use of equipment and automated technology and their compatibility with equipment and technology used by the department.

(8) Identification of proposed subconsultants and the work they will perform.

c. *Consultant steering committee.* A consultant steering committee is responsible for reviewing the top firms selected by the selection committee, determining the order of preference for negotiations, and documenting its decision-making process. The consultant steering committee shall consider not only the selection committee's scoring but other factors such as:

(1) A firm's ability to complete required tasks in the time allotted, taking into account other work currently under contract.

(2) The volume of work a firm has with the department, both existing and potential.

(3) The department's goal of having a breadth of experienced firms capable of providing quality services to the department.

(4) Other items unique to the particular contract.

d. *Completion of selection process.* After selection committee and consultant steering committee activities are complete, the department shall determine whether negotiations may begin. If negotiations are approved, the department shall proceed to negotiate with the firm that is first in order of preference.

e. *Notification to firms.* The department shall notify those firms submitting proposals of the names of the top firms selected and the order of negotiations. Along with the notification, the department shall provide each firm other than the top firms a matrix showing the high, low and average scores for each item evaluated and that firm's score for each item.

20.8(6) *Selection committee—small contract process.* The small contract process may be used to identify a single firm with which to negotiate when the estimated work under the contract can normally be completed within a 12-month period and the estimated cost of the contract will not exceed $100,000.

a. *Selection committee.* The department shall appoint a selection committee to:

(1) Review the credentials of the firms prequalified to perform the services needed.

(2) If necessary, interview firms.

(3) Select a well-qualified firm with which to initiate negotiations.

(4) Document the committee's decision-making process.

b. *Completion of selection process.* After selection committee activities are complete, the department shall determine whether negotiations may begin. If negotiations are approved, the department shall proceed to negotiate with the selected firm.

20.8(7) *Sole source or emergency selection.* The department shall fully document and include in the contract file the justification for use of sole source or emergency selection and the basis on which a particular firm is selected.

a. *Sole source selection.* The department may select a single prequalified firm with which to negotiate when one of the following conditions exists:

(1) Only a single firm is determined qualified or eligible to perform the contemplated services or is eminently more qualified than other firms.

(2) The services involve work that is of such a specialized character or related to a specific geographical location that only a single firm, by virtue of experience, expertise, proximity to or familiarity with the project or ownership of intellectual property rights, could most satisfactorily complete the work.

b. *Emergency selection.* The department may select a single prequalified firm with which to negotiate when there is an emergency that will not permit the time necessary to use normal selection procedures. An emergency includes, but is not limited to, one of the following:

(1) A condition that threatens the public health, welfare or safety.

(2) A need to protect the health, welfare or safety of persons occupying or visiting a public improvement or property located adjacent to the public improvement.

(3) A situation in which the department must act to preserve critical services or programs.

20.8(8) *Negotiation of contract.* The purpose of negotiations is to develop a contract mutually satisfactory to the department and the selected firm.

a. The firm must submit a detailed cost proposal, including a detailed cost proposal for each proposed subcontract. The department shall prepare an independent estimate of the cost of the proposed services, including a detailed estimate of the firm's staff hours needed to complete the contract. Significant differences shall be evaluated and resolved to the satisfaction of both parties. If it is impractical to make an independent estimate, the department shall evaluate the acceptability of the firm's cost proposal on the basis of the reasonableness of the individual elements of the price proposed.

b. The department may perform a preaudit. A preaudit typically includes:

(1) An analysis of the firm's cost proposal and financial records for the method of accounting in place to ensure that the firm has the ability to adequately segregate and accumulate reasonable and allowable costs to be charged against the contract.

(2) An analysis of the firm's proposed direct costing rates and indirect overhead factors to ensure their propriety and allowability.

20.8(9) *Unsuccessful negotiations.* If a mutually satisfactory contract cannot be negotiated, the department shall formally terminate the negotiations and notify the firm in writing. Termination of negotiations is without prejudice. The substance of terminated negotiations is confidential.

When a selection committee was used, the department shall then initiate negotiations with the firm given second preference, and this procedure shall be continued until a mutually satisfactory contract has been negotiated. If a satisfactory contract cannot be negotiated with any of the selected firms, the department shall either:

a. Direct the selection committee to select one or more firms with which to continue negotiations, or

b. Redefine the scope of the project or work and start over (preselection).

20.8(10) *Evaluation of performance under a contract.*

a. The department shall evaluate all contracts under this rule after completion of the work. Those contracts which exceed one year in duration shall also be evaluated annually. Both the firm's performance and quality of the final product shall be evaluated. The evaluation shall consider:

(1) The quality and adequacy of work performed.

(2) The ability to meet established schedules and budgets.

(3) General administration of the contract, including substantiation of cost billings, payments to subconsultants, and documentation of claims.

(4) Cooperation shown by the firm in responding to requests for information and in revising procedures and products according to directions.

(5) Coordination exhibited by the firm in communicating with the department, subconsultants, agencies and others to accomplish tasks and resolve problems.

(6) Ingenuity displayed in solving unique and unusual design problems encountered during performance of contract objectives.

(7) The ability to obtain an acceptable end product with appropriate department staff guidance.

b. The evaluation may include a recommendation that the firm's prequalification be canceled (see paragraph 20.8(1)*"h"*). The firm shall be given an opportunity to review, comment on and sign the evaluation. The evaluation is confidential.

20.8(11) *Conflicts with federal requirements.* If any provision of this rule would cause a denial of federal funds or services or would otherwise be inconsistent with federal law, federal law shall be adhered to, but only to the extent necessary to prevent denial of the federal funds or services or to eliminate the inconsistency with federal law.

These rules are intended to implement Iowa Code sections 18.3(1), 18.6(10), 73.15 to 73.21, 307.10, 307.12 and 307.21.

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CHAPTERS 21 to 24
Reserved

CHAPTER 25
COMPETITION WITH PRIVATE ENTERPRISE

761—25.1(23A) Interpretation. This chapter shall not be interpreted to mean that the department must provide a good or service or will provide a good or service without qualification, restriction, or charge.

761—25.2(23A) Exemptions. Activities related to the items listed in this rule are exempted from the provisions of Iowa Code section 23A.2, subsection 1.

25.2(1) Transportation-related printing, publications and electronically generated materials including, but not limited to: forms; brochures; booklets; manuals; directories; periodicals; county, city and state transportation maps; video and audio materials; computer tapes and discs; microfilm and other instructional and informative materials.

25.2(2) Copies of records or other services provided to meet the requirements of Iowa Code chapter 22.

25.2(3) Transportation-related studies, planning and research.

25.2(4) Disposal of surplus, obsolete or junked materials and supplies and equipment.

25.2(5) Matters of intergovernmental cooperation. Cooperating with other government bodies does not involve providing goods or services to the public except in the broadest sense. The term "government bodies" includes regional transit systems. Activities which involve intergovernmental cooperation include, but are not limited to, the following:

a. Use or consumption of departmental facilities, equipment, materials or supplies by other government bodies, including loans, rentals and sales of equipment, materials and supplies.

b. Services provided to or performed for other government bodies. These services include:

(1) Vehicle maintenance and repair services provided to other state agencies.

(2) Purchasing services provided to other government bodies.

(3) Purchases made by other government bodies through state contracts.

(4) Disposal of surplus, obsolete or junked materials and supplies and equipment belonging to other state agencies, counties or cities.

(5) Other services performed for government bodies. These services cover a wide range of activities and are performed primarily for county and city highway departments, agencies having park or institutional roads, county treasurers, public transit systems, publicly owned airports, law enforcement agencies, regional planning agencies, and transportation-related boards.

25.2(6) Acquisition and disposal of land and improvements acquired for highways or facilities use.

25.2(7) Lease of right-of-way.

25.2(8) Design, construction, reconstruction, inspection and maintenance of highways including, but not limited to, signs erected in the right-of-way and acknowledgment signs used in the adopt-a-highway, rest area sponsorship and highway helper sponsorship programs.

25.2(9) State aircraft pool operations.

25.2(10) Use or consumption of specialized departmental equipment, materials, supplies or services to complete a contract with the department if the goods or services are not readily available on the open market and the department can provide the goods or services at a competitive price.

25.2(11) Use of departmental facilities to complete a contract with the department.

25.2(12) Activities related to emergencies including, but not limited to, providing assistance to the public.

25.2(13) Goods or services for use or consumption by the department.

25.2(14) Use of departmental facilities or services by persons providing services to or representing departmental employees including, but not limited to, the following services or persons: food, credit union, day care and employee organizations.

25.2(15) Use of departmental conference rooms or grounds by civic groups and nonprofit organizations.

25.2(16) Personal protective items purchased by departmental employees through state contracts.

25.2(17) Goods or services promoting transportation or transportation safety.

25.2(18) Any other activity permitted or required by law.

[**ARC 0187C**, IAB 7/11/12, effective 8/15/12]

These rules are intended to implement Iowa Code sections 23A.1 and 23A.2.

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[Filed ARC 0187C (Notice ARC 0113C, IAB 5/2/12), IAB 7/11/12, effective 8/15/12]

CHAPTER 26
CONSENT FOR THE SALE OF GOODS AND SERVICES

Rescinded IAB 10/11/06, effective 11/15/06

CHAPTER 27
INTEREST ON RETAINED FUNDS

761—27.1(573) Interest on retained funds.

27.1(1) *Scope.* This rule implements Iowa Code section 573.12, regarding payment to a contractor of interest earned on retained funds. This rule does not address payment of interest under Iowa Code section 573.14.

27.1(2) *General requirements.*

a. Interest shall be paid pursuant to Iowa Code section 573.12 only on state contracts awarded on or after July 1, 1990.

b. Interest shall be paid on retained funds of a contract only if the accrued interest on those funds is at least $25. This dollar threshold reflects the cost to the department of processing an interest payment on retained funds.

c. Interest shall not be paid on retained funds of a contract declared in default.

27.1(3) *Procedures.*

a. Interest shall begin to accrue on retained funds on the date the first progress payment is issued. An interest rate shall be established on this date in accordance with Iowa Code section 12C.6. This interest rate shall apply for the duration of the contract.

b. In general, interest shall continue to accrue on retained funds until the date final payment is issued.

(1) Final payment is payment of retained funds less assessed liquidated damages, if applicable.

(2) The final payment and the interest payment shall be by separate warrants. The interest payment shall be issued within two weeks after issuance of final payment.

c. Notwithstanding paragraph *"b,"* interest shall cease to accrue on retained funds:

(1) Upon the expiration of 90 days following field acceptance of a project if the contractor has failed to submit to the department the documentation necessary for final payment, as specified in the contract provisions.

(2) Upon payment of retained funds via a retention release voucher. A retention release voucher releases the retained funds and the interest accrued on those funds less assessed liquidated damages, twice the amount of claims on file, and the amount of possible overpayments or adjustments to contract items and change orders. A retention release voucher may be paid at any time after 30 days have expired following completion and final acceptance of the project, if the contractor has submitted the required documentation.

(3) Upon the court's obtaining jurisdiction of the retained funds pursuant to Iowa Code section 573.16. Retained funds turned over to the court will include the interest accrued on those funds to the date the action was filed, if the interest has not been paid to the contractor.

This rule is intended to implement Iowa Code section 573.12.

[Filed 1/9/91, Notice 11/14/90—published 2/6/91, effective 3/13/91]

CHAPTER 28
IOWA TRANSPORTATION MAP

761—28.1(307) Definition.

"Iowa transportation map" is the multicolored official map that is produced by the department to provide the motoring public with basic information on the location of cities and the highways connecting them.

761—28.2(307) Information. Information regarding the use of the Iowa transportation map may be obtained from: Office of Media and Marketing Services, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1922.

761—28.3(307) Policy. The Iowa transportation map is to be distributed to the public without charge. The map is not to be sold or used for purposes of personal or professional gain. The paper version of the map is not to be altered for distribution in any way, including adding a name or address of an individual, business or organization.

1. This policy applies to but is not limited to candidates running for political office.
2. It is not a violation of this policy for the pictures of the governor and lieutenant governor and a personal message to appear on the map.

These rules are intended to implement Iowa Code sections 307.12 and 307.14.

[Filed 9/24/03, Notice 8/20/03—published 10/15/03, effective 11/19/03]
[Filed 10/11/06, Notice 8/30/06—published 11/8/06, effective 12/13/06]

CHAPTERS 29 to 39
Reserved

CHAPTER 40
RECOVERY OF DAMAGES TO HIGHWAYS OR HIGHWAY STRUCTURES

761—40.1(321) Scope. This chapter of rules is limited to recovery of damages to highways or highway structures in two situations:

40.1(1) As a result of any illegal operation, driving, or moving of a vehicle, object, or contrivance; or

40.1(2) As a result of operation, driving, or moving any vehicle, object, or contrivance weighing in excess of the maximum weight in Iowa Code chapter 321 but authorized by a special permit issued pursuant to Iowa Code chapter 321.

761—40.2(321) Definitions.

"Department" means the Iowa department of transportation.

"Highway" means any segment of the primary road system or a municipal extension and includes but is not limited to the pavement surface, shoulder, median, earth fill, ditches and vegetation.

"Highway structure" means all the appurtenances of a highway including but not limited to guardrails, culverts, bridges, signs, light poles, attenuators, traffic control devices, or buildings at rest areas, information sites, commercial vehicle inspection and enforcement sites, or other appurtenances adjacent to the highway.

"Labor additive" means the labor additive rate approved annually by the Federal Highway Administration. This rate includes indirect labor costs, such as sick leave, vacation, holidays, other leaves with pay and departmental training. The labor additive rate produces an accurate charge for labor costs.

"Traffic control" means the labor, materials and equipment used to control traffic through or around the site of an accident on or adjacent to the highway, including but not limited to signs, barricades, signals, pavement markings, and lighting, channelizing, or hand signaling devices.

761—40.3(321) Information. Information about the recovery of damages to highway facilities may be obtained from: Office of Finance, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

761—40.4(321) Accident scene. The department shall exclude from recoverable damages the cost of traffic control at the scene of an accident during the period required to conduct the initial investigation, arrange for care of the injured, and either perform cleanup required to return traffic flow to normal conditions or establish a detour.

761—40.5(321) Repair of facilities.

40.5(1) When notified of a damaged highway or highway structure, the department shall arrange for its repair or replacement by department personnel or by a contractor.

40.5(2) The department shall document all of the repair or replacement cost incurred including, but not limited to:

a. Disposal of remaining debris.
b. Review and inspection of damaged facility.
c. Preparation of design plans.
d. Material and equipment used by the department.
e. Costs paid to private contractors.
f. Costs paid to another jurisdiction for a detour route when a highway closure is required.
g. Traffic control costs incurred during the inspection, repair or replacement.
h. Labor costs incurred by the department, including labor additive.

40.5(3) Rescinded IAB 9/4/02, effective 10/9/02.

761—40.6(321) Recovery of damages.

40.6(1) The department shall investigate to determine the person(s) responsible for the damages pursuant to Iowa Code section 321.475.

40.6(2) The department shall summarize the repair or replacement costs and submit the claim to the person(s) responsible for the damage.

40.6(3) The department may seek recovery through civil court action.

40.6(4) Collections for recovery of damages shall be deposited in the primary road fund.

These rules are intended to implement Iowa Code section 321.475.

[Filed 1/15/92, Notice 12/11/91—published 2/5/92, effective 3/11/92][1]
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[Filed 8/7/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[1] Effective date of 761—40.6(321) delayed 70 days by the Administrative Rules Review Committee at its meeting held March 9, 1992.

HIGHWAYS

CHAPTER 100
FUNCTIONAL CLASSIFICATION OF HIGHWAYS

[Prior to 6/3/87, Transportation Department[820]—(08,C)Ch3]
Rescinded IAB 12/16/98, effective 1/20/99

CHAPTER 101
FARM-TO-MARKET REVIEW BOARD

761—101.1(306) Purpose. The purpose of these procedural rules is to formalize the process by which the farm-to-market review board, created by Iowa Code section 306.6, will administer its duties.

101.1(1) Iowa Code section 306.6 requires the farm-to-market review board to make final administrative decisions based on sound farm-to-market road system designation principles for all modifications relative to the farm-to-market road system.

101.1(2) Iowa Code section 306.6A requires the farm-to-market review board to adopt procedural rules for modifications to the existing farm-to-market road system and designation of farm-to-market routes on new alignment. These rules implement this requirement.

101.1(3) Iowa Code section 306.5 states that the farm-to-market road system shall be a continuous, interconnected system and that provision shall be made for continuity by the designation of extensions within municipalities, state parks, state institutions, other state lands, and county parks and conservation areas.

761—101.2(306) Definitions.

"Area service roads" or *"local roads"* or *"local road system"* means those secondary roads that are not a part of the farm-to-market road system.

"Board" means the farm-to-market review board.

"Executive board" means the Iowa county engineers association executive board.

"Farm-to-market extensions" means extensions of the farm-to-market road system within municipalities, state parks, state institutions, other state lands, and county parks and conservation areas. The mileage of these extensions of the system shall be included in the total mileage of the farm-to-market road system.

"Farm-to-market roads" or *"farm-to-market road system"* means those county jurisdiction intracounty and intercounty roads which serve principal traffic generating areas and connect such areas to other farm-to-market roads and primary roads. The farm-to-market road system includes those county jurisdiction roads providing service for short-distance intracounty and intercounty traffic or providing connections between farm-to-market and area service roads, and includes those secondary roads which are federal aid eligible. The farm-to-market road system shall not exceed 35,000 miles.

"President" means the president of the Iowa county engineers association.

761—101.3(306) Composition and membership of the farm-to-market review board.

101.3(1) The farm-to-market review board shall be composed of 12 county engineers selected by the Iowa county engineers association. Two members shall be selected from each district to serve staggered terms. After the first complete term rotation as shown below, the members shall serve six-year terms. Rotations shall be staggered so that no more than one-sixth of the membership is rotated off the board in any one year. The rotation of board members shall further provide that two members from one district will not be rotated off the board in the same year, and that their rotations will be varied by three years. Initial board rotation shall be as follows and shall be extended in future years in the same pattern:

Year		Rotation
2000	District 1 Representative A	District 4 Representative A
2001	District 2 Representative A	District 5 Representative A
2002	District 3 Representative A	District 6 Representative A
2003	District 1 Representative B	District 4 Representative B
2004	District 2 Representative B	District 5 Representative B
2005	District 3 Representative B	District 6 Representative B

101.3(2) Members shall be nominated by their districts and approved by the executive board. A county engineer may serve multiple, consecutive terms if so nominated by the county engineer's district.

If a county engineer is unable to complete a term for any reason, the president shall select another county engineer within the district to serve the balance of the term.

101.3(3) The farm-to-market review board shall select from its membership a chair and a vice-chair to serve one-year terms. The chair serves at the pleasure of the board and may be elected to multiple terms as deemed appropriate by the board. The vice-chair shall preside at a meeting in the absence of the chair.

761—101.4(306) Collection of system modification requests and frequency of meetings.

101.4(1) The department of transportation will collect applications for modifications to the farm-to-market road system. The board chair shall schedule meetings of the board. In general, the farm-to-market review board shall meet in conjunction with statewide meetings of the Iowa state association of counties and Iowa county engineers association to review accumulated applications for farm-to-market road system modifications. Applications must be filed no less than 30 days prior to each scheduled board meeting. Additional board meetings shall be called as determined by the chair.

101.4(2) The farm-to-market review board is required to follow the provisions of Iowa Code chapter 21 with regard to open meetings. The chair shall post a meeting agenda on the "Service Bureau Bulletin Board" and send copies of the agenda to all counties.

101.4(3) Minutes of each meeting shall be kept; the chair shall be responsible for the minutes. Meetings may be tape recorded to facilitate the preparation of meeting minutes, but any tapes made shall not be retained after the minutes have been completed.

761—101.5(306) Procedure for requesting modifications to the farm-to-market road system. To apply for a modification to the farm-to-market road system, a county must file an application through the department of transportation.

101.5(1) The application must include the following:

a. A copy of a resolution of the county board of supervisors requesting the modification to the existing farm-to-market road system. Farm-to-market modifications may include proposed roads, redesignation of area service roads, or transfers of jurisdiction.

b. A report of the county engineer explaining and justifying the addition of new mileage to the farm-to-market road system or the change in the route or farm-to-market classification proposed by the county.

101.5(2) In the case of intercounty routes, joint applications may be filed. Resolutions shall be required of each county.

761—101.6(306) Review criteria for determining eligibility for inclusion of additional roads into the farm-to-market road system.

101.6(1) The farm-to-market review board shall make final administrative determinations based on sound farm-to-market road system designation principles for all modifications relative to the farm-to-market road system.

101.6(2) The board shall consider the following factors in making decisions to modify the farm-to-market road system:

a. Intracounty and intercounty continuity of systems.

b. Properly integrated systems.

c. Existing and potential traffic.

d. Land use.

e. Location of the route.

f. Equitable distribution of farm-to-market mileage.

761—101.7(306) Voting and approval of requested modifications. Each member is a voting member and is eligible to vote at every meeting at which that member is in attendance. Attendance may include members being present at the meeting through a conference telephone call, Iowa communications network connection, or other electronic means deemed appropriate by the chair.

101.7(1) *Determination of a quorum.* A minimum of eight board members is required for a quorum. If a quorum is not present at a meeting, the meeting shall be rescheduled.

101.7(2) *Number of votes needed to approve or deny a modification.* For a requested modification to the farm-to-market road system to be approved, it must receive a minimum of seven affirmative votes; in other words, a majority of the entire board. A motion to deny a requested modification need only receive six votes for the denial to be approved.

761—101.8(306) Report of board decision to applicant county. Within 30 calendar days after a board meeting, the chair shall send a letter to each county whose request was acted upon by the board at the meeting. The letter shall apprise each applicant of the decision of the farm-to-market review board, briefly explain the reasons for the board's decision, and explain the reapplication and judicial review processes.

761—101.9(306) Reapplication for modification. A county may reapply for a modification to the farm-to-market road system if its initial request is denied. The county must again follow all provisions for requesting a modification and should be prepared to present additional information in support of the requested change. Any requested system modification that receives two denials may not be resubmitted for consideration for a minimum of three years.

761—101.10(306) Judicial review. Any county that is aggrieved or adversely affected by a decision of the farm-to-market review board may seek judicial review of such agency action under the provisions of Iowa Code section 17A.19.

761—101.11(306) Adoption and modification of rules. The chair shall direct the board to review these rules annually. Board members may recommend changes to these rules.

761—101.12(306) Severability clause. If any section, provision, or part of these rules is adjudged invalid or unconstitutional, such adjudication shall not affect the validity of these rules as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

These rules are intended to implement Iowa Code sections 306.6 and 306.6A.

[Filed 1/21/99, Notice 12/16/98—published 2/10/99, effective 3/17/99]

CHAPTER 102
SECONDARY ROAD FUND DISTRIBUTION COMMITTEE

761—102.1(312) Purpose. The purpose of these rules is to adopt the initial formulas to be used for distribution of moneys in the secondary road fund and the farm-to-market road fund and to formalize the process by which the secondary road fund distribution committee will administer its duties.

102.1(1) Iowa Code Supplement section 312.3C creates a secondary road fund distribution committee and requires the committee to be comprised of representatives appointed by the president of the Iowa county engineers association, the president of the Iowa state association of county supervisors, and the department of transportation.

102.1(2) Iowa Code Supplement section 312.3C requires the secondary road fund distribution committee to:

a. Determine the methodology to be used for distribution of moneys in the secondary road fund and the farm-to-market road fund. The methodology shall be phased in over a five-year period, beginning July 1, 2006.

b. Adopt rules to govern the determination and modification of the methodology to be used for distribution of moneys in the secondary road fund and the farm-to-market road fund.

102.1(3) Iowa Code Supplement section 312.3B requires the Iowa county engineers association service bureau to annually compute secondary road fund and farm-to-market road fund distributions using the methodology determined by the secondary road fund distribution committee.

761—102.2(312) Initial formulas.

102.2(1) The secondary road fund distribution committee adopts the recommendations in the report entitled "Final Report, Secondary Road Fund Distribution Advisory Committee, 2002 to 2005" as the initial formulas to be used for distribution of moneys in the secondary road fund and the farm-to-market road fund to counties, beginning July 1, 2006. This report is on file with the department of transportation and is available on the Internet at the following address: http://publications.iowa.gov/archive/00002456. The report's recommendations contain one formula for distribution of secondary road funds and one formula for distribution of farm-to-market road funds and describe the components of each formula.

102.2(2) Each formula shall be phased in over a five-year period commencing July 1, 2006; during that time period, secondary road funds and farm-to-market road funds shall be distributed to counties as follows:

a. Fiscal year 2007 – 80 percent needs-based methodology and 20 percent formula.

b. Fiscal year 2008 – 60 percent needs-based methodology and 40 percent formula.

c. Fiscal year 2009 – 40 percent needs-based methodology and 60 percent formula.

d. Fiscal year 2010 – 20 percent needs-based methodology and 80 percent formula.

e. Fiscal year 2011 – 100 percent formula.

"Needs-based methodology" means the methodology used for fiscal year 2006, pursuant to Iowa Code section 312.3, subsection 1, and Iowa Code section 312.5, as these statutes existed in the Code of Iowa, 2005.

"Formula" means the appropriate formula (secondary road fund or farm-to-market road fund) as set out in the recommendations adopted in subrule 102.2(1).

761—102.3 and **102.4** Reserved.

761—102.5(312) Composition and membership of the secondary road fund distribution committee.

102.5(1) The secondary road fund distribution committee shall be composed of six county engineers, six county supervisors, and two representatives of the department of transportation.

102.5(2) The county engineers shall be appointed by the president of the Iowa county engineers association, the county supervisors shall be appointed by the president of the Iowa state association of county supervisors, and the department of transportation representatives shall be appointed by the department of transportation.

102.5(3) The county engineer members and the county supervisor members shall be selected according to the population of their counties, as follows:

a. Two county engineers and two county supervisors from large counties.

b. Two county engineers and two county supervisors from medium counties.

c. Two county engineers and two county supervisors from small counties.

102.5(4) To the extent possible, the committee shall be geographically diverse, and no county may have both an engineer and a supervisor as members simultaneously.

102.5(5) All county members shall be voting members. The department of transportation representatives shall be nonvoting members.

761—102.6(312) Terms of office and rotation of seats.

102.6(1) Committee members shall serve six-year terms; however, shorter terms shall apply to members of the initial committee, as described in subrule 102.6(3) below. Terms of office shall begin on January 1 in the year of appointment and expire on December 31 in the year of expiration. Members may be reappointed to serve consecutive terms.

102.6(2) Rotations shall be staggered so that no more than two county members are rotated off the committee in any single year.

102.6(3) The initial committee is the committee in existence on July 1, 2005. The terms of office and rotations of seats for members of the initial committee shall be as shown in the following table:

Year	County Engineer Members	County Supervisor Members	Initial Term Length	Initial Term Ending Date
CY 2006	Large county A	Small county A	1 year	12/31/2006
CY 2007	Medium county A	Medium county A	2 years	12/31/2007
CY 2008	Small county A	Large county A	3 years	12/31/2008
CY 2009	Large county B	Small county B	4 years	12/31/2009
CY 2010	Medium county B	Medium county B	5 years	12/31/2010
CY 2011	Small county B	Large county B	6 years	12/31/2011

The initial committee shall, by resolution and in accordance with this table, assign initial term ending dates to apply to its members.

102.6(4) As initial terms expire, the incumbents may be reappointed or replaced. Each new term shall be for a full six-year period.

102.6(5) If a committee member is unable to complete a term of office for any reason, a replacement member of the same class (county engineer or county supervisor) and from the same group (a large, medium or small county) shall be appointed to serve the balance of the term.

102.6(6) The committee shall select from its membership a chair and a vice-chair to serve one-year terms. The chair and vice-chair serve at the pleasure of the committee and may be elected to multiple terms as the committee deems appropriate. The vice-chair shall preside at a meeting in the absence of the chair.

761—102.7(312) Committee meetings. Committee meetings shall be held at the call of the chair or when two committee members so request. Committee meetings shall be conducted in accordance with Iowa Code chapter 21. Committee meetings may be held electronically, in accordance with Iowa Code section 21.8. The committee shall meet at least once annually.

102.7(1) Each county member is a voting member and is eligible to vote at every committee meeting the member attends. Attendance may include members who are present at the meeting electronically through a telephone conference call, an Iowa communications network connection or other electronic means deemed appropriate by the chair.

102.7(2) A minimum of eight voting members is required for a quorum. If a quorum is not present at a meeting, the meeting shall be rescheduled.

102.7(3) A majority of voting members shall be required to pass ordinary items of business.

102.7(4) A resolution to propose a new or modified secondary road fund distribution formula or farm-to-market road fund distribution formula shall require ten affirmative votes.

102.7(5) A resolution to adopt, amend or rescind administrative rules shall require ten affirmative votes.

102.7(6) In addition to the requirements of Iowa Code chapter 21, the chair shall post meeting agendas on the Iowa county engineers association Web site and the Iowa state association of county supervisors Web site and shall send copies of agendas to all county engineers and supervisors.

102.7(7) Minutes of each meeting shall be kept; the presiding chair shall be responsible for the minutes. Minutes of a meeting shall be presented to the committee for approval at its next meeting. The chair shall post approved minutes on the Iowa county engineers association Web site and the Iowa state association of county supervisors Web site and shall file the minutes with the office of systems planning of the department of transportation.

761—102.8 and **102.9** Reserved.

761—102.10(312) Considerations for a new or modified distribution formula. A distribution formula that is proposed in accordance with rule 761—102.11(312) should substantially meet the following objectives:

1. Funding levels to counties should be relatively stable, with only small changes occurring from year to year.
2. The formula should be able to factor in changes in population, mileages, the centerline lineal feet of bridges, and traffic levels as they occur over time, without needing to be revised.

761—102.11(312) Process for approval of a new or modified distribution formula.

102.11(1) Proposals to adopt a new or modified distribution formula may be initiated by the committee itself or by the executive board of either the Iowa county engineers association or the Iowa state association of county supervisors upon request to the committee.

102.11(2) When a formula change has been initiated or requested, the committee shall meet, establish a work plan, and set up a work schedule.

102.11(3) The committee shall conduct such studies, research, development, and testing as are required to evaluate the proposal and shall, within 18 months after initiation or receipt of the proposal, publish an official report outlining the committee's findings and recommendations.

102.11(4) If the official report recommends adoption of a new or modified distribution formula, the chair shall communicate the details of the committee's recommendations to all county engineers, all county supervisors and the department of transportation in such a manner as the committee deems appropriate. This communication shall solicit comments on the committee's recommendations.

102.11(5) After receipt and consideration of comments from counties, the committee may adopt a resolution that formally proposes a distribution formula and places it into official consideration.

102.11(6) The chair shall forward the resolution to the executive boards of both the Iowa county engineers association and the Iowa state association of county supervisors, with a request for endorsement of the proposed distribution formula.

102.11(7) If both executive boards endorse the proposed distribution formula, the chair shall request each individual county to consider and adopt a resolution in favor of or in opposition to the proposed distribution formula.

102.11(8) If at least 66 counties adopt resolutions in favor of the proposed distribution formula, the distribution formula is adopted without further committee action.

102.11(9) The chair shall notify the following organizations and groups when the distribution formula has been adopted:

a. The executive board of the Iowa county engineers association.
b. The executive board of the Iowa state association of county supervisors.
c. The office of systems planning of the department of transportation.
d. The office of the treasurer of state.

e. All county engineers and county supervisors.
f. The Iowa county engineers association service bureau.

761—102.12(312) Judicial review. Any county that is aggrieved or adversely affected by a decision of the secondary road fund distribution committee may seek judicial review of such agency action under the provisions of Iowa Code section 17A.19.

761—102.13(312) Severability clause. If any section, provision, or part of these rules is adjudged invalid or unconstitutional, such adjudication shall not affect the validity of these rules as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

These rules are intended to implement Iowa Code Supplement section 312.3C.

[Filed 3/27/06, Notice 2/15/06—published 4/26/06, effective 5/31/06]

CHAPTERS 103 and 104
Reserved

CHAPTER 105
HOLIDAY REST STOPS

761—105.1(307) Purpose. The purpose of this chapter is to establish the requirements and procedures for approving requests for rest stops on primary and interstate highways during holiday periods.

761—105.2(307) General.

105.2(1) *Holiday rest stop.* A holiday rest stop is a location where a nonprofit organization or group serves free refreshments to motorists during holiday periods to provide a break from driving monotony, promote safer driving, and reduce the potential for highway accidents.

105.2(2) *Free refreshments.* Free refreshments means water, coffee, cookies, any nonintoxicating, noncarbonated beverage which is not already bottled or canned, doughnuts, or baked dessert goods.

105.2(3) *Holiday periods.* Holiday periods shall be limited to:

a. The Saturday, Sunday, and Monday of Memorial Day weekend and Labor Day weekend, starting at noon on the preceding Friday and ending at midnight between Monday and Tuesday of the holiday weekend.

b. The period surrounding Independence Day, starting at noon on July 1 and ending at midnight between July 6 and July 7.

105.2(4) *Information.* General information regarding holiday rest stops is available from the Office of Maintenance, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

761—105.3(321) Conditions. The sponsor of a holiday rest stop shall comply with the following general conditions:

105.3(1) The sponsor shall not request or accept payment for the refreshments served. The sponsor may accept voluntary donations using containers clearly labeled with a sign stating "donations." If donation containers are used, the sponsor shall place signs within the immediate area of the operation at locations designated by the department stating the refreshments are free. An example of appropriate signing would be "free refreshments."

105.3(2) The sponsor shall not distribute any literature or other promotional material.

105.3(3) Rescinded IAB 4/3/02, effective 5/8/02.

105.3(4) The sponsor shall clean up the area and remove all signs it has erected promptly after the holiday rest stop is discontinued.

105.3(5) Parking shall not be permitted on the highway shoulders.

105.3(6) The sponsor shall agree to save the department of transportation and the state of Iowa harmless from any liability that may result from the directing of traffic to the holiday rest stop area, and as a result of changes of traffic patterns caused by the activities of the sponsor in or about the holiday rest stop area, and all other liability related to the operation of the special holiday rest stop and the refreshments provided.

761—105.4(321) Holiday rest stops on interstate highways.

105.4(1) *Site.* A holiday rest stop along an interstate highway shall be located in an established interstate rest area. The department shall designate an appropriate spot within the rest area for the holiday rest stop. The sponsor shall not use the rest area restroom building or welcome center buildings for the purposes of the holiday rest stop. The sponsor may use the information kiosk where available. A tent or canopy may be used in areas without a kiosk during inclement weather. Running water is available at each rest area. The department will provide electricity if requested.

105.4(2) *Signs.*

a. The sponsor shall not place any signs directing highway traffic to the holiday rest stop. The sponsor shall not place any signs for the holiday rest stop along the interstate highway or interchange ramps. The department shall place signs stating "free refreshments" adjacent to the interstate highway and shall remove these signs when the holiday rest stop is discontinued.

b. The sponsor is responsible for any signs posted at the actual holiday rest stop site. Signs provided or placed by the sponsor shall not include any advertising but may include the sponsor's name. Signs shall not be mounted on objects (including vehicles) that contain the name of any organization or individual except the sponsor. The sponsor shall remove all signs it has erected promptly after the holiday rest stop is discontinued.

105.4(3) *Request.* A request to sponsor a holiday rest stop in an interstate rest area shall be made on Form 810023. This form is available from the department's district offices or the office of maintenance.

a. The request shall include the name and address of the requesting sponsor, a detailed description of the proposed holiday rest stop location, and the requested hours of operation.

b. The request shall be submitted to the office of maintenance.

c. The request must be submitted at least 30 days prior to the beginning date of the holiday period and shall be accepted up to 12 months in advance.

105.4(4) *Approval of request.* The request is subject to the approval of the office of maintenance. The request shall be approved unless there is good cause for denying it.

a. A request to sponsor a holiday rest stop shall not be approved until 60 days before the beginning date of the holiday period.

b. If there is more than one qualifying request for the same site and date, the sponsor shall be selected by lottery.

761—105.5(307) Holiday rest stops on primary highways.

105.5(1) *Site.* The proposed site of a holiday rest stop along a noninterstate primary highway will be inspected by the department to ensure it meets the following requirements:

a. The site shall be large enough to provide parking space for at least 15 vehicles and located so that all parked vehicles will be at least 50 feet from the edge of the traveled way of the primary highway.

b. An access drive from the primary highway shoulder to the parking area shall have a top width of at least 20 feet and shall provide a clear view of the primary highway for at least 900 feet in each direction.

105.5(2) *Signs.*

a. The sponsor shall not place any signs directing highway traffic to the holiday rest stop. The sponsor shall provide two signs approximately 4 feet by 4 feet announcing the holiday rest stop, one for each highway approach to the site. These signs will be installed by the department, not the sponsor. The department shall remove these signs when the holiday rest stop is discontinued.

b. The sponsor is responsible for any signs posted at the actual holiday rest stop site. Signs provided or placed by the sponsor shall not include any advertising but may include the sponsor's name. Signs shall not be mounted on objects (including vehicles) that contain the name of any organization or individual except the sponsor. The sponsor shall remove all signs it has erected promptly after the holiday rest stop is discontinued.

105.5(3) *Request.* A request to sponsor a holiday rest stop along a noninterstate primary highway shall be made on Form 810023. This form is available from the department's district offices or the office of maintenance.

a. The request shall include the name and address of the requesting sponsor, a detailed description of the proposed holiday rest stop location, and the requested hours of operation.

b. The request shall be submitted to the district office or the office of maintenance.

c. The request must be submitted at least 30 days prior to the beginning date of the holiday period and shall be accepted up to 12 months in advance.

105.5(4) *Approval of request.* The request is subject to the approval of the district engineer. The request shall be approved unless there is good cause for denying it.

a. A request to sponsor a holiday rest stop shall not be approved until 60 days before the beginning date of the holiday period.

b. If there is more than one qualifying request for the same site and date, the sponsor shall be selected by lottery.

These rules are intended to implement Iowa Code sections 307.12 and 314.27 and chapter 321.

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CHAPTER 106
PROMOTION OF IOWA AGRICULTURAL PRODUCTS AT REST AREAS

761—106.1(307) Purpose. The purpose of this chapter is to establish a program to allow Iowa agricultural products to be promoted at interstate rest areas.

761—106.2(307) Definitions.

"Iowa agricultural product" means a product grown or raised in Iowa.

761—106.3(307) Information. General information regarding agricultural promotions at interstate rest areas is available from the Office of Maintenance, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

761—106.4(307) Request.

106.4(1) A request to promote an Iowa agricultural product at an interstate rest area shall be made on Form 810059. This form is available from the department's district offices or the office of maintenance.

a. The sponsor of the promotion must be an organization that promotes products grown or raised in Iowa.

b. The request shall include the name and address of the requesting organization, a detailed description of the proposed Iowa agricultural product promotion, and the requested hours of operation.

c. The request shall be submitted to the office of maintenance.

d. The request must be submitted at least 30 days prior to the beginning date of the promotional period and shall be accepted up to six months in advance.

106.4(2) Approval of request. The request is subject to the approval of the office of maintenance. The request shall be approved unless there is good cause for denying it.

a. A request to promote an Iowa agricultural product at an interstate rest area shall not be approved until 60 days before the beginning date of the promotional period.

b. If there is more than one qualifying request for the same site and date, the sponsor shall be selected by lottery.

c. There may be more than one sponsor per day at each site, provided the first sponsor and the department approve any additional sponsors.

761—106.5(307) Time frame. Promotions shall be allowed only during daylight hours. Promotions shall be allowed year-round except for the following holiday periods:

1. The Saturday, Sunday, and Monday of Memorial Day weekend and Labor Day weekend, starting at noon on the preceding Friday and ending at midnight between Monday and Tuesday of the holiday weekend.
2. The period surrounding Independence Day, starting at noon on July 1 and ending at midnight between July 6 and July 7.
3. The period surrounding Thanksgiving starting at noon the day before Thanksgiving and ending at midnight between Sunday and Monday of the holiday weekend.
4. The period surrounding Christmas starting at noon on December 23 and ending at midnight between December 26 and December 27.

761—106.6(307) Conditions.

106.6(1) *Signs.*

a. The sponsor shall not place any signs directing highway traffic to the promotion, nor shall it place any signs for the promotion along the interstate highway or interchange ramps.

b. The sponsor may provide two signs approximately 4 feet by 4 feet announcing the promotion. If the signs meet the department's specifications, the signs shall be installed by the department, not by the sponsor. The department shall remove these signs when the promotion is over.

106.6(2) *Promotion.* A sponsor may distribute literature only if it is directly related to the promoted Iowa agricultural product.

106.6(3) *Sample restrictions.*

a. Samples must be Iowa agricultural products.

b. Samples shall be for free distribution only; no sales or donations shall be allowed.

c. No bread or buns shall be served with food samples.

d. Food samples shall be no larger than approximately 1-inch cubes.

e. Beverage samples shall be no larger than 6 ounces.

f. Water may be provided as a beverage with samples.

106.6(4) *Liability.* The sponsor shall save the department of transportation and the state of Iowa harmless from any liability that may result from the directing of traffic to the promotion, and as a result of changes of traffic patterns caused by the activities of the sponsor in or about the rest area, and all other liability related to the operation of the promotion at the rest area.

106.6(5) *Miscellaneous.*

a. Live animals are not allowed.

b. Alcoholic beverages are not allowed.

c. The sponsor is responsible for litter pickup and disposal.

761—106.7(307) Site location. The department shall designate an appropriate spot within the interstate rest area for the promotion. The sponsor shall not use the rest area restroom building or welcome center buildings for the purposes of the promotion. The sponsor may use the information kiosk where available. A tent or canopy may be used in areas without a kiosk during inclement weather. Running water is available at each rest area. The department will provide electricity to the first sponsor if requested. However, electrical outlets are limited and may not be available to additional sponsors.

These rules are intended to implement Iowa Code section 307.12 and 1995 Iowa Acts, chapter 18, section 2.

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CHAPTERS 107 to 109
Reserved

RIGHT-OF-WAY AND ENVIRONMENT

CHAPTER 110
HIGHWAY PROJECT PLANNING

[Prior to 6/3/87, Transportation Department [820]—(08,G) Ch 1]

761—110.1(17A) Availability of information. Information regarding highway project planning may be obtained from the Office of Location and Environment, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

This rule is intended to implement Iowa Code section 17A.3.

761—110.2 Rescinded, effective 7/8/87.

761—110.3(307,313) Compliance with the provisions of the action plan relative to project planning. Rescinded IAB 9/4/02, effective 10/9/02.

761—110.4 and **110.5** Rescinded, effective 7/8/87.

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CHAPTER 111
REAL PROPERTY ACQUISITION AND RELOCATION ASSISTANCE

[Prior to 6/3/87, see Transportation Department[820]—(06,F) Ch 8]

761—111.1(316) Acquisition and relocation assistance manual. The April 2006 edition of Section II of the manual entitled "Uniform Manual, Real Property Acquisition and Relocation Assistance" is adopted by reference.

111.1(1) *Contents.* Section II establishes uniform rules and procedures that comply with Iowa law and the Federal Uniform Relocation Act for the acquisition of real property and for the provision of relocation assistance to persons who are displaced from real property as a result of programs and projects.

Relocation assistance is not compensation for real property acquired nor is it compensation for damages to remaining property. Rather, relocation assistance is assistance and compensation provided to a displaced person for making the move and relocating.

111.1(2) *Applicability.*

a. In general, Section II applies to any program or project that involves the acquisition of real property or that causes a person to be a displaced person if the program or project:

(1) Is undertaken with federal financial assistance, or

(2) Is a road or street program or project undertaken with state financial assistance from the primary road fund, including primary road funds allocated for state park and institutional roads, or

(3) Is a public road or highway eligible for federal aid.

b. In general, Section II applies to any of the following entities that acquire real property or displace a person for a program or project described in paragraph *"a"*:

(1) The state of Iowa.

(2) A political subdivision of the state.

(3) A department, agency or instrumentality of one or more states or political subdivisions.

(4) A utility or railroad subject to Iowa Code section 327C.2 or chapter 476, 478, 479, 479A or 479B authorized by law to acquire property by eminent domain.

(5) Any other person who has the authority to acquire property by eminent domain under state law.

(6) Any other person who acquires real property or displaces a person for a program or project described in paragraph *"a."*

c. Any exceptions to paragraphs *"a"* and *"b"* are set out in Section II.

d. In accordance with Iowa Code subsection 316.9(4), an entity that provides relocation assistance benefits for any program or project is required to provide an appeal process, regardless of the source of funding for the program or project. The appeal process provided shall not diminish the rights of the appellant or the scope of the appeal as described in Section II.

111.1(3) *Availability of manual.* Copies of the manual or portions thereof are available from the Office of Right of Way, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

111.1(4) *Future programs or projects.* Failure to comply with Section II when acquiring real property or displacing persons for a program or project may preclude the receipt of future federal financial assistance for the program or project area.

This rule is intended to implement Iowa Code chapter 316 and sections 6B.42, 6B.45, 6B.54, 6B.55 and 310.22.

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CHAPTER 112
PRIMARY ROAD ACCESS CONTROL

[Prior to 6/3/87, Transportation Department[820]—(06,C) Ch 1]

761—112.1(306A) General information.

112.1(1) *Statement of policy.* The efficiency and safety of a highway depend to a large extent upon the amount and character of interruptions to the movement of traffic. The primary cause of these interruptions is vehicular movements to and from businesses, residences, and other developments along the highway. All primary highways are controlled access facilities. Regulation and overall control of highway access are necessary to provide efficient and safe highway operation and to utilize the full potential of the highway investment. Accordingly, the department hereby establishes rules for control of access to primary highways.

112.1(2) *Information and forms.* Information and forms regarding this chapter may be obtained from any of the department's six district offices; the Office of Traffic and Safety, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or the Internet Web site: http://www.iowadot.gov/traffic/index.htm.

112.1(3) *Considerations.* If the department determines that the literal application of these rules to a specific situation will create or result in an unsafe situation or an unreasonable design, the department shall use sound engineering practices to determine the appropriate design for the specific situation. The appropriate district office shall include justification for the design in the permit or the highway project file, as applicable. The appropriate design shall address:

a. Safety to the traveling public.

b. Perpetuation of the traffic-carrying capacity of the highway.

c. Protection of the rights of the traveling public and of property owners, including the rights of abutting property owners.

d. Topography and geometric limitations and constraints affecting typical engineering standards.

112.1(4) *Permit approval process.*

a. A district representative may, in response to an application for an access connection to the primary highway system, grant approval for an access permit. The process for inquiring about and applying for an access connection to the primary highway system is through one of the department's six district offices. All applications for access permits must be applied for in the particular district where the entrance is proposed. A district representative will do one of the following: approve the application for an access permit, approve the application for an access permit with conditions, or deny the application for an access permit. The district representative may use the considerations set forth in subrule 112.1(3) in making the decision. The district representative shall notify the applicant of the determination in writing.

b. Upon receipt of a denial letter or if the permit was approved with conditions, the applicant may choose to pursue a waiver from the director of transportation, pursuant to subrule 112.1(5).

112.1(5) *Waivers.* The director of transportation may, in response to a written petition, waive provisions of this chapter in accordance with 761—Chapter 11. The written petition must contain the information as required in 761—subrule 11.5(2) and shall be submitted to the Office of Policy and Legislative Services, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

112.1(6) *Waivers involving interstate highways.* The director of transportation shall not waive these rules in access situations involving the interstate highway system, including its ramps, without the approval of the Federal Highway Administration.

[**ARC 9873B**, IAB 11/30/11, effective 1/4/12]

761—112.2(306A) Definitions. The following terms, when used in this chapter, shall have the following meanings unless the context otherwise requires:

"Access." A means of ingress or egress between a primary highway and abutting property or an intersecting local public road or street.

"Acquisition." To receive title by gift, purchase or condemnation.

"Bridge." Any structure, including supports, that is erected over a depression or obstruction, has a track or passageway for carrying traffic or other moving loads, and has a length measured along the center of the driveway of more than 20 feet between undercopings of abutments or extreme ends of openings for multiple boxes.

"Built-up area." An area adjacent to a primary road that meets the following general criteria:

1. The lots or area abutting the primary road does not have sufficient setback for the construction of a frontage road, and the development in depth precludes the establishment of a frontage-type road to the rear of the lots or area.

2. When a "built-up area" exists on one side of a primary road, the other side of the road is also considered to be "built-up" for the purpose of determining access requirements.

"Clear zone." The roadside border area, starting at the edge of the traveled way, available for use by errant vehicles.

"Concrete box culvert." A concrete structure not classified as a bridge, that provides an opening under a roadway or driveway, is either precast or cast in place, and has vertical sidewalls, a top slab and a floor.

"Controlled access highway." All primary highways are controlled access facilities.

"District representative." A department employee who processes requests for access in an assigned geographical area.

"Entrance." A physical connection between a primary highway and abutting property or an intersecting local public road or street.

"Entrance type." Entrances are divided into the following three classes according to their normal usage:

1. Type "A" entrance. An entrance developed to carry sporadic or continuous heavy concentrations of traffic. Generally, a Type "A" entrance carries in excess of 150 vehicles per hour. An entrance of this type would normally consist of multiple approach lanes and may incorporate a median. Possible examples include racetracks, large industrial plants, shopping centers, subdivisions, or amusement parks.

2. Type "B" entrance. An entrance developed to serve moderate traffic volumes. Generally, a Type "B" entrance carries at least 20 vehicles per hour but less than 150 vehicles per hour. An entrance of this type would normally consist of one inbound and one outbound traffic lane. Possible examples include service stations, small businesses, drive-in banks, or light industrial plants.

3. Type "C" entrance. An entrance developed to serve light traffic volumes. Generally, a Type "C" entrance carries less than 20 vehicles per hour. An entrance of this type would not normally accommodate simultaneous inbound and outbound vehicles. Possible examples include residential, farm or field entrances.

"Entrance width." See subrule 112.4(7).

"Fringe area." A suburban-type area adjacent to a primary road that meets the following general criterion: The layout of the lots or area abutting the primary road, including intermittent or unrelated development, permits construction of a frontage road in front of, or a frontage-type road to the rear of, the development.

"Frontage." The length along a public road right-of-way of a single property tract. A corner property at an intersection of two public roads has separate frontage along each roadway.

"Frontage road." A public road or street auxiliary to and usually located alongside and parallel to a primary highway for maintaining local road continuity and for control of access.

"Fully controlled access highway." A highway for which the rights of ingress and egress from abutting properties have been legally eliminated by the roadway jurisdiction. Permanent access to the facility is allowed only at interchange locations. No permanent at-grade access is allowed.

"Highway," "street" or "road." A public way for the purpose of vehicular travel, including the entire area between the right-of-way lines.

"Interchange." A system that provides for the movement of traffic between intersecting roadways via one or more grade separations.

"Median." The portion of a divided highway or divided entrance separating traffic moving in opposite directions. Medians may be depressed, raised or painted. Openings in the primary highway median to accommodate entrances are governed by the following:

1. New median openings should not be permitted except to accommodate intersecting local public roads or streets or large traffic-generating facilities such as large shopping centers or industrial plants. Median openings may be permitted in these instances if satisfactorily justified and in the public interest.
2. If a median opening exists prior to the construction of a driveway or local public road or street, the opening may be modified to accommodate the turning movements of the traffic expected.
3. Costs incurred for adding or modifying median openings shall not be borne by the department.
4. The department reserves the right to close an existing median opening when the department deems it is necessary.

"Normal peak hour traffic." The highest number of vehicles found to be entering and leaving an entrance during 60 consecutive minutes in a 24-hour period, excluding holidays.

"Pavement." The portion of a roadway used for the movement of vehicles, excluding shoulders.

"Predetermined access location." A location of access reserved for the adjacent property at the time access rights are acquired.

"Primary road" or *"primary highway."* A road or street designated as a "primary road" in accordance with Iowa Code subsection 306.3(6). This definition includes primary road extensions in cities and primary roads under construction.

"Priority I highway." A primary highway constructed as a fully controlled access highway. Permanent access to the facility is allowed only at interchange locations. No permanent at-grade access is allowed.

"Priority II highway." A primary highway constructed as a two-lane or multilane (more than two lanes) facility with a high degree of access control. Access to the facility is allowed only at interchanges and selected at-grade locations.

The minimum allowable spacing between access locations is one-half mile. Limiting primary highway access to existing public road intersections at intervals of one mile is preferable.

"Priority III highway." A primary highway constructed as a two-lane or multilane facility. Access to the facility is allowed at interchanges and at-grade locations.

The minimum allowable spacing between access locations is 1,000 feet. Spacing of one-quarter mile is preferable.

"Priority IV highway." A primary highway constructed as a two-lane facility; however, the definition may include a multilane facility. Priority IV is divided into Priority IV(a) and Priority IV(b).

1. For highways designated as Priority IV(a), the minimum allowable spacing between access locations is 600 feet.
2. For highways designated as Priority IV(b), the minimum allowable spacing between access locations is 300 feet.

"Priority V highway." A primary highway where access rights to it were acquired between 1956 and 1966, entrances were reserved at that time with no spacing limitations, and the department has subsequently determined that a higher degree of access control is desirable. The definition also includes a highway where access rights have not been acquired, but the department anticipates acquiring access rights in the future.

In rural areas, entrances to the highway are generally restricted to one entrance for contiguous highway frontage not exceeding 1,000 feet, two entrances for contiguous highway frontage exceeding 1,000 feet but not exceeding 2,000 feet, and so on.

"Priority VI highway." A primary highway where the acquisition of access rights or additional access rights is not anticipated. This definition may also include a highway where access rights were acquired between 1956 and 1966, entrances were reserved at that time with no spacing limitations, and the department has subsequently determined that restricting access to the facility is no longer necessary.

Access locations are approved based on safety and need.

"Ramp bifurcation." The point where the baseline of the ramp intersects the centerline of the adjacent roadway.

"Recreational trail." A trail established for biking, pedestrian, snowmobiling, cross-country skiing, or equestrian use.

"Right-of-way line." The boundary line between the land acquired for or dedicated to public road use and the adjacent property.

"Roadway." The portion of a highway used for the movement of vehicles, including shoulders and auxiliary lanes. A divided highway has two or more roadways.

"Rural area." An area clearly not meeting the criteria set forth for a built-up or fringe area. Rural area also includes agricultural land within the corporate limits of a city.

"Rural-designed area." An area in which the predominant cross section accommodates surface drainage from the roadway and adjacent terrain via an open ditch.

"Shoulder." The portion of a public road contiguous to the traveled way for the accommodation of disabled vehicles and for emergency use.

"Sight distance." The distance of clear vision along a primary highway in each direction from any given point of access where a vehicle must stop before entering the highway.

1. Sight distance at an access location is measured from the driver's height of eye (3.5 feet) to the height of an approaching vehicle (4.25 feet).

2. An access location should be established where desirable sight distance is available and shall not be authorized in a location providing less than minimum sight distance, as shown below.

POSTED DAYTIME SPEED LIMIT (mph)	DESIRABLE SIGHT DISTANCE (feet)	MINIMUM SIGHT DISTANCE (feet)
70	910	730
65	820	645
60	730	570
55	645	495
50	570	425
45	495	360
40	425	305
35	360	250
30	305	200

3. On a four-lane divided primary highway where access is proposed at a location that will not be served by a median crossover, sight distance is required only in the direction of the flow of traffic.

"Special access connection." An access location authorized to the primary road system in an area where access rights were previously acquired.

"Traveled way." The portion of a roadway used for the movement of vehicles, excluding shoulders and auxiliary lanes.

"Turning lane." An auxiliary lane, including taper areas, primarily used for the deceleration or storage of vehicles leaving the through traffic lanes.

"Urban-designed area." A built-up or fringe area in which the predominant cross section accommodates roadway surface drainage by means of a curbed roadway.

761—112.3(306A) General requirements for control of access.

112.3(1) *Establishment of controlled access highway.* Access locations necessary for free and convenient access that exist at the time a primary highway is established are hereby approved if the department deems they are reasonably located.

112.3(2) *Frontage roads.* If a frontage road is open to public travel, access from the abutting property shall be to the frontage road.

a. Access to frontage roads maintained by the department shall be authorized in accordance with rules 761—112.4(306A), 761—112.8(306A) and 761—112.9(306A).

b. Access to frontage roads maintained by other governmental agencies shall conform to those agencies' access requirements.

112.3(3) *Enforcement of access control.*

a. *Fences.* The department may construct and maintain fences or other appropriate physical separations within the primary highway right-of-way to effectively enforce and control access to the highway.

b. *Unauthorized construction or modification of entrances.* If an entrance is constructed or altered without the approval of the department or if the work is not completed in conformity with an approved permit or agreement, the department may notify the owner by certified mail of the violation and the need to restore the area to the standards which existed immediately prior to construction or alteration or advise of the changes necessary to conform. If after 20 days the changes have not been made, the department may make the necessary changes and immediately send a statement of the cost to the property owner. If within 30 days after sending the statement the cost is not paid, the department may institute proceedings in the district court system to collect the cost.

c. *Written permission—right to inspect.* A person must have written permission from the department via the specified permit or agreement before the person may construct or alter an entrance.

(1) The department reserves the right to inspect and approve any work performed within the right-of-way.

(2) If the work is not performed as required by the permit or agreement, the department may revoke its permission and deny access until the conditions are corrected.

(3) If the work performed does not conform to the department's specifications, the department may make the necessary changes, charge the costs to the party responsible and pursue other available remedies.

112.3(4) *Maintenance of entrances.*

a. Property owners having access to a primary highway are responsible for the maintenance of their entrances as follows:

(1) For an entrance that does not have a paved surface, the property owner is responsible for maintaining the entrance from the outer shoulder line of the primary highway to the right-of-way line.

(2) For an entrance that has a paved surface, the property owner is responsible for maintaining the entrance from the paved edge of the primary highway to the right-of-way line.

b. Drainage structures located within the primary highway right-of-way shall be maintained by the department except for concrete box culverts and bridges constructed by a permit holder under authority of an entrance permit. These structures shall be maintained by the permit holder.

761—112.4(306A) General requirements for entrances where access rights have not been acquired. This rule establishes the general requirements for access to primary highways where access rights have not been acquired.

112.4(1) *Entrance permit.* A person shall not modify an existing entrance or construct a new entrance to a primary highway from abutting property or from a local public road or street until the department has issued an entrance permit for the work.

a. An application for an entrance permit shall be submitted to the appropriate district representative on a form prescribed by the department.

b. The department shall be provided with a plan, drawing or sketch of the property or site to be served by the requested access. This may vary from a simple sketch in the case of a Type "C" entrance to a detailed plan in the case of a Type "A" entrance. See rule 761—112.5(306A) for further Type "A" entrance requirements.

c. The application shall be signed by the owner or owners of record. The signature(s) shall be notarized.

d. If the request is for a property within the corporate limits of a city, an authorized representative of the city must sign the application recommending approval. See subrule 112.4(5).

e. The application shall be approved or denied by the appropriate district representative.

f. If the district representative denies the application, the applicant may appeal the decision by submitting to the appropriate district engineer the application along with background information and an explanation of the need for access.

g. If the district engineer denies the application, the applicant may appeal the decision by submitting to the director of transportation the application along with background information and an explanation of the need for access. The director's decision is final agency action.

112.4(2) *Construction or modification of entrances.*

a. All work performed on a primary highway under the terms of an entrance permit shall comply with the conditions of the permit. These conditions include any accompanying plans, drawings, sketches, or other attachments to the permit. The permit holder or the permit holder's contractor shall have a copy of the permit available at the work site.

b. During the time an entrance is being constructed or modified, care must be taken to ensure the safety of the workers on the site and of the traveling public. The work shall be accomplished in a manner that will minimize interference with normal highway operations. Care must be taken during construction or modification of the entrance and development of the abutting property to avoid tracking mud or other material onto the primary highway.

112.4(3) *Construction costs.* Construction costs, including any costs incurred for modifying the existing primary highway as may be required by the entrance permit, should not be borne by the department.

112.4(4) *Maintenance of entrances.* See subrule 112.3(4).

112.4(5) *Primary road extensions.*

a. On primary road extensions, the location and geometrics of entrances must meet local requirements within the limitations of this chapter, and entrance permit applications must be approved by authorized city officials before final action is taken by the department.

b. Applicants are responsible for ensuring compliance with local building codes, setback requirements, minimum lot sizes, density of buildings, provisions for adequate parking, and other local ordinances and regulations.

c. Entrance permits issued by the department apply to the construction of entrances within the primary highway right-of-way and do not release applicants from compliance with local ordinances and regulations. These requirements are not altered by the issuance of entrance permits. Applicants are responsible for obtaining the required local approvals and permits.

d. Without an approved permit, there shall be no encroachment onto the primary highway right-of-way.

112.4(6) *Considerations for entrance width and radius or flared returns.*

a. Entrance width and the size of radius or flared returns should be determined based on the predominant type of vehicle that will use the entrance. The combination of entrance width and return radii or flares should permit vehicles to enter and exit the highway with minimum disruption to through traffic, yet be restrictive enough to discourage erratic maneuvers.

b. Entrance width should minimize speed differential, which is the difference between the speed of through traffic and the speed of vehicles that are turning into the entrance. In general, the narrower the entrance, the more vehicles must slow down to negotiate the entrance. An increase in speed differential increases the tendency for potential crashes. Use of larger turning radii or flares will reduce speed differential.

c. An entrance can also be too wide. An entrance that is too wide may confuse motorists by creating uncertainty as to where they should position their vehicles within the entrance. Pedestrian traffic must also be considered. Wider entrances may place pedestrians in greater conflict with vehicular traffic.

112.4(7) *Entrance widths.* The width of an entrance is the distance between the beginning points of the return radii or flares, measured perpendicular to the centerline of the entrance.

a. Type "A" entrances. Each case requires special study. See rule 761—112.5(306A).

b. Type "B" entrances.

(1) The minimum allowable width is 24 feet.

(2) The maximum allowable width is 45 feet.

(3) For one-way operation, the minimum allowable width is 12 feet and the maximum allowable width is 30 feet.

c. Type "C" entrances.

(1) The minimum allowable entrance width is 20 feet. In an area where the posted speed limit is 35 miles per hour or less, a minimum width of 15 feet may be allowed.

(2) The maximum allowable width is 30 feet.

(3) If an entrance will serve more than one property, the minimum allowable width is 20 feet and the maximum allowable width is 35 feet.

d. City street and secondary road intersections. The department shall determine the width of city street and secondary road intersections on a case-by-case basis, taking into consideration both local and department standards.

112.4(8) *Radius or flared returns.* Return radii for granular entrances shall be measured along the edge of the primary highway shoulder. Return radii for paved entrances shall be measured along the edge of the primary highway pavement.

If the predominant types of vehicles that will use an entrance are passenger cars and straight trucks, paragraphs *"a"* to *"i"* of this subrule apply. If the predominant types are truck tractor-semitrailer combinations and large equipment, paragraph *"j"* applies.

a. Type "A" entrances. Each case requires special study. See rule 761—112.5(306A).

b. Type "B" entrances, rural-designed area, not paved.

(1) For an entrance angle of 90 degrees to the centerline of the primary highway, the return radii should not exceed 35 feet.

(2) For an entrance angle of 60 degrees to the centerline of the primary highway, the return radius of the obtuse angle should not exceed 50 feet. The return radius of the acute angle should not exceed 25 feet.

(3) For an entrance angle that is between 90 and 60 degrees, the maximum radii of the obtuse and acute angles should be interpolated between the values given in subparagraphs (1) and (2) above and rounded to the nearest 5 feet.

(4) Entrance angles that are less than 60 degrees require department review to establish appropriate radii.

c. Type "B" entrances, rural-designed area, paved.

(1) For an entrance angle of 90 degrees to the centerline of the primary highway, the return radii should not exceed 50 feet.

(2) For an entrance angle of 60 degrees to the centerline of the primary highway, the return radius of the obtuse angle should not exceed 60 feet. The return radius of the acute angle should not exceed 25 feet.

(3) For an entrance angle that is between 90 and 60 degrees, the maximum radii of the obtuse and acute angles should be interpolated between the values given in subparagraphs (1) and (2) above and rounded to the nearest 5 feet.

(4) Entrance angles that are less than 60 degrees require department review to establish appropriate radii.

d. Type "B" entrances, urban-designed area, paved or not paved.

(1) All Type "B" entrances within an urban-designed area should be paved for a minimum distance of 10 feet back from the primary highway curb, as measured 90 degrees to the edge of the primary highway roadway.

(2) The return radii should be no less than 10 feet nor greater than 20 feet.

e. Rescinded IAB 10/30/02, effective 12/4/02.

f. Type "C" entrances, rural-designed area, not paved.

(1) For an entrance angle of 60 to 90 degrees to the centerline of the primary highway, the return radii should not exceed 15 feet for either the obtuse or acute angle.

(2) Entrance angles that are less than 60 degrees require department review to establish appropriate radii.

g. Type "C" entrances, rural-designed area, paved.

(1) For an entrance angle of 60 to 90 degrees to the centerline of the primary highway, the return radii should not exceed 20 feet.

(2) Entrance angles that are less than 60 degrees require department review to establish appropriate radii.

(3) If an existing entrance is being reconstructed, the returns may be replaced in kind.

h. Type "C" entrances, urban-designed area, paved or not paved.

(1) All Type "C" entrances within an urban-designed area should be paved for a minimum distance of 10 feet back from the primary highway curb, as measured 90 degrees to the edge of the primary highway roadway.

(2) The return radii should equal the distance between the back of the curb and the front edge of the sidewalk, not to exceed 10 feet.

(3) When no sidewalk is present or anticipated, the maximum radii should be 10 feet.

i. Flared entrances, urban-designed area. In an urban-designed area, entrances may be constructed with flared returns rather than radius returns. When used, the flare shall be constructed at a 2:1 ratio with the "2" value measured on a line parallel to the entrance centerline and the "1" value measured on a line perpendicular to the entrance centerline. The length of the flare as measured parallel to the entrance centerline should be equal to the radii requirements shown in paragraphs 112.4(8)*"d"* and *"h"* above.

j. Truck tractor-semitrailer combinations. Truck tractor-semitrailer combinations and large equipment vary greatly in length and generally require a customized design for the entrance. Flares will generally not accommodate the movement of these types of vehicles and therefore should not be used. To reduce encroachments onto the traveled way and opposing entrances, turning templates should be used. All turning movements should be evaluated to ensure the entrance width and radii are designed to handle the types and volume of traffic anticipated.

112.4(9) *Entrance angle.*

a. In general, the entrance angle shall be established as near to 90 degrees to the centerline of the primary highway as site conditions will allow.

b. Normally, the centerline of that part of an entrance lying within the right-of-way shall be at a right angle to the centerline of the primary highway for a minimum distance of 30 feet from the near edge of the primary highway pavement.

c. An entrance established for two-way operation for a service station or other development where two access points are authorized shall be 70 to 90 degrees to the centerline of the primary highway.

d. On a divided primary highway where two access locations are authorized for one-way operation, the "ingress" may be 45 to 60 degrees to the centerline of the primary highway and the "egress" may be 60 to 90 degrees to centerline of the primary highway.

112.4(10) *Slope and cross section of entrances in rural-designed area.*

a. The finished, surface elevation of an entrance over a culvert, or the location where a culvert would normally be placed, should be lower than the primary highway pavement, preferably an extension of the 4 percent shoulder grade, to prevent surface water from draining onto the highway pavement. The shoulder grade should be extended onto the entrance at a distance sufficient to provide a safe platform for a vehicle to stop before entering the highway.

b. If an entrance requires drainage pipe, the entrance side slopes from highway shoulder to the entrance pipe shall be no steeper than 8:1 and from the entrance pipe to the right-of-way line shall be no steeper than 6:1. A smooth transition from the 8:1 to the 6:1 slope is required.

c. If an entrance does not require drainage pipe, the entrance side slopes from highway shoulder to the minimum clear zone distance shall be no steeper than 10:1, right-of-way width permitting. From the point of minimum clear zone to the right-of-way line, a smooth transition to a 6:1 slope is acceptable.

d. Upgrading only the surfacing material of an existing entrance will not require a change in existing side slopes.

112.4(11) *Entrance grade.* The grade of an entrance is an important element when considering overall motorist safety because the grade impacts speed differential. Vehicles must slow appreciably to turn into an entrance; therefore, the steeper the entrance grade, the greater the reduction in speed required to prevent "bottoming out." Ideally, the maximum practical grade for entrances varies from 8

to 14 percent for low-volume entrances to approximately 5 percent for high-volume entrances. Above these values, bumpers and other low-hanging parts of a vehicle will scrape the entrance.

An entrance's vertical profile should allow for a smooth transition to and from the highway. Flattening entrance grade lines is another tool in providing safe access to and from the highway system.

761—112.5(306A) Additional requirements for Type "A" entrances. This rule establishes additional requirements for Type "A" entrances serving commercial, industrial or residential developments.

112.5(1) *General.*

a. The most important factors in developing an access plan for a commercial, industrial or residential development are a determination of the potential traffic generated by the site and a determination of the directional distribution of site-generated traffic on the major approach routes and proposed entrances serving the site. Entrances serving the site represent an important element in the efficiency and safety of the highway handling the site-generated traffic. To properly handle traffic from these entrances, the anticipated traffic volumes must be determined by the applicant and submitted to the department.

b. The location of entrances, particularly commercial entrances, is a critical factor in minimizing disruption to traffic and pedestrians. A site should be developed with an internal circulation pattern for traffic movements so that access to the site may be gained by a free flow of traffic from the primary road system. Parking stalls and pedestrian movements should be located away from the main entrance to the facility.

c. Adequate storage for vehicles must be provided on commercial and industrial sites so that vehicles do not wait on the highway to enter. Adequate storage space is a function of the demand volume, the service time per facility, and the number of service facilities available. Service time is dependent upon the time required to maneuver into position and the time needed to obtain the service. The geometrics of the internal circulation pattern control a portion of the service time. The radii of internal curves should be as large as possible. Buildings on a site should be arranged to allow for the maximum storage available on the site for exiting traffic and situated so that they will not disrupt the free flow of entering traffic.

d. A service station site should be designed to provide a minimum distance of 15 feet from the right-of-way line to the near edge of the pump island. No portion of the highway right-of-way shall be used for servicing vehicles.

e. When property is being developed, consideration must be given to locating the access directly opposite an existing commercial entrance or street intersection.

f. Comments from local authorities regarding the proposed development should be included in the application to allow the department to incorporate the input of local authorities into the final design of the entrance location. This input should refer to the zoning plan, land use plan, or metrotransportation plan.

112.5(2) *Type "A" access requests.*

a. *Application for entrance permit.* An entrance permit application for a Type "A" entrance shall, when relevant to the proposed development, include the following data in detail:

(1) Type and location of the proposed development.

(2) Site plan.

(3) Location of all proposed entrances, turning lanes on adjacent highways or streets, and internal traffic lanes and parking facilities within the development area. This information shall be sufficiently complete to allow determination of dimensions, the direction of traffic flow, and restrictions to traffic caused by plantings, curbing, medians, walls, signing, etc.

(4) Detailed design of proposed highway pavement widenings, additional lane provisions, relocations, and other highway improvements considered necessary to the efficient operation of the proposed development.

(5) Signal warrant analysis and application to construct a traffic control device, when required. See paragraphs *"b"* and *"c"* of this subrule.

(6) Preliminary drainage data.

(7) Gross leasable floor area in square feet.

(8) Number of parking spaces.

(9) Anticipated total daily trips inbound and outbound during an average 24-hour period for total site development. Special holiday shopping traffic shall not be used for this estimate.

(10) Estimated traffic volumes arriving and departing during the normal peak hour.

(11) Estimated distribution of traffic via individual entrances for the normal peak hour.

(12) Estimated distribution of traffic by percentage of total daily trips via major highways from origin to the development.

b. *Signal warrant analysis.* The applicant must submit to the department a signal warrant analysis for all multimovement access points within the study area for the proposed development. The purpose of the analysis is to determine if traffic signals are warranted. The analysis should also evaluate the feasibility of coordinating any proposed traffic signals with existing traffic signals in the study area to achieve the desired traffic progression. The department may require a proposed entrance to be redesigned or relocated if the proposed entrance meets signal warrant thresholds but does not meet other standards in these rules.

c. *Application to construct a traffic control device.* The applicant shall submit for department approval an application to construct a traffic control device if an existing traffic signal will be modified or a new traffic signal will be installed.

112.5(3) *Agreement supplementary to permit.*

a. A major development often involves a variety of special access requirements. In addition to the entrance permit, an agreement between the department, the local governmental unit and the applicant may be required to fit the particular situation, listing in detail the responsibilities of each party.

b. Upon receipt of the agreement, the applicant shall be responsible for obtaining the necessary signature approvals including those of appropriate local authorities and returning the agreement to the appropriate district representative.

c. The department shall notify the applicant when it has approved or denied the agreement. No work shall be done within the primary highway right-of-way until the department approves the agreement. Any work completed without the prior approval of the department is a violation of Iowa Code section 319.14.

112.5(4) *Primary highway improvements.* The cost of primary highway improvements needed to handle the volume of traffic generated by the development should not be the responsibility of the department.

761—112.6(306A) Drainage requirements. This rule establishes drainage requirements for all locations where access is requested to the primary highway system.

112.6(1) Entrances must be constructed so that they do not adversely affect primary highway drainage or drainage of the adjacent property. The drainage and the stability of the highway subgrade must not be impaired by driveway construction or roadside development. Construction of an entrance shall not cause water to flow across the primary highway pavement or to pond on the shoulders or in the ditch, or result in erosion within the primary highway right-of-way limits.

112.6(2) Drainage collected by ditches, gutters or pipes on private property shall not be discharged into the primary highway drainage system unless expressly approved by the department. An applicant may be required to submit a drainage study to the department that justifies the drainage system proposed and the pipe or sewer sizes to be used. The applicant shall not interfere with the natural course of drainage.

112.6(3) When the construction of an entrance necessitates crossing a highway ditch that has been constructed to carry drainage, a drainage structure shall be installed in the ditch by the applicant at the applicant's expense. The low point of the ditch shall dictate the location for culvert placement unless otherwise specified by the department. Under no circumstances shall existing ditches or gutters be filled without adequate alternate provisions for drainage.

a. The department's engineering staff will assist in determining the size and length of culverts and aprons. A culvert shall be of adequate size to handle drainage, but in most situations the culvert shall not be less than 18 inches in diameter. Where shallow ditches exist, the department may approve

small arched culverts or culvert sizes less than 18 inches in diameter. Culvert pipe shall comply with departmental standard specifications as they exist at the time of installation.

b. Length of culvert pipe shall be sufficient to accommodate the entrance slopes. The finished surface elevation of an entrance over a culvert pipe, or the location where a culvert would normally be placed, should be sloped away from the primary highway pavement, preferably an extension of the 4 percent shoulder slope, to prevent surface water from draining onto the highway pavement.

c. Drainage structures located within the primary highway right-of-way shall be maintained by the department except for concrete box culverts and bridges constructed by a permit holder under authority of an entrance permit. These structures shall be maintained by the permit holder.

112.6(4) Where drainage is carried along an existing curb, the entrance shall be constructed with a rise in elevation of at least 6 inches from the street gutter at the entrance to a point 6 feet behind the gutter to prevent runoff from spilling onto private property. The flow line of the gutter through the entrance shall be restored.

761—112.7(306A) Access to Priority I, II, III and IV highways. Access rights are acquired on Priority I, II, III and IV highways. See rules 761—112.11(306A) and 761—112.12(306A). After access rights are acquired, additional access may be allowed as follows:

112.7(1) *Priority I highway.* The department may allow a temporary at-grade access in emergency situations or for construction or maintenance purposes. Temporary access to the interstate highway system requires the concurrence of the Federal Highway Administration. See subrule 112.13(4).

112.7(2) *Priority II, III and IV highways.* An additional entrance to a property from which access rights have been acquired may be permitted only as a special access connection. See rule 761—112.13(306A). This includes a temporary at-grade access for emergency situations or for construction or maintenance purposes. See subrule 112.13(4).

761—112.8(306A) Access to Priority V highways, rural areas. This rule establishes requirements for access to Priority V highways in rural areas.

112.8(1) *General.* Where access rights have not been acquired, access is generally limited to one entrance for contiguous highway frontage not exceeding 1,000 feet, two entrances for contiguous highway frontage exceeding 1,000 feet but not exceeding 2,000 feet, and so on. Ownership on each side of the highway shall be considered as separate ownership. Except for the above-stated restrictions and those contained in subrules 112.8(2) and 112.8(3), no spacing restrictions shall be imposed. Additional entrances may be permitted when a single entrance will not provide adequate access due to topographic conditions or when additional entrances will comply with future construction plans for the roadway and the access priority classification to be applied.

112.8(2) *Access requirements near public road intersections.*

a. A property abutting a primary road and a local public road or another primary road may be granted access to the primary road at a distance generally no less than 300 feet from the intersection of the centerlines of the two roads.

b. At a "T" type intersection, access to the primary road may be located directly opposite the intersection.

c. Access shall not be permitted onto a local public road within the primary road right-of-way limits. The centerline of an access onto a local public road should be no closer than 150 feet to the near edge of the primary highway traveled way.

112.8(3) *Property lines.* The centerline of an entrance to the primary roadway should be no closer than 50 feet to the property line as extended to intersect the roadway centerline at a right angle. No portion of an entrance located within the right-of-way should extend beyond the property line as extended. If an entrance does extend onto an adjoining property within the right-of-way, the applicant should contact that property owner to request the property owner's concurrence or to suggest a joint entrance. An entrance that will serve two properties abutting the primary road may be centered on the property line by mutual agreement between the property owners.

761—112.9(306A) Access to Priority V highways, fringe or built-up areas, and Priority VI highways, all areas. This rule establishes requirements for access to Priority V highways in fringe or built-up areas, and access to Priority VI highways in rural, fringe, or built-up areas.

112.9(1) *General.* Property frontage may be granted access where needed to the primary road, provided safety and construction standards are satisfactory. In a rural area, a minimum distance of 30 feet between toes of slopes along the centerline of the ditch shall be maintained. In a fringe or built-up area, there shall be a minimum of 15 feet of curb maintained between near edges of curb drops when more than one access is allowed to a single highway frontage. If the property is within corporate limits, city requirements apply if they are more restrictive.

112.9(2) *Access requirements near public road intersections.*

a. Rural area. Same as subrule 112.8(2).

b. Fringe or built-up area.

(1) The beginning of the curb drop for an entrance to a primary highway shall be no closer than 15 feet to an intersecting street's curb tangent point. No portion of the entrance along the primary highway should extend beyond the property line as extended or into a crosswalk.

(2) The beginning of the curb drop for an entrance to a street should be no closer than 15 feet to an intersecting primary highway's curb tangent point. No portion of the entrance along the street should extend beyond the property line as extended or into a crosswalk.

(3) If an intersection does not have an existing or a planned curb and gutter to define the radius, the following assumptions shall be applied to the above requirements for determining the location of an entrance:

Minimum width of the traveled way of the primary highway is assumed to be 53 feet back to back of curbs.

However, if the platted width of the primary highway right-of-way is less than 66 feet, the width of the traveled way is assumed to be 75 percent of the platted width.

Minimum width of the traveled way of an intersecting local public road or street is assumed to be 31 feet back to back of curbs.

112.9(3) *Channelized intersection or divided highway.* When there is a median in a primary road or intersecting street, or both, the curb drop for an entrance to the primary road or intersecting street shall be determined as stated in subrule 112.9(2), except that at the beginning or end of the median, or at a median break, the nearest edge of the curb drop for the entrance shall be no closer than 20 feet to the end of the median as measured at a right angle to the median. This does not apply to access centered on a median break.

112.9(4) *Median openings.*

a. When a divided primary highway has been constructed with a median, crossovers or median breaks shall not be permitted if there are frequent openings for local street intersections or traffic conditions do not make median breaks advisable. The layout of entrances to adjacent properties along the primary highway shall be designed to take advantage of existing or planned median crossovers.

b. When a crossover or median break is deemed necessary by the department as a result of traffic generated by a business or other development, the required improvements shall be constructed by the property owner as a part of a permit process. The department shall bear no part of the construction costs.

c. The permit authorizing a new crossover shall specify the exact location, design, and construction requirements. Any drainage facilities required by the construction shall be installed by the permit holder at the permit holder's expense.

d. The minimum width of a new median crossover is 40 feet. In a rural-designed area, the width of a median crossover shall be measured at the normal culvert line. In an urban-designed area, the width of a median crossover shall be measured parallel to the highway centerline between the curbed noses of the median.

e. Upon completion of construction of the improvements as provided by this subrule, the department shall assume ownership of the improvements and shall be responsible for their future maintenance.

112.9(5) *Property lines.*

a. Rural area. Same as subrule 112.8(3).

b. Fringe or built-up area. The beginning of an entrance radius return or flare shall be no closer than 1 foot to the property line as extended on an interior lot line to intersect the primary road centerline at a right angle. An entrance to serve two properties abutting the primary road may be centered on the property line by mutual agreement between the property owners.

761—112.10 Reserved.

761—112.11(306A) Policy on acquisition of access rights.

112.11(1) *General.* It is necessary that every effort be made to preserve the public investment in the primary highway system. Where efficiency of traffic movement is desired, this investment is preserved by acquiring the adjacent property's access rights and limiting or prohibiting direct access to the primary highway. This provides a safer environment for the highway user, increases the free and efficient movement of through traffic, and reduces highway accidents by minimizing the number of conflict points or entrances located along the highway.

112.11(2) *Project development.* During the initial stages of project development for a highway improvement project, the department shall determine if access rights to the primary highway will be acquired and the applicable access priority classification to be applied.

The department shall consider average daily traffic, proposed design features of the facility, terrain, the function of the particular section in relation to the total highway system, the commercial/industrial network of highways, service level, continuity of the system and sound engineering judgment.

112.11(3) *Access rights at at-grade intersections with city streets and secondary roads.* When access rights to a primary highway are acquired, the department may also acquire access rights along a city street or secondary road where an at-grade intersection with the highway exists or is proposed. If access rights are acquired, they will be acquired along the city street or secondary road for a distance of 150 feet from the near edge of the primary highway traveled way. However, the department may acquire more or less than 150 feet of access rights after considering the severity of damage to adjacent properties and traffic volumes and other safety factors.

112.11(4) *Access rights at at-grade primary intersections.*

a. When access rights to a primary highway in a rural area are acquired, the department may also acquire access rights along an intersecting at-grade primary highway for a minimum distance from the intersection of the centerlines of the two primary highways as follows:

1. 150 feet when the intersecting primary highway carries less than 2,500 vehicles per day.
2. 300 feet when the intersecting primary highway carries 2,500 or more vehicles per day.

However, the department may acquire more or less than the specified access rights after considering the severity of damage to adjacent properties and traffic volumes and other safety factors.

b. If the intersection is channelized, access rights shall be acquired and no access shall be permitted along the channelized primary highway for a minimum distance of 100 feet beyond the beginning or end of the median. For the purpose of access control, the beginning or end of a median is the point where the distance between the edges of the opposing traveled lanes is 4 feet.

112.11(5) *Access rights along intersecting roadways at interchanges.*

a. When an interchange is constructed on a primary road, the department shall acquire access rights along the public road or street intersecting the primary road. Once access rights are acquired, no access is allowed. The following are the minimum distances where access rights shall be acquired along the intersecting public road or street; in each case, the greater distance shall prevail.

1. 600 feet from the point of ramp bifurcation in a rural or fringe area.
2. 300 feet desired, 150 feet minimum, from the point of ramp bifurcation in a built-up area.
3. 150 feet from the beginning of a deceleration lane or taper.
4. 100 feet from the beginning or end of a median.

However, the department may acquire more or less than the specified access rights after considering the severity of damage to adjacent properties and traffic volumes and other safety factors.

b. When an interchange is constructed as a half-diamond or partial cloverleaf, the department may permit an access directly opposite a ramp connection to the primary road.

112.11(6) *Agreement with city or county.* When access rights are acquired along a city street or secondary road, the department shall negotiate an agreement with the city or county which states that access rights shall be acquired by the department in the state's name or in the name of the city or county and that the city or county shall not permit any third party to use the controlled portion of the street or road without the prior written consent of the department.

761—112.12(306A) Policy on location of predetermined access locations.

112.12(1) *General.* At the time access rights are acquired, existing entrances shall be removed or relocated to connect to predetermined access locations. These locations shall thereafter be defined as the adjacent properties' access locations.

a. The department is responsible for the construction of entrances at predetermined access locations, either as a part of the project or at a future date when requested by the property owners. Entrances not constructed as a part of the project will be designated on the construction plans as predetermined access locations that are reserved for the property.

b. Any alteration or relocation of an access location requires the written approval of the department, and the property owner is responsible for all costs incurred. See subrule 112.12(5), revision of access.

112.12(2) *Establishing predetermined access locations.* The department realizes that these rules cannot reasonably be expected to address every situation or issue that may arise when developing plans for a proposed highway improvement project. It is foreseeable that not all access locations will comply strictly with the required or recommended spacing standards set out in these rules; however, all reasonable efforts shall be made to establish predetermined access locations that meet these spacing standards.

a. The department shall establish predetermined access locations by considering the following:

(1) Zoning and intended land use, as reviewed with city and county officials.

(2) Potential adverse impacts on adjacent property if spacing standards are applied strictly, such as but not limited to an unreasonable restriction on the property due to a unique physical situation that cannot be remedied or an unreasonable damage to the property.

(3) Environmental, social, or economic constraints that prevent the application of spacing standards.

(4) Federal, state, or local standards that conflict with these rules and take precedence.

(5) Sound engineering judgment consistent with the goals of the department.

b. When establishing predetermined access locations, the department may conduct a field examination, giving consideration to information received from city and county officials, sight distance availability, natural barriers, property ownership, proposed roadway design, and development of future frontage roads.

c. A predetermined access location that does not meet required spacing standards is not a waiver or variance of these rules if justification for the access location is based on one or more of the considerations listed in paragraph *"a"* of this subrule. The final access review letter must include this justification.

112.12(3) *Spacing.* Spacing between predetermined access locations shall conform to the following requirements:

a. Priority I highway. Access is allowed only at interchange locations.

b. Priority II highway. One mile is desirable. One-half mile is the minimum.

c. Priority III highway. One-quarter mile is desirable. 1,000 feet is the minimum.

d. Priority IV highway.

(1) Priority IV(a). 600 feet is the minimum.

(2) Priority IV(b). 300 feet is the minimum.

112.12(4) *Entrances constructed after project completion.* After completion of a highway project, a property owner may request the department to construct an entrance at a predetermined access location. Unless otherwise specified in the right-of-way acquisition contract or in the condemnation documents:

a. The department is responsible for constructing, at the department's expense, a granular-surfaced entrance that does not exceed the maximum width for a Type "C" entrance.

b. The department may approve modifications, such as widening or paving the entrance. In this instance, the property owner is responsible for constructing the entrance. After the property owner has constructed the entrance, the department will compensate the property owner for the cost of constructing a granular-surfaced Type "C" entrance. The property owner is responsible for the remainder of the costs.

112.12(5) *Revision of access.* After an entrance has been constructed at a predetermined access location, no change in entrance type or location may be made unless a revision of access has been approved by the department. The property owner is responsible for the cost of altering or relocating the entrance.

a. A request for revision of access shall be submitted by the property owner to the appropriate district representative upon the prescribed application form furnished by the department.

b. The application shall be approved or denied by the department's access policy administrator.

c. If the access policy administrator denies the application, the applicant may appeal the decision by submitting to the appropriate district engineer the application along with background information and an explanation of the need for access.

d. If the district engineer denies the application, the applicant may appeal the decision by submitting to the director of transportation the application along with background information and an explanation of the need for access. The director's decision is final agency action.

761—112.13(306A) Policy on special access connections where access rights have been previously acquired.

112.13(1) *General.* An additional entrance to a property from which access rights have been previously acquired may be permitted only as a special access connection.

a. An applicant for a special access connection should be aware the state of Iowa has previously acquired the rights of direct access to the primary highway from the applicant's highway frontage and, therefore, the applicant has no remaining right of additional direct access to the highway.

This acquisition of access rights is recorded in the local county courthouse and is a restriction placed upon the property.

b. The department realizes there may be locations where granting an entrance within an area where access rights were previously acquired may be consistent with the department's current rules.

In these special cases, the department may authorize a special access connection upon such terms and conditions as may be determined by the department.

c. In an area where access rights were acquired after July 1, 1966, an applicant may be required to reimburse the state for the increase in land value resulting from the new connection, as determined by a department appraisal.

112.13(2) *Application.*

a. A request for the establishment of a special access connection shall be submitted by the property owner to the appropriate district representative upon the prescribed application form furnished by the department.

b. The application shall be approved or denied by the department's access policy administrator.

c. If the access policy administrator denies the application, the applicant may appeal the decision by submitting to the appropriate district engineer the application along with background information and an explanation of the need for access.

d. If the district engineer denies the application, the applicant may appeal the decision by submitting to the director of transportation the application along with background information and an explanation of the need for access. The director's decision is final agency action.

112.13(3) *Requirements.*

a. Whenever possible, a special access connection should be established as a joint access location to serve more than one property ownership.

b. A special access connection is a special permit for access and is not a permanent right of access to the highway.

c. The property owner is responsible for all costs incurred for the construction of the approved connection, including any required drainage structure.

d. A special access connection shall be recorded by the department in the county recorder's office and will be a restriction placed upon the property. All provisions of the special access connection shall be binding on successors or assigns of the applicant property owner.

e. Special access connections shall be constructed in compliance with rules 761—112.4(306A), 761—112.5(306A) and 761—112.6(306A).

f. The department shall approve spacing for special access connections in accordance with subrules 112.12(2) and 112.12(3).

112.13(4) *Temporary access.*

a. The department realizes temporary access may be needed in emergency situations or for highway construction or maintenance purposes. In these cases, a temporary connection may be allowed, but is subject to special stipulations as may be determined by the department.

b. Temporary access shall be authorized for a determinable period of time. The access need not comply with paragraph 112.13(3)*"a"* (joint access) or 112.13(3)*"f"* (spacing). The applicant is responsible for all costs incurred, including removal of the access and restoration of the right-of-way.

c. The granting of temporary access to the interstate highway system requires the concurrence of the Federal Highway Administration.

d. A separate application for temporary access is not needed if the temporary access is for a construction or maintenance project, it is shown on the original plan, and it has been approved previously by the department and, when required, the Federal Highway Administration.

761—112.14(306A) Recreational trail connections. This rule establishes requirements for access to the primary road system from recreational trails.

112.14(1) *General.*

a. No access to a Priority I highway from a recreational trail is allowed.

b. Reserved.

112.14(2) *Application.*

a. An application for access to a Priority II, III, or IV highway shall be submitted and processed in accordance with subrule 112.13(2).

b. An application for access to a Priority V or VI highway shall be submitted and processed in accordance with subrule 112.4(1).

c. The applicant shall submit with the application a detailed plan sufficient for departmental review. The plan shall include an appropriate recreational trail signing layout.

d. The applicant may contact the appropriate district representative for assistance in preparing the application.

112.14(3) *Requirements.*

a. *Spacing.*

(1) Spacing for a Priority II, III, or IV highway shall conform to subrule 112.12(3). It is preferable that an entrance provide access to adjacent properties as well as to the recreational trail.

(2) Spacing for a Priority V or VI highway shall conform to rule 761—112.8(306A) or 761—112.9(306A) as applicable.

b. *Sight distance.* Sight distance for a recreational trail connection shall conform to the desirable sight distance as listed in rule 761—112.2(306A).

c. *Entrance width and radius return.* The entrance width and radius return of a recreational trail connection shall conform to the design standards adopted for the Statewide Iowa Trails Plan.

d. *Entrance angle.* The entrance angle for a recreational trail connection shall be established as near to 90 degrees to the centerline of the primary highway as site conditions will allow.

e. *Slope and cross section.* The slope and cross section of a recreational trail connection shall conform to subrule 112.4(10).

f. *Drainage.* Drainage for a recreational trail connection shall conform to rule 761—112.6(306A).

g. *Construction.* The permit holder shall be responsible for constructing the recreational trail connection in compliance with the approved permit and at no cost to the department. The department reserves the right to inspect any work performed within the primary highway right-of-way. See subrule 112.3(3).

h. *Maintenance.* Maintenance responsibilities shall conform to subrule 112.3(4).

These rules are intended to implement Iowa Code sections 306.19, 306A.1 to 306A.8, and 319.14.

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CHAPTERS 113 and 114
Reserved

CHAPTER 115
UTILITY ACCOMMODATION

[Prior to 6/3/87, Transportation Department[820]—(06,D) Ch 1]

761—115.1(306A) General information.

115.1(1) *Scope of chapter.* This chapter covers initial placement, adjustment and maintenance of utility facilities in, on, above or below the right-of-way of primary highways, including attachments to primary highway structures. It embodies the basic specifications and standards needed to ensure the safety of the highway user and the integrity of the highway.

115.1(2) *Information and forms.* Information and forms regarding this chapter may be obtained from any of the department's six district offices; the Office of Traffic and Safety, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or the Internet Web site: http://www.iowadot.gov/traffic/index.htm.

115.1(3) *Considerations.* If the department determines that the literal application of these rules to a specific situation will create or result in an unsafe situation or an unreasonable design, the department shall use sound engineering practices to determine the appropriate design for the specific situation. The appropriate district office shall include justification for the design in the permit or the highway project file, as applicable. The appropriate design shall address:

a. Safety of motorists, pedestrians, construction workers and other highway users.

b. Integrity of the highway.

c. Protection of the rights of the traveling public and of property owners, including the rights of abutting property owners.

d. Topography and geometric limitations and constraints affecting typical engineering standards.

115.1(4) *Permit approval process.*

a. A district representative may, in response to an application for a utility accommodation on the primary highway system grant approval for a utility permit. The process for inquiring about and applying for a utility accommodation on the primary highway system is through one of the department's six district offices. All applications for utility permits must be applied for in the particular district where the utility accommodation is proposed. A district representative will do one of the following: approve the application for a utility permit, approve the application for a utility permit with conditions, or deny the application for a utility permit. The district representative may use the considerations set forth in subrule 115.1(3) in making the decision. The district representative shall notify the applicant of the determination in writing.

b. Upon receipt of a denial letter or if the permit was approved with conditions, the applicant may choose to pursue a waiver from the director of transportation, pursuant to subrule 115.1(5).

115.1(5) *Waivers.* The director of transportation may, in response to a written petition, waive provisions of this chapter in accordance with 761—Chapter 11. The written petition must contain the information as required in 761—subrule 11.5(2) and shall be submitted to the Office of Policy and Legislative Services, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

115.1(6) *Additional requirement for waivers involving interstate highways.* The director of transportation shall not waive these rules in utility accommodation and adjustment situations involving the interstate highway system, including its ramps, without the approval of the Federal Highway Administration.

[**ARC 9873B**, IAB 11/30/11, effective 1/4/12]

761—115.2(306A) Definitions.

"Adjustment" means a physical change to an existing utility facility including improvement, rearrangement, reinstallation, protection, relocation or removal of the utility facility.

"Agreement" means a contract between the department and a utility owner.

"Appurtenance" means a utility facility-related feature such as a vent, drain, utility access or marker.

"Backfill" means placement of suitable material and compaction of the material as specified in these rules.

"Breakaway" means designed to shatter, bend easily or separate from a solid foundation.

"Cable" means an insulated conductor or a combination of insulated conductors.

"Carrier" means a pipe directly enclosing a transmitted fluid (liquid or gas) or slurry. "Carrier" also means an electric or communication cable, wire or line.

"Casing" means an oversize load-bearing pipe, conduit, duct, or structure through which a carrier or cable is inserted.

"Cell" means a conduit.

"Clear zone" means that roadside border area, starting at the edge of the traveled way, available for use by errant vehicles.

"Communication line" or *"communication cable"* means a circuit for telephone, telegraph, alarm system, television transmission or traffic control purposes.

"Conduit" means an enclosed tubular runway for protecting wires or cables. A conduit may also be referred to as a "cell" or "duct."

"Cover" means depth from the grade of a roadway or ditch to the top of an underground utility facility.

"District representative" means a department employee who processes utility accommodation requests in an assigned geographical area.

"Duct" means a conduit.

"Emergency" means an unplanned situation that presents a danger to the life, safety or welfare of motorists, persons working within the right-of-way or the general public and that requires immediate attention. The emergency may be the result of storm damage and may involve disruption of utility service to customers. Work on a utility facility due to an emergency is unplanned work and may be necessary at any time of the day or night. The emergency work operation usually involves a small crew and a work vehicle for a short period of time.

"Encasement" means placing a casing around a utility facility.

"FHWA" means the Federal Highway Administration.

"Foreslope" means the sloping surface of an embankment, ditch, or borrow pit of which the downward inclination is away from the traveled way.

"Freeway" means a fully controlled access primary highway. The rights of ingress and egress from abutting properties have been legally eliminated by the department. Permanent access to the highway is allowed only at interchange locations. A freeway is generally five or more miles in length.

"Highly energized" means an electrical energy level that could be hazardous if the utility facility is struck or exposed. For purposes of this chapter, voltage exceeding 60 volts is considered to be highly energized.

"Highway," "street" or *"road"* means a public way for the purpose of vehicular travel, including the entire area between the right-of-way lines.

"Interchange" means a system that provides for the movement of traffic between intersecting roadways via one or more grade separations.

"Maintenance" as the term is used in conjunction with a utility facility means any repair or replacement of the utility facility that is not an adjustment and that does not increase the capacity of the original installation. The term "maintenance" when used in conjunction with a highway means repair or other operational activities performed by the department within the highway right-of-way to preserve the function of the highway and its structures.

"Median" means that portion of a divided highway separating traffic moving in opposite directions.

"Multiduct" means a system comprised of two or more conduits.

"MUTCD" means the Manual on Uniform Traffic Control Devices, as adopted in 761—Chapter 130.

"Nonfreeway primary highway" means a primary highway that is not a freeway.

"Occupy the primary highway right-of-way" means located or to be located in, on, above or below the primary highway right-of-way. The term includes attachments to primary highway structures.

"Pavement" means that portion of a roadway used for the movement of vehicles, excluding shoulders.

"Permit" means a utility accommodation permit issued by the department. The term "permit" includes any attachments to the permit.

"Pipe" means a tubular product used to transport solids, liquids or gases.

"Pipeline" means a carrier system used to transport liquids, gases, or slurries.

"Plowing" means the installation of a utility line in the ground by means of a plow-type mechanism that breaks the ground, places the utility line and closes the break in the ground in a single operation.

"Primary highway" means a road or street designated as a "primary road" in accordance with Iowa Code subsection 306.3(6). This definition includes primary highway extensions in cities and primary highways under construction.

"Right-of-way" means the land for a public highway, street or road, including the entire area between the property lines. For purposes of this chapter, the right-of-way line for a freeway is the access control line.

"Roadway" means that portion of a highway used for the movement of vehicles, including shoulders and auxiliary lanes. A divided highway has two or more roadways.

"Rural-type roadway" means a roadway that does not have as its outside extremities a curb and gutter section.

"Service connection" means a water, gas, power, communication, sanitary sewer or storm sewer line that extends from the main or primary utility facility into an adjacent property and that is used to serve the property.

"Shoulder" means that portion of a roadway contiguous to the traveled way for the accommodation of disabled vehicles, for emergency use and for the lateral support of the pavement base and surface courses.

"Toe of foreslope" means the intersection of the foreslope and the natural ground or ditch bottom.

"Traveled way" means that portion of a roadway used for the movement of vehicles, excluding shoulders and auxiliary lanes.

"Trenched" means installed in a narrow open excavation.

"Trenchless" means installed without breaking the ground or the pavement surface, such as by jacking, boring, tunneling or mechanical compaction.

"Urban-type roadway" means a roadway that has as its outside extremities a curb and gutter section.

"Utility" means a system for supplying water, gas, power, or communications; a storm sewer, sanitary sewer, drainage tile or other system for transmitting liquids; a pipeline system; or like service systems. The term "utility" includes traffic signal systems and street and intersection lighting systems.

"Utility access" means an opening in an underground utility system through which workers or others may enter for the purpose of making installations, inspections, removals, repairs, connections or tests.

"Utility facility" means any pole, pipe, pipeline, pipeline company facility, sewer line, drainage tile, conduit, cable, aqueduct or other utility-related structure or appurtenance. However, the term does not include department facilities or the utility lines that service them.

"Utility owner" means the owner of a utility facility.

"Vent" means an appurtenance used to ventilate or to discharge gaseous contaminants from casings.

761—115.3 Reserved.

761—115.4(306A) General requirements for occupancy of the right-of-way.

115.4(1) *Permit required and exceptions to permit.*

a. Permit required.

(1) A utility owner shall obtain permission from the department in the form of a utility accommodation permit before it places its utility facilities in, on, above or below the primary highway right-of-way; attaches its utility facilities to a primary highway structure; or adjusts existing utility facilities occupying the right-of-way.

(2) The purpose of the permit process is to ensure the safety of motorists, pedestrians, construction workers and other highway users; to ensure the integrity of the highway; and to document the location of utility facilities for use in managing the highway right-of-way and in locating the facilities in the future.

b. Exceptions to required permit.

(1) A permit is not required for storm sewers, subdrains, and lighting designed and constructed as part of a department highway construction project.

(2) A permit is not required for service connections within the corporate limits of a city. These connections require city approval rather than department approval; the utility owner shall apply to the city. However, service connections shall meet all other requirements of this chapter.

115.4(2) *Agreement required.* For certain utility facility adjustments, the department may require an agreement between the department and the utility owner. However, the agreement by itself does not constitute a permit nor does it grant permission to occupy the primary highway right-of-way. The utility owner is responsible for obtaining a permit prior to commencing work within the right-of-way. The agreement shall then be attached to and become a part of the permit.

115.4(3) *Compliance with requirements.* It is the responsibility of the utility owner to ensure that its utility facility complies with all applicable federal, state, local and franchise requirements and meets generally accepted industry standards at the time of installation.

115.4(4) *Performance bond.* The department may require a performance bond for utility work within the highway right-of-way under the following circumstances: the installation is unusual; abnormal site conditions exist, such as but not limited to unstable soil or unique vegetation; or the utility owner has a history of performance problems. A performance bond is required for longitudinal freeway occupancy; see subrule 115.16(9) for specific requirements.

a. If a performance bond is required, the utility owner shall file the bond with the department prior to commencing work within the right-of-way.

b. The minimum amount of a required performance bond is $5,000 per permit. Depending on the type and extent of the facility installed, the department may require a higher bond amount. The bond shall be in force for the duration of the permit. The department shall have the right to file a claim against the bond for two years thereafter.

c. The department may accept an annual performance bond in the amount of $50,000 for statewide activities in lieu of an individual bond for each permit. The statewide performance bond shall be kept in force for as long as the utility owner's facilities occupy the primary highway right-of-way anywhere within the state of Iowa. The department shall have the right to file a claim against the bond for two years thereafter.

d. A performance bond shall guarantee prompt restoration of any damage that is the result of the utility facility's occupancy of the highway right-of-way.

115.4(5) *Execution of work.* Utility construction and maintenance work within the primary highway right-of-way shall be executed in a satisfactory manner and in accordance with good construction practices.

115.4(6) *Disturbance of other contractors.* Utility construction and maintenance work within the primary highway right-of-way shall be accomplished in a manner that minimizes disturbance to any other contractor working within the right-of-way. It is the responsibility of the utility owner to coordinate work with other contractors.

115.4(7) *No adverse effect on highway.* A utility facility shall not adversely affect the safety, design, construction, operation, maintenance or stability of the present use or future expansion of a primary highway.

115.4(8) *Safety, health and sanitation.* Construction and maintenance of a utility facility shall be accomplished in a manner that minimizes disruption of primary highway traffic and other hazards to the highway user. The utility owner shall comply with the MUTCD and all applicable federal, state and local statutes, ordinances and regulations governing safety, health and sanitation. The owner shall furnish such additional safeguards, safety devices and protective equipment and shall take such actions as are reasonably necessary to protect the life and health of the public.

115.4(9) *Parking or storage in clear zone or median.* When not in actual use, vehicles, equipment and materials shall not be parked or stored within the clear zone or median.

115.4(10) *Protection of landscaped or planted areas.* A landscaped or planted area that is disturbed shall be restored as nearly as practical to its original condition. Specific authorization must be obtained from the district representative prior to trimming trees or spraying within the right-of-way.

115.4(11) *Noncompliance.* The department may take any or all of the following actions for noncompliance with any provision of this chapter or any term of a permit:

a. Halt utility construction or maintenance activities within the right-of-way.

b. Withhold an adjustment reimbursement until compliance is ensured.

c. Revoke the permit.

d. Remove the noncomplying construction or maintenance work, restore the area to its previous condition, and assess the removal and restoration costs to the utility owner.

e. Place all pending and future permits on hold until the issue is resolved.

115.4(12) *Private utility facility.* A utility facility that is dedicated to private use shall be accommodated in accordance with this chapter. However, the district representative may, when necessary, allow an exception to the cover requirements of subrule 115.13(1) for tile lines and sewer lines.

115.4(13) *Insufficient capacity of right-of-way.* The department shall deny issuance of a permit if it determines there is insufficient room for additional utility facilities within the right-of-way.

761—115.5(306A) General design provisions.

115.5(1) *Plans.* Design plans for a utility facility shall be prepared by a person knowledgeable in highway design and in work zone traffic control and shall include the measures to be taken to preserve the safe and free flow of traffic, structural integrity of the roadway and highway structures, ease of highway maintenance, appearance of the highway and integrity of the utility facility.

115.5(2) *Materials.* All utility facilities shall consist of durable materials designed for long service life expectancy and be relatively free from routine servicing and maintenance.

115.5(3) *Number of crossings.* The number of utility facilities crossing the primary highway right-of-way shall be kept to a minimum. The department may require distribution facilities to be installed on each side of the highway to minimize the number of crossings and service connections. In individual cases, the department may require several facilities to cross in a single conduit or structure. Crossings should be as near to perpendicular to the highway alignment as practical.

115.5(4) *Aboveground facilities.* The design of aboveground utility facilities shall be compatible with the visual quality of the specific highway section being traversed. See rule 761—115.6(306A).

115.5(5) *Clear zone requirements and aboveground obstructions.* Highway roadsides shall be as free from physical obstructions above the ground as practical. The department shall determine the clear zone distance.

a. The clear zone distance on rural-type roadways is based on present day traffic and the existing foreslope adjacent to and preceding the utility facility.

b. Unless otherwise specified, the clear zone shall be measured from the edge of the traveled way.

c. In rural areas with rural-type roadways, a permanent, aboveground obstruction is restricted to an area beyond the clear zone or the highway foreslope, whichever area locates the obstruction a greater distance from the edge of the traveled way.

d. If sufficient right-of-way is not available to accommodate the clear zone distance, the department may require the utility facility to have a breakaway design, require regrading of the right-of-way, require the utility facility to be located underground, or authorize the facility to be placed near the right-of-way line.

761—115.6(306A) Scenic enhancement.

115.6(1) *Introduction.* The type and size of a utility facility and the manner in which it is installed can materially alter the scenic quality, appearance and view of highway roadsides and adjacent areas. For these reasons, additional controls are applicable in areas that have been acquired or set aside for their scenic quality. Such areas may include, but are not limited to, scenic strips, scenic overlooks, rest areas, recreation areas, public parks and historic sites, aesthetically enhanced corridors, and the

right-of-way of primary highways that pass through or are adjacent to these areas. These additional controls are addressed in this rule.

115.6(2) *Underground installations.* The department may permit a new underground installation if it does not require extensive removal or alteration of trees or other natural features visible to the highway user and if it does not impair the visual quality of the area being traversed.

115.6(3) *Aboveground installations.* The department may permit a new aboveground installation only if the following three conditions are met:

a. Other locations for an aboveground installation are unusually difficult, are unreasonably costly, or are less desirable from the standpoint of visual quality.

b. Underground installation is not technically feasible or is unreasonably costly.

c. The location, design and materials to be used for the proposed aboveground installation will give adequate attention to the visual qualities of the area being traversed.

761—115.7(306A) Liability.

115.7(1) Liability under a permit. The following are conditions of a utility accommodation permit.

a. The owner of the utility facility shall indemnify and save harmless the state of Iowa, its agencies and employees from any and all causes of action, suits at law or in equity, for losses, damages, claims or demands, and from any and all liability and expense of whatsoever nature (including reasonable attorney fees), arising out of or in connection with the owner's use or occupancy of the primary highway right-of-way.

b. The state of Iowa, its agencies or employees, will be liable for expense incurred by the permit holder in its use and occupancy of the primary highway right-of-way only when negligence of the state, its agencies or employees, is the sole proximate cause of such expense. Whether in contract, tort or otherwise, the liability of the state, its agencies, and employees is limited to the reasonable, direct expenses to repair damaged utilities, and in no event will such liability extend to loss of profits or business, indirect, special, consequential or incidental damages.

115.7(2) Reserved.

761—115.8(306A) Utility accommodation permit.

115.8(1) *Application for permit.*

a. To apply for a utility accommodation permit, the utility owner shall submit an application to the appropriate district representative on a form prescribed by the department.

b. If the utility facility will cross or impact a county road connection, the application must be approved by the county. If the facility is within corporate limits of a city, the application must be approved by the city. The utility owner is responsible for obtaining these approvals prior to submitting the application to the department.

115.8(2) *Permit.*

a. At a minimum, a utility accommodation permit allows:

(1) The applicant (the utility owner) or its representative to perform the work covered by the permit.

(2) The utility facility described in the permit to occupy the right-of-way.

(3) The utility facility to be operated and maintained.

b. A utility accommodation permit does not convey a permanent right of occupancy.

115.8(3) *Plan.* Each permit application shall be accompanied by a plan showing the following:

a. Location of the utility facility by route, county, section, township, range, milepost and highway stationing, where these references exist.

b. Highway centerline and right-of-way limits.

c. Location of the utility facility by distance to the nearest foot at each point where the facility's location changes alignment, as measured from the:

(1) Centerline of the highway on nonfreeway installations.

(2) Right-of-way fence on freeway installations.

d. All construction details including the:

(1) Depth of burial.

(2) Types of materials to be used in the installation.

(3) Operating pressures and voltages.

(4) Vertical and horizontal clearances.

(5) Traffic control plan prepared by a person knowledgeable in work zone traffic control, or a reference to a standard traffic control plan of the department.

115.8(4) *Discharging into waterways.*

a. A permit application for the placement of a utility facility that will discharge materials into the nation's waters must be accompanied by satisfactory evidence of compliance with all applicable federal, state and local environmental statutes, ordinances and regulatory standards.

b. The utility owner is responsible for obtaining all necessary approvals from the appropriate agencies. The department will not issue a permit until these approvals are obtained.

115.8(5) *Department action on permit application.*

a. The department shall act on the permit application within 30 days after its filing with the appropriate district representative. If an emergency should exist, the department shall act on the application as expeditiously as practical.

b. Failure on the part of the utility owner to provide complete information may result in a delay in the department's taking final action on the application.

115.8(6) *Changes to work.* Changes in the work as described in the original permit require the prior approval of the department.

115.8(7) *Copy of permit at job site.* The utility owner or its contractor shall have a copy of the permit on the construction site at all times for examination by highway officials.

115.8(8) *As-built plans.*

a. Within 90 days after completion of construction, the utility owner shall submit to the district representative an as-built plan or a letter certifying that the actual placement of the utility facility is as described in the original permit.

b. If the utility owner fails to submit the as-built plan or letter within the time required, the department may hire an independent contractor to locate the utility facility and prepare an as-built drawing. All costs associated with this activity are the responsibility of the utility owner.

c. Any costs incurred by the department or its contractors due to incorrect as-built information supplied by the utility owner or deviations in actual placement from that described in the original permit are the responsibility of the utility owner.

115.8(9) *Transfer of permit.* A new utility accommodation permit is not needed when a utility facility is transferred or leased in its entirety. The requirements of the permit and this chapter remain in force for as long as the utility facility continues to occupy the right-of-way and serve its intended purpose. The transferee or lessee shall submit the following information to the appropriate district representative:

a. The name and address of the transferee or lessee.

b. Geographical area involved in the transaction.

c. Designated telephone number for notification purposes.

115.8(10) *Expiration of certain permits.* See subrule 115.16(12) for permits covering longitudinal occupancy of freeways.

761—115.9(306A) Traffic protection.

115.9(1) *Traffic control for all work.*

a. When performing work within the right-of-way, the utility owner is responsible for providing, installing, maintaining and cleaning warning signs and protective devices; removing warning signs and protective devices when the work is complete; and providing flaggers.

b. Flagging operations and the placement of warning signs, protective devices, barricades and channelizing devices shall comply with the MUTCD and department requirements for the protection of the traveling public and workers on the site.

c. Flaggers are required at work sites to stop traffic intermittently as necessitated by work progress or to maintain continuous traffic past a work site at reduced speeds to help protect the work crew. For both of these functions the flagger must, at all times, be clearly visible to approaching traffic for a distance

sufficient to permit proper response by motorists to the flagging instructions, and to permit traffic to reduce speed before entering the work site. In positioning flaggers, consideration must be given to maintaining color contrast between the work area background and the flaggers' protective garments.

d. The utility owner shall provide additional protection when special complexities and hazards exist.

115.9(2) *Traffic control for construction and maintenance work that is not emergency work.*

a. The utility owner is responsible for using the types of traffic controls that are adequate for the nature, location and duration of work, type of roadway, traffic volume and speed, and potential hazards.

b. Where high traffic volumes cause frequent congestion, routine scheduled maintenance and construction should be avoided during hours of peak traffic.

c. Work areas should be occupied for only as long as it is necessary to safely move in, finish the work, remove all utility work signs and move out.

d. Special care should be taken to clearly mark suitable boundaries for the workspace with channelizing devices so that pedestrians and drivers can see the workspace. If any of the traveled lanes are closed, tapers shall be used as required by the MUTCD.

e. Pedestrians should not be expected to walk on a path that is inferior to the previous path. Loose dirt, mud, broken concrete or steep slopes may force pedestrians to walk on the roadway rather than the sidewalk. Repairs (temporary or permanent) to damaged sidewalks should be made quickly. This may include bridging with steel plates or good quality wood supports.

f. Work areas involving excavations on the roadway should not exceed the width of one traffic lane at a time. The work should be staged and, if needed, approved bridging should be used. The utility owner should fully coordinate this type of activity with the district representative or, in a city, with the city's traffic or public works office.

115.9(3) *Traffic control for emergency work.*

a. The extent of traffic control used for emergency work may be less than that used for longer-term construction or maintenance. However, the utility owner shall provide for the safety of pedestrians, motorists and workers. It may be necessary for the utility owner to contact local law enforcement officials to assist in securing the safety of the traveling public.

b. The work vehicle should be equipped with an amber revolving light or amber strobe light, portable signs and channelizing devices, and necessary equipment for flagging operations.

761—115.10(306A) Construction responsibilities and procedures.

115.10(1) *Permit required before work may begin.* The utility owner shall not commence construction work in the primary highway right-of-way until it has received a utility accommodation permit from the department for the work.

115.10(2) *Notice of construction.* The utility owner shall give the district representative at least 48 hours' prior notice of its intent to start construction within the right-of-way.

115.10(3) *Authority of the district representative.*

a. The district representative has the authority to resolve any issues or concerns that arise regarding the intent of the permit and compliance therewith, as they relate to the condition of the highway.

b. During the progress of the work, the district representative may approve minor alterations in the plans or character of the work, as they relate to the condition of the highway, that the district engineer deems necessary or desirable to satisfactorily complete the work. Such an alteration is not a waiver of the permit nor does it invalidate any provision of the permit.

115.10(4) *Work in progress.* The utility owner is responsible for the care and maintenance of partially completed work within the right-of-way. Unless otherwise authorized by the permit or the district representative, all work performed within the right-of-way is restricted to a time frame of 30 minutes after sunrise to 30 minutes before sunset.

115.10(5) *Authority of department to inspect and approve.*

a. The department may inspect and approve any construction work performed within the right-of-way as it relates to the condition of the highway.

b. The utility owner shall provide reasonable cooperation.

115.10(6) *Department inspectors.* The department may appoint inspectors to represent the department in the inspection of construction. Inspectors are placed on the job to keep the district representative informed of the progress of the work and the manner in which it is being performed, and to call to the utility owner's attention any infringements of the permit. The inspectors shall not:

a. Modify in any way the provisions of the permit.

b. Delay the work by failing to inspect the work with reasonable promptness.

c. Act as a supervisor for the work or perform any other duties for the utility owner or its contractor.

d. Improperly interfere with the management of the work.

e. Approve or accept any portion of the work on behalf of the department.

115.10(7) *Repair and cleanup.* Prior to the department's final inspection, the utility owner shall:

a. Upon notification by the department, immediately make any repairs to the right-of-way that are necessary due to the construction work.

b. Remove from the right-of-way all unused materials and rubbish resulting from the work and leave the right-of-way in a clean, presentable condition.

115.10(8) *Final inspection.*

a. Upon notification by the owner of the utility facility or its authorized representative that the work is complete, the district representative may inspect each item of work included in the permit as it relates to the condition of the highway.

b. If the district representative finds that the work is not in compliance with the permit, the district representative shall provide to the utility owner written notice of the particular defects found. The owner is responsible for remedying these defects in a timely manner.

761—115.11(306A) Vertical overhead clearance requirements.

115.11(1) *Conformance to standards.* The vertical clearance for overhead utility facilities and the lateral and vertical clearances for bridges shall conform to accepted industry standards as well as applicable codes and regulations.

115.11(2) *Minimum vertical clearance.* In no event shall the vertical clearance be less than 20 feet above the roadway for all overhead utilities.

761—115.12(306A) Utility facility attachments to bridges.

115.12(1) *Electrical power and communication cable attachments.*

a. An electrical power or communication cable may be attached to an existing primary highway bridge if the department determines that the attachment is in the best interests of the public. The department may accommodate an electrical power or communication cable attachment in its design for a new bridge if the department determines that the accommodation is in the best interests of the public.

b. The permit application shall include a detailed sketch showing the method of attachment and weights of attachment. A separate permit is required for each bridge.

c. All attachments shall be placed in conduits, pipes or trays; beneath the bridge's floor; and above low steel or masonry of the bridge. Department-approved clamps shall be used for any attachment to structural steel.

d. Expansion devices are required. Cables in cells or casings shall be grounded wherever necessary. Carrier pipe shall be suitably insulated from electrical power line attachments.

e. All costs attributable to the installation of an attachment to a bridge shall be paid by the utility owner unless the attachment is installed pursuant to a utility agreement.

f. Welding or drilling holes in structural steel primary members is prohibited.

g. Utility facilities may be attached to noncritical concrete areas.

h. Holes should not be cut in wing walls, abutments or piers.

115.12(2) *Pipeline attachments.*

a. Pipelines may be attached to primary highway bridges when installation below ground is not feasible, the design of the bridge can accommodate the attachment, and space is available.

b. The permit application shall include a detailed sketch showing the method of attachment and weights of attachment. A separate permit is required for each bridge.

c. Pipes shall be placed beneath the bridge's floor, inside the outer girders or beams (or in cells specifically designed for the installation), and above low steel or masonry of the bridge.

d. Pipes shall be designed to withstand expected expansion or contraction forces. If necessary, expansion devices such as expansion joints, offsets or loops shall be used.

e. Pipelines in cells or casings shall be vented and grounded whenever necessary.

f. Pipelines that have an operating pressure of more than 75 pounds per square inch or that are larger than two inches in diameter shall have shutoffs not more than 300 feet from each end of the bridge.

g. The department shall consider casing requirements on an individual basis. In some instances, thicker-walled or extra-strength pipe may be considered in lieu of encasement. Encasement is required for plastic pipe attachments to bridges.

h. All costs attributable to the installation of an attachment to a bridge shall be paid by the utility owner unless the attachment is installed pursuant to a utility agreement.

i. Welding or drilling holes in or attaching to structural steel primary members is prohibited.

j. Utility facilities may be attached to noncritical concrete areas.

k. Holes should not be cut in wing walls, abutments or piers.

l. The utility owner shall provide an indemnity bond to be executed by either itself or by a responsible bonding company, at the department's option.

(1) The indemnifier under the bond shall, in the event of damage resulting from any cause whatsoever arising out of or from permission to attach a pipeline, indemnify the department against all loss or damage to it or any third party therefrom, including but not limited to the expense of repairing or replacing the bridge and the cost of alternate highway facilities for traffic during the period when the bridge is being repaired or replaced.

(2) The indemnity bond shall be kept in force for as long as the pipeline is attached to the bridge. The department may periodically review the amount of the bond and require adjustments in the bond amount.

115.12(3) *Attachment fee.*

a. The utility owner shall pay to the department an attachment fee for attaching its utility facility to a primary highway bridge. The attachment fee is $100 per bridge plus $0.55 times the weight of the attachment in pounds per foot times the length of bridge in feet. The fee shall increase 3 percent per year after the base year of 2004.

b. The attachment fee is due before any construction work commences within the right-of-way.

c. Utility facilities belonging to or exclusively serving a city may, if the department considers it desirable, be attached to a primary highway bridge without assessment of an attachment fee.

115.12(4) *Engineering fee.* When a primary highway bridge is in the planning stages and the department designs the bridge to accommodate a requested attachment, the department shall assess to the utility owner an engineering fee. The engineering fee shall reimburse the department for the department's increased costs of design, construction and inspection due to the attachment. The department shall bill the fee to the utility owner when the department's work is complete.

115.12(5) *Utility attachments to freeway border bridges.* The department may permit a utility facility to be attached to an existing or planned freeway border bridge if the following conditions are met:

a. The appropriate state agency of the adjoining state approves the attachment.

b. Except for communication cable, the facility exits the freeway right-of-way as soon as physically practical after crossing the state line into Iowa.

c. The attachment otherwise complies with this chapter, specifically including this rule on attachments and rule 761—115.16(306A) on longitudinal freeway occupancy.

761—115.13(306A) Underground utility facilities.

115.13(1) *Depth requirements.*

a. *Minimum cover—roadway.* The minimum required cover under a roadway is 48 inches.

b. *Minimum cover—other portions of right-of-way.* The minimum required cover under other portions of the right-of-way is:

(1) 48 inches for electrical cable.

(2) 30 inches for communication cable except that 36 inches is required for longitudinal occupancy under freeway right-of-way.

(3) 36 inches for all other underground facilities.

c. *Rocky terrain.* The department may allow an exception to the minimum depth requirement where rocky terrain makes it difficult to obtain the required depth. The department shall determine the minimum depth in these situations; however, no installation shall be authorized with less than 24 inches of cover.

d. *Other protective measures.* In critical situations where the necessary cover cannot be obtained, the department may approve other protective measures.

115.13(2) *Measurement of cover.* The cover is measured from one of the following:

a. On rural-type roadways, the lowest pavement surface edge.

b. On urban-type roadways, the gutter flow line, excluding local depressions at inlets.

c. Where longitudinal installations will be behind the curb, the top of the curb.

d. The surface of the surrounding ground or the low point of the ditch.

115.13(3) *Casing.* A casing shall:

a. Protect the highway from damage.

b. Protect the carrier pipe from external loads or shock, either during or after construction of the highway.

c. Convey leaking liquids or gases away from the area directly beneath the traveled way.

d. Provide for repair, removal and replacement of the utility facility without interference to the highway.

115.13(4) *Seals.* Casing pipe shall be sealed at both ends with a suitable material to prevent water or debris from entering the annular space between the casing and the carrier, in accordance with generally accepted industry standards.

115.13(5) *Transverse occupancy—encasement and related requirements.*

a. *Trenchless construction.* Underground transverse crossings of existing paved roadways shall be made by trenchless construction whenever practical. Any exception to this requirement must be specifically authorized by the district representative and noted in the permit.

b. *Electrical service.* Underground electrical service must be placed in a conduit from right-of-way line to right-of-way line and shall be clearly marked by the utility owner at the outer limits of the right-of-way.

c. *Pipelines.*

(1) Except as set out in 115.13(5)*"c"*(2), a pipeline carrying natural gas at an operating pressure of greater than 60 pounds per square inch, liquid petroleum products, ammonia, chlorine or other hazardous or corrosive products shall be encased from right-of-way line to right-of-way line.

(2) Encasement of a pipeline carrying a product listed in 115.13(5)*"c"*(1) is not required if the pipeline meets all of the following requirements and the utility owner certifies as a part of the permit that these requirements are met:

- It is welded steel pipeline.
- It is cathodically protected.
- It is coated in accordance with accepted industry standards.
- It complies with federal, state and local requirements and meets accepted industry standards regarding wall thickness and operating stress levels.

(3) A pipeline carrying a product listed in 115.13(5)*"c"*(1) shall be vented and marked at the outer right-of-way limits. The markers shall comply with accepted industry standards and include the following information: name and address of the owner, telephone number to contact in case of an emergency, and type of product carried.

(4) Encasement of a natural gas pipeline with an operating pressure that is not greater than 60 pounds per square inch is not required if the pipeline is made of copper, steel or plastic; the pipeline is protected and installed in accordance with accepted industry standards; and the utility owner certifies as a part of the permit that these standards are met. Otherwise, encasement is required.

d. *Communication cable.* The department may require encasement of communication cable.

e. *Sanitary sewer lines.* Sanitary sewer lines, both gravity and force mains, shall be encased from right-of-way line to right-of-way line. Exception: A gravity flow line that is installed subsequent to highway construction need not be encased if it will meet all of the following requirements:

(1) The opening is cut to the size of the carrier pipe so that there are no excessive voids around the pipe.

(2) The pipe is of sufficient strength to withstand the external loads created by the vehicular traffic on the roadway being traversed.

(3) Lines beyond the toe of foreslope are properly embedded.

f. *Waterlines.* Waterlines shall be encased from right-of-way line to right-of-way line. Exceptions:

(1) Encasement is not required where it is impractical due to existing conditions, as determined by the district representative. As a minimum, waterlines shall be encased from toe of foreslope to toe of foreslope.

(2) Waterlines with an inside diameter of two inches or less need be encased only from toe of foreslope to toe of foreslope. Venting and sealing of the encasement are not required.

(3) Properly embedded waterlines that are installed prior to highway construction need not be encased if extra strength cast iron or ductile iron pipe with mechanical joints and seals, or equivalent, is used from right-of-way line to right-of-way line.

g. *Installations vulnerable to damage.* Utility facilities that by reason of shallow depth or location are vulnerable to damage from highway construction or maintenance operations shall be protected with a casing, suitable bridging, concrete slabs or other appropriate measures.

h. *Other installations.* When it is acceptable to both the utility owner and the department, an underground utility facility not otherwise addressed in this subrule may be installed without protective casing if the installation involves trenched construction or small bores. Encasement requirements will be determined on an individual basis.

115.13(6) *Longitudinal occupancy—encasement and related requirements.*

a. Utility lines installed longitudinally to the primary highway right-of-way shall be encased at crossings of hard-surfaced side roads, streets and entrances in accordance with subrule 115.13(5).

b. Reserved.

115.13(7) *Multiduct systems.* The department may require installation of a multiduct system to be shared with others. Details of the installation are subject to department approval.

a. The department shall designate a "lead company" for the system. The lead company is generally the first utility owner requesting occupancy. The lead company is responsible for:

(1) Design and construction of the multiduct system.

(2) Maintenance of the multiduct system.

(3) Providing all capital required to construct the multiduct system.

b. Once a multiduct system has been established, the department shall require future occupancies to be located within one of the unoccupied inner ducts of the system. If all inner ducts are occupied, the department may require the establishment of an additional multiduct system.

c. Each occupant of a multiduct system shall share equally in the entire capital costs of the facility. As each new occupant is added to an existing system, the department shall require the new occupant to pay its proportionate share based on the number of inner ducts it occupies.

d. See subrule 115.16(8) for occupancy fees for longitudinal installations on freeways.

115.13(8) *Procedures for backfilling trenched construction and jacking or boring pits.*

a. When a carrier, pipe, conduit, or cable is placed by trenched construction, the backfill shall be placed and compacted so that there is no settlement or erosion. If settling or erosion of a trench is observed, it is the responsibility of the utility owner to correct the problem.

b. Jacking or boring pits shall be backfilled in the same manner as that described in paragraph *"a"* of this subrule.

c. Backfill under roadways or entrances shall be of a suitable material to minimize settlement. Examples of suitable material include granular backfill or flowable mortar.

115.13(9) *Procedures for trenchless construction.*

a. When trenchless construction techniques are used, the bore shall be as small as practical and in no case more than four inches larger than the facility or casing inserted.

b. Grout backfill is required for all unused holes and abandoned pipes. Grout or sand backfill is required for any borehole more than two inches larger than the installed casing or other facility. All bored facilities shall be constructed in such a manner that surface water is not transported to or otherwise allowed access to groundwater.

115.13(10) *Procedures for pavement removal.*

a. When the existing pavement must be cut to accommodate a utility installation, the cut shall be made with a concrete saw.

b. The width of the pavement removal shall be a minimum of six feet. If the distance from the specified cut to any adjacent longitudinal or transverse joint or crack is less than four feet, the pavement shall be removed to that joint or crack.

c. The district representative shall make the final determination on the required depth and width of cut.

115.13(11) *Procedures for pavement replacement.*

a. Restoration of pavement shall be accomplished in accordance with methods approved by the district representative.

b. The district representative may authorize temporary repair with bituminous material.

c. A permanent patch shall be placed as soon as conditions permit.

115.13(12) *Clear zone for pits.*

a. On freeways, jacking or boring pits are not allowed within the median. A jacking or boring pit shall be located in an area beyond the clear zone or the highway foreslope, whichever area locates the pit a greater distance from the edge of the traveled way, right-of-way width permitting.

b. On rural-type, nonfreeway primary highways, jacking or boring pits are not allowed within the median. A jacking or boring pit shall normally be located in an area beyond the clear zone or the highway foreslope, whichever area locates the pit a greater distance from the edge of the traveled way, right-of-way width permitting. However, a jacking or boring pit may be allowed within the foreslope if it is specifically authorized by the district representative and noted in the permit.

c. On urban-type, nonfreeway primary highways, jacking or boring pits should be located at least two feet back from the curb.

d. Jacking or boring pits authorized within the clear zone shall be protected at all times. Protection may include backfilling of the pit, temporary barrier rail, reflective fence, or other measures. All measures must be approved by the district representative.

115.13(13) *Construction methods.* Casing and pipeline installations shall be accomplished by dry boring, tunneling, jacking, trenching, directional drilling or other approved methods.

a. The use of water under pressure (jetting) or puddling to facilitate boring, pushing or jacking operations is not allowed.

b. However, a boring operation that requires the use of water only to lubricate the cutter and pipe is considered dry boring and is allowed.

115.13(14) *Encasement material.* It is the responsibility of the utility owner to ensure that it complies with all applicable federal, state, local and franchise requirements and meets generally accepted industry standards in the selection of encasement materials.

761—115.14(306A) Freeways.

115.14(1) *Access to utility facilities occupying freeway right-of-way.*

a. Except for emergency work, access shall not be obtained from the freeway or its ramps during utility construction or maintenance operations. This means that access must be obtained from intersecting, adjacent or nearby public highways, streets, roads or trails or from private property. See subrules 115.9(3) and 115.19(2) for emergency work.

b. Fence removal and replacement are subject to the limitations imposed by the permit.

c. No gates or ladders shall be placed in or upon the right-of-way fence.

d. The department shall notify the FHWA of any access it authorizes to the interstate system for utility work.

115.14(2) *Freeway clear zone requirements.* The clear zone requirements of subrule 115.5(5) apply to freeways. In addition:

a. On freeways open to traffic, personnel, equipment or materials are not allowed in the median or within the clear zone area, right-of-way width permitting, during utility facility construction or maintenance operations, except for the stringing of transverse overhead conductors.

b. In the interest of safety and when considered advisable, the district representative may authorize the placement of temporary poles in the median during cable or conductor stringing operations.

115.14(3) *Aboveground appurtenances.* Unless otherwise provided, aboveground appurtenances are not allowed within the right-of-way of freeways.

115.14(4) *Existing facilities.*

a. A utility facility occupying land that subsequently becomes freeway right-of-way may remain within the right-of-way if the facility:

(1) Can be accessed from other than the freeway or its ramps.

(2) Does not adversely affect the safety, design, construction, operation, maintenance or stability of the freeway.

b. If these conditions are not met, the facility shall be relocated.

761—115.15(306A) Transverse installations on freeways.

115.15(1) *Interchange areas.*

a. Utility facilities are not allowed within the interchange area of intersecting freeways unless they are highway-related.

b. In other interchange areas, the department may permit occupancy if access to the utility facility can be obtained from other than the freeway or its ramps. If a utility facility cannot reasonably be accessed from an intersecting, adjacent or nearby public highway, street, road or trail, the utility facility shall be installed on private property outside the interchange area.

115.15(2) *Aboveground installations.*

a. Poles, guys and other supporting structures and related aboveground facilities should be located outside the freeway right-of-way. A single span shall be used to cross the freeway where the width of freeway right-of-way permits.

b. Within interchange areas:

(1) Single-pole construction shall be used, with the number of poles kept to a minimum.

(2) Overhead lines shall be constructed on tangent, parallel to the intersecting road, without guys or anchors being placed in the areas between the ramps and the main roadways of the freeway. Guy poles shall be located as near to the freeway right-of-way line as practical.

(3) Poles should be located as close to the toe of foreslope of the intersecting road as practical, but shall remain outside the clear zone.

(4) Poles should be located as far from the main roadways and ramps of the freeway as practical. No poles are allowed within the median or within the clear zone along the ramp pavement and the freeway pavement.

(5) The use of self-supporting poles or towers, double arming and insulators, breakaway devices and dead-end construction should be considered.

115.15(3) *Encasement requirements.* Underground facilities crossing the freeway shall be encased from right-of-way-line to right-of-way line. Exception: Encasement of a pipeline carrying natural gas at an operating pressure of greater than 60 pounds per square inch, liquid petroleum products, ammonia, chlorine or other hazardous or corrosive products is not required if the pipeline meets the requirements of subparagraph 115.13(5)*"c"*(2).

761—115.16(306A) Longitudinal installations on freeways.

115.16(1) *Type of installation permitted.*

a. The department may permit the installation of an underground utility facility if, in addition to complying with other provisions of this chapter, the facility specifically complies with this rule.

b. Except as provided in this rule, no aboveground installations other than those needed to serve highway facilities are allowed.

115.16(2) *Prohibitions on longitudinal occupancy.*

a. A utility facility shall not be used for transmitting gases or liquids or for transmitting products that are flammable, corrosive, expansive, highly energized or unstable.

b. A utility facility shall not present a hazard to life, health or property if it fails to function properly, is severed or is otherwise damaged.

c. No direct service connection to adjacent properties is allowed.

d. No utility facility is allowed in or on a structure carrying a freeway roadway or ramp, except for freeway border bridges, as provided in subrule 115.12(5).

115.16(3) *Minimal maintenance.* Once installed, the utility facility shall require minimal maintenance.

115.16(4) *Location and depth.* The utility facility shall be located on uniform alignment, preferably within eight feet of the freeway right-of-way line, and at a location approved by the department.

a. See subrule 115.13(1) for minimum depth requirements.

b. Except for multiduct systems, borings and isolated locations as determined by the department, cable shall be installed by the plowing method.

c. Utility accesses and splice boxes may be placed below the existing ground line. The location and number of installations are subject to department approval.

115.16(5) *Identification signs, pedestals and repeater stations.*

a. The utility owner shall place identification signs within 12 inches of the right-of-way fence, at the line of sight, along the entire occupancy route. These signs shall identify the owner/operator's name, telephone number to contact in case of an emergency, and the type of buried utility.

(1) The signs shall be composed of an ultraviolet-resistant material.

(2) Each sign shall be no larger than 200 square inches.

(3) The interval between signs shall not exceed one-quarter mile in rural areas and 500 feet in urban areas, or as designated by the department.

(4) Additional signs shall be placed on each side of a public highway, road or street intersecting or crossing the freeway at points where the freeway right-of-way line intersects the public highway, road or street right-of-way line.

(5) The utility owner is responsible for installing and maintaining these identification signs.

b. Aboveground pedestals are permissible. Pedestals should be placed one foot from the right-of-way fence. The number of installations is subject to department approval.

c. Repeater stations are not allowed in the right-of-way.

115.16(6) *Metallic warning tape.* Metallic warning tape shall be installed a minimum of 12 inches below the existing grade and above the utility installation to facilitate locating the installation in the future.

115.16(7) *Engineering.* The utility owner shall retain the services of a licensed, professional engineer.

a. The engineer is responsible for overseeing continuous on-site inspection of the installation of the facility including all provisions pertaining to access to the work site and traffic control.

b. Upon completion of the project, the engineer shall certify to the department on the appropriate forms that the installation, traffic control, and access to the work site were accomplished in accordance with the permit.

c. Any change to the alignment as described in the original permit requires the prior approval of the department and the submission of as-built plans.

115.16(8) *Occupancy fee.* The utility owner shall pay to the department an annual fee for longitudinal occupancy of the freeway right-of-way. The initial fee is due before any construction work commences within the right-of-way.

a. Unless otherwise specified, the annual fee shall be as follows:

(1) When a multiduct system is required by the department: flat fee of $14,500 per cable installation or $7,250 per mile of cable, whichever is greater. These fees shall increase 3 percent per year after the base year of 2004.

(2) All other installations: flat fee of $12,000 per cable installation or $2,500 per mile of cable, whichever is greater. These fees shall increase 3 percent per year after the base year of 2004.

b. When the department requires the installation of a multiduct system, the department may enter into an agreement with the lead company for a discounted fee payment schedule to be in effect until the company has recovered all or an agreed upon portion of its cost of installing the system. Subsequent occupants of the multiduct system shall pay the full annual fee.

c. The department may negotiate an annual fee for occupancy dedicated solely to state government use.

115.16(9) *Performance bond.* The utility owner shall file a performance bond with the department prior to commencing work within the freeway right-of-way.

a. The bond shall be in the amount of $100,000 per permit and shall guarantee prompt restoration of any damage caused during the installation of the utility facility.

b. The bond shall be in force for the duration of the construction. The department shall have the right to file a claim against the bond for two years thereafter.

115.16(10) *Insurance.*

a. The utility owner shall maintain the following insurance for bodily injury, death and property damage arising out of or in connection with the construction, maintenance and operation of the facility:

(1) General public liability insurance with limits of not less than $500,000 for injury to or death of a single person, or not less than $1,000,000 for any one accident, and not less than $250,000 per accident for property damage.

(2) Comprehensive automobile liability insurance with limits of not less than $500,000 for injury to or death of a single person, or not less than $1,000,000 for any one accident, and not less than $250,000 per accident for property damage.

(3) Excess liability coverage with limits of not less than $5,000,000.

(4) Statutory workers' compensation coverage.

b. This insurance shall be in effect before the utility owner commences any work within the freeway right-of-way.

c. Coverage may be provided by blanket policies of insurance covering other property or risks.

d. The department shall be named as an additional insured party in the general public liability and excess liability insurance policies.

115.16(11) *Future adjustment.*

a. As a condition of the permit, the utility owner shall agree to waive all future rights to be reimbursed for adjustment costs incurred should maintenance or construction of the freeway system require adjustment of the utility facility.

b. Should adjustment of the utility facility be required, the department makes no assurance nor assumes any liability to the utility owner that the facility will again be allowed to occupy the freeway right-of-way.

115.16(12) *Term of permit.* The term of the permit shall not exceed 20 years. When the permit expires, the department may extend it in writing or renegotiate its terms.

115.16(13) *Utilities for highway facilities.* Longitudinal occupancy of utility facilities that service highway-related facilities are permissible upon such terms and conditions as the department may determine.

761—115.17(306A) Nonfreeway primary highways.

115.17(1) Clear zone requirements and aboveground obstructions. Subrule 115.5(5) applies. In addition:

a. In urban areas with rural-type roadways and speed limits of 45 miles per hour or lower, a permanent, aboveground obstruction shall be located at least 15 feet from the edge of the paved traveled way or beyond the highway foreslope, whichever location is farther from the traveled way.

b. On urban-type roadways, the face of a permanent, aboveground obstruction shall be located no closer than ten feet from the back of the curb. In areas with parking or auxiliary lanes, aboveground obstructions shall be located no closer than two feet behind the back of the curb or a minimum of ten feet from the edge of the traveled way, whichever location is farther from the traveled way.

c. In rural areas with rural-type roadways, poles, guys and other supporting structures and related aboveground facilities should be located as near to the right-of-way line as practical.

(1) These aboveground obstructions shall be located in an area beyond the clear zone or the highway foreslope, whichever area locates the obstruction a greater distance from the edge of the traveled way, right-of-way width permitting.

(2) In individual cases, the department may require the use of self-supporting poles or towers, double arming and insulators, breakaway devices and dead-end construction.

d. In suburban areas with rural-type roadways and speed limits of 45 miles per hour or lower, utility poles shall be located at least 15 feet from the edge of the paved traveled way or beyond the highway foreslope, whichever location is farther from the traveled way. The preferred location is near the right-of-way line.

e. Poles, guys, anchors and other appurtenances shall not be located in ditches, at drainage structure openings or on roadway shoulders. All poles, guys, anchors and other appurtenances shall be located to minimize interference with the maintenance operations of the department.

f. The district representative may approve the adjustment of minimum setback distances for poles and other appurtenances that have a breakaway design.

115.17(2) Reserved.

761—115.18(306A) Longitudinal installations on nonfreeway primary highways.

115.18(1) *Location.* Longitudinal utility facility installations should be located on uniform alignment as near as practical to the right-of-way line so as to provide a safe environment for traffic operations and to preserve space for future highway improvements and other utility installations.

115.18(2) *Underground installations.*

a. No carrier of flammable, corrosive, expansive or unstable material shall be placed longitudinally within the right-of-way of a nonfreeway primary highway. Exceptions:

(1) A natural gas line with an operating pressure that is no greater than 150 pounds per square inch is permissible.

(2) The department may permit the placement of a natural gas line with an operating pressure that is greater than 150 pounds per square inch only if a suitable alternate location cannot be found.

b. On rural-type roadways, utility facilities shall be located in an area beyond the highway foreslope, right-of-way width permitting, except at locations where this is not acceptable, such as deep ravines or ditches.

c. On urban-type roadways, utility facilities should be located as near to the right-of-way line as practical and preferably not within the traveled way. A utility access placed within the right-of-way shall not protrude above the surrounding surface.

d. In general, utility facilities are not allowed in the median. However, in special cases the district representative may approve such an installation.

761—115.19(306A) Maintenance and emergency work.

115.19(1) *Maintenance responsibilities.* The owner of a utility facility is responsible for its maintenance. The owner shall:

a. Maintain the facility in a good state of repair in accordance with applicable federal, state and local statutes, ordinances and regulatory standards.

b. Replace and stabilize all earth cover and vegetation where they have eroded over an underground utility facility when the erosion is due to or caused by the placement or existence of the facility.

c. Give the department's district representative 48 hours' prior notice of its intent to perform predictable routine maintenance within the right-of-way. Exception: Notice is not required if the predictable routine maintenance is for a service connection located beyond the clear zone of a nonfreeway primary highway.

115.19(2) *Utility emergency work.*

a. Access to the worksite is permissible from the freeway roadways and ramps when an emergency exists.

b. The utility owner shall take all necessary, appropriate and reasonable measures to protect the safety of the traveling public and cooperate fully with the state highway patrol and the department in completing the emergency work.

c. The utility owner shall notify the department of the emergency as soon as practical, describing the steps being taken to protect the traveling public, the extent of the emergency, and the steps being taken to address the emergency.

d. If the nature of the emergency is such that it interferes with the free movement of traffic, the utility owner shall immediately notify the state highway patrol and the department.

e. When an emergency occurs on the interstate system, the department shall notify the FHWA as soon as practical, describing the steps being taken to protect the traveling public and the steps being taken to address the emergency.

115.19(3) *Department emergency work.* There will be times when the department performs highway-related emergency work. Examples include but are not limited to stop sign replacement, handling hazardous material spills, and addressing natural disasters and acts of terrorism. If utility facilities are affected, the department shall as soon as practical notify the utility owner of the emergency condition and what steps are necessary to protect the utility facility.

761—115.20(306A) Abandonment or removal of utility facilities.

115.20(1) Notice to department. Within 90 days after the abandonment or removal of all or a portion of an existing utility facility that occupies the primary highway right-of-way, the utility owner shall submit a written notice of abandonment or removal to the department. The notice shall include:

a. Type of facility.

b. Location of the utility facility by route, county, section, township, range, milepost and highway stationing, where these references exist.

c. Name of the original utility owner if different than the current owner.

d. Original utility permit number and date of approval, if known.

115.20(2) Reserved.

761—115.21 to **115.24** Reserved.

761—115.25(306A) Utility facility adjustments for highway improvement projects. Rules 761—115.26(306A) to 761—115.30(306A) establish administrative procedures for utility facility adjustments made necessary by state highway improvement projects. The purpose of these procedures is to adjust utility facilities with minimal delays or added expense. Rules 761—115.26(306A) to 761—115.30(306A) apply to all state highway improvement projects with the following exceptions:

1. Projects the department develops on an accelerated schedule.
2. Projects with no anticipated utility adjustments.

115.25(1) Should the department be responsible for the cost of a utility facility adjustment required for highway work, the department shall not pay for any betterment that results in an increase in the capacity of the facility or for any other adjustment not required by highway construction. The department

is entitled to receive credit for the accrued depreciation on replaced facilities and the salvage value of any materials or parts salvaged and retained or sold by the utility owner.

115.25(2) Adjustment costs for which the department is responsible shall be paid on a cost reimbursement basis.

115.25(3) If adjustment of an existing utility facility occupying the right-of-way is required due to highway construction, the utility owner shall adjust the facility without cost to the state and, whenever possible, in advance of the highway work.

761—115.26(306A) Notice of project.

115.26(1) *Determining affected utilities.* The department shall make a reasonable effort to determine what utility facilities are located within the project limits of a state highway improvement project by researching permit files, through field investigations or contacts with one-call locating services, and through contacts with local government units.

115.26(2) *Notifying utilities.* The department shall identify by name the owner of each known utility facility that is located within the project limits. The department shall send to each utility owner a notice of the improvement project, including the route number of the highway, the geographical limits of the project and a general description of the highway work to be done.

115.26(3) *Responding to notice.* The utility owner shall:

a. Within seven calendar days after the date of the notice, reply to the department, acknowledging receipt of the notice.

b. Within 90 calendar days after the date of the notice, provide to the department information about its utility facilities that are in the vicinity of the improvement project, including the name of any company that has utility facilities which coexist with the utility owner's facilities. The utility owner shall reply regardless of whether or not it has facilities in the project's vicinity.

761—115.27(306A) First plan submission, preliminary work plan and agreement.

115.27(1) *First plan.* The department shall submit its first plan to the owner of each known utility facility within the project limits. The first plan shall contain information the owner needs in order to design and lay out the adjustment of its utility facilities, including the placement of adjusted or additional facilities, within the project limits.

115.27(2) *Preliminary work plan.* Within 90 calendar days after the date the department submits its first plan, the utility owner shall provide to the department a preliminary work plan.

a. The preliminary work plan shall include the following:

(1) A narrative description of what work the utility owner will do.

(2) A drawing showing the present and proposed locations of the utility owner's facilities in relation to the highway plan.

(3) Whether the work is dependent on work by another utility owner.

(4) Whether the work can be done prior to highway construction or must be coordinated with the highway contractor.

(5) The number of working days required to complete the work.

(6) A list of permits and approvals the utility owner is required to obtain from governmental agencies and railroad companies for the work, and the expected time schedule to obtain them.

b. If the utility adjustment work is reimbursable, the utility owner shall submit with the preliminary work plan the following:

(1) Copies of documents verifying real estate interests.

(2) A detailed cost estimate for the adjustment, including appropriate credits for betterments or salvage.

115.27(3) *Department review of preliminary work plan.* The department shall review each utility owner's preliminary work plan to ensure compatibility with utility accommodation permit requirements, the plans for the highway improvement project, and the construction schedule.

115.27(4) *Conflict between preliminary work plans.* When requested by the utility owners or when the department determines there is potential for conflict between preliminary work plans, the department

shall schedule a coordination meeting. All affected utility owners shall attend the meeting to coordinate their work plans. The department may allow a utility owner an additional 30 calendar days to submit its preliminary work plan if coordination is required with other utility owners.

115.27(5) *Acceptance of preliminary work plan.* The department shall notify the utility owner of the department's acceptance of the utility owner's preliminary work plan.

a. If the preliminary work plan is not acceptable to the department, the department shall notify the utility owner that the plan is not acceptable and provide a detailed explanation of the problem.

b. The utility owner shall submit a revised preliminary work plan to the department within 30 calendar days after its receipt of notice from the department that the plan was not acceptable.

c. The department shall review the revised preliminary work plan. If the work plan is acceptable, the department shall notify the utility owner of the department's acceptance of the plan.

d. If the work plan is still not acceptable, the process set out in 115.27(5)*"a"* to *"c"* shall be repeated.

115.27(6) *Agreement.*

a. The department shall enter into an agreement with the utility owner if the adjustment is eligible for reimbursement.

b. The agreement by itself does not constitute a permit nor does it grant permission to occupy the primary highway right-of-way. The utility owner is responsible for obtaining a utility accommodation permit prior to commencing work within the right-of-way. The agreement will then be attached to and become part of the permit.

761—115.28(306A) Second plan submission, final work plan and permit application.

115.28(1) *Second plan.* After the final public information meeting, the department shall submit its second plan to the owner of each known utility facility within the project limits. The second plan shall show any additional plan information or design changes the owner needs in order to complete its design and layout for the adjustment. The department shall clearly identify to the utility owner the differences between the first and second plans.

115.28(2) *Final work plan.* Within 60 calendar days after the date the department submits the second plan, the utility owner shall provide to the department a final work plan.

a. The final work plan shall include the anticipated starting date for the utility owner's work within the primary highway right-of-way.

b. A completed application for a utility accommodation permit must accompany the final work plan for work within the primary highway right-of-way. The work plan by itself does not constitute a permit nor does it grant permission to occupy the primary highway right-of-way.

c. When requested by the utility owner, the department may allow additional time to complete the final work plan if the second plan requires extensive modifications to the preliminary work plan.

d. If there are no changes to the preliminary work plan, the utility owner need only notify the department that the preliminary work plan is now the final work plan.

115.28(3) *Department review of final work plan.* The department shall review each utility owner's final work plan to ensure compatibility with utility accommodation permit requirements, the plans for the highway improvement project, and the construction schedule.

115.28(4) *Acceptance of final work plan.* The department shall notify the utility owner of the department's acceptance of the utility owner's final work plan.

a. If the final work plan is not acceptable to the department, the department shall notify the utility owner that the plan is not acceptable and provide a detailed explanation of the problem.

b. The utility owner shall submit a revised final work plan to the department within 30 calendar days after its receipt of notice from the department that the plan was not acceptable.

c. The department shall review the revised final work plan. If the work plan is acceptable, the department shall notify the utility owner of the department's acceptance of the plan.

d. If the work plan is still not acceptable, the process set out in 115.28(4)*"a"* to *"c"* shall be repeated.

761—115.29(306A) Notice of work.

115.29(1) *Notice of receipt of permits and approvals.* The utility owner shall notify the department within 14 calendar days after the utility owner has received all required permits and approvals from government agencies and railroad companies.

115.29(2) *Notice to utility owner to begin work.*

a. The department shall send a notice to proceed to the utility owner not less than 30 calendar days before the utility owner is required to begin the work provided for in its work plan.

b. If the utility owner's work plan is dependent upon work by the highway contractor, the contractor shall provide the department and the utility owner a good faith notice 14 calendar days before the contractor's work is expected to be complete and ready for the utility owner to begin its work. The highway contractor shall follow up with a confirmation notice to the department and the utility owner not less than three working days before the contractor's work will be complete and ready for the utility owner to begin its work.

115.29(3) *Notice to department of commencement and completion of work.* The utility owner shall give the department 48 hours' prior notice, excluding weekends and holidays, of its intent to start utility adjustment work within the project limits. The utility owner shall also notify the department immediately upon completion of the work.

761—115.30(306A) Miscellaneous adjustment provisions.

115.30(1) *Work plan compliance.* The utility owner shall complete its utility adjustment work within the time frame of the work plan accepted by the department. Upon completion of the work, the utility owner shall certify to the department that the adjustment of its facilities is in accordance with the accepted work plan.

115.30(2) *Project changes prior to the letting.* If, prior to the letting date of the highway improvement project, changes to the project result in the need for additional utility adjustment work, the department shall furnish a revised project plan to each affected utility owner. The department shall clearly identify to the utility owner those portions of the project that have been revised. Within 60 calendar days after the date the department submits the revised project plan, the utility owner shall provide to the department a revised work plan.

115.30(3) *Project changes after the letting.* If, after the letting date of the highway improvement project, changes to the project result in the need for additional utility adjustment work, the department shall notify each affected utility owner. The department and the owner shall agree on a revised work plan.

115.30(4) *Work plan changes.* If a utility owner needs to change its work plan after its adjustment work begins, the utility owner shall notify the department. Once the department approves a modified work plan, the utility owner may make the necessary changes and perform the work.

115.30(5) *Cost allocation.*

a. If the department requires the adjustment of a utility facility that was originally determined, per the notice and work plan processes, to not need adjustment:

(1) The utility owner shall bear the cost of the adjustment if the work is otherwise not reimbursable.

(2) The department shall bear the reasonable cost of the adjustment if the work is otherwise reimbursable.

b. If the department requires additional adjustment to a utility facility after the facility has been adjusted in accordance with a work plan accepted by the department, the department shall bear the reasonable cost of the additional work. This applies to all utility facilities, whether the original adjustment work was reimbursable or not reimbursable.

c. The utility owner shall bear the cost of additional adjustment work performed after its facilities have been adjusted in accordance with a work plan accepted by the department if the additional work is due to the utility owner's error.

115.30(6) *Failure to provide a work plan or to adjust utility facilities.* If a utility owner fails to provide a work plan, fails to comply with the accepted work plan, or fails to complete the adjustment of its facilities, and its failure to perform results in a delay to the highway project or causes damages to

be incurred by the department or the department's highway contractor, the utility owner is liable for all costs and damages incurred as a result of its failure to perform. The department may withhold approval of permits for failure to comply with the requirements of these rules.

These rules are intended to implement Iowa Code chapters 306A and 319, section 314.20, and sections 320.4 to 320.8.

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CHAPTER 116
JUNKYARD CONTROL

[Prior to 6/3/87, Transportation Department[820]—(06,F)Ch 7]

761—116.1(306C) Definitions. The definitions in Iowa Code section 306C.1 apply to this chapter. In addition:

"Abandoned or discontinued junkyard" means an accumulation of junk which would be a junkyard except that it has not been maintained, operated or used as an establishment or place of business for storing, keeping, buying or selling junk for the past 12 months. The owner or operator of a yard that otherwise would be an abandoned or discontinued junkyard may continue to qualify the yard as a junkyard by providing proof of income or loss through a copy of federal, state or local income tax return or proof of the purchase or acquisition of new junk or sale or disposal of junk as substantiated by receipts, canceled checks, or other acceptable evidence of value exchanged.

"Adjacent area" means an area which is contiguous to and within 1,000 feet of the nearest edge of the right-of-way of an interstate highway.

"Automobile graveyard" means any establishment which is maintained, used, or operated for storing, keeping, buying, or selling ten or more wrecked, scrapped, ruined, dismantled or inoperative motor vehicles, but does not include any location where motor vehicle bodies are placed along stream banks for purposes of bank stabilization and soil erosion control, if such placement conforms with guidelines established by the department of natural resources.

"Industrial activities" means activities that are permitted only in industrial zones, or in less restrictive zones by the nearest zoning authority within the state, or prohibited by the authority but generally recognized as industrial by other zoning authorities within the state, except that none of the following are considered to be industrial activities:

1. Outdoor advertising structures.
2. Agricultural, forestry, ranching, grazing, farming and related activities including, but not limited to, wayside fresh produce stands.
3. Activities normally and regularly in operation less than three months of the year.
4. Transient or temporary activities.
5. Activities not visible from the main traveled way.
6. Activities more than 300 feet from the nearest edge of the main traveled way within the corporate limits of cities.
7. Activities more than 1,000 feet from the nearest edge of the main traveled way outside the corporate limits of cities.
8. Activities conducted in a building principally used as a residence.
9. Railroad tracks, minor sidings, and passenger depots.
10. Junkyards.

"Industrial zone" means a zone established by zoning authorities as being most appropriate for industry or manufacturing. A zone which simply permits certain industrial activities as an incident to the primary land use designation is not considered to be an industrial zone.

"Inoperative motor vehicle" means any of the following:

1. A motor vehicle that does not have a valid title.
2. A motor vehicle that does not have a current registration, unless the motor vehicle is in the inventory of a motor vehicle dealer licensed under Iowa Code chapter 322.
3. A motor vehicle with one or more of the following items missing or in need of substantial repair: windshield, driver's seat, steering wheel or steering system, battery, ignition system, fuel tank or fuel supply system, engine, transmission, drive shaft, differential, axle, suspension system, brake system, or frame.
4. A motor vehicle that is not immediately capable of legal operation on a public road or street.

However, any one of the following by itself does not render a motor vehicle inoperative: a battery that can be recharged, one tire and wheel missing or in need of repair, or lack of fuel.

The burden of proving that a motor vehicle is not inoperative rests with the person or persons in possession of that vehicle. However, if the temperature is below 32 degrees Fahrenheit, no person is required to demonstrate that the engine of a motor vehicle will start.

"Main traveled way" means the portion of the roadway for movement of vehicles on which through traffic is carried, exclusive of shoulders and auxiliary lanes. In the case of a divided highway, the main traveled way includes each of the separated roadways for traffic moving in opposite directions, exclusive of shoulders, auxiliary lanes, frontage roads, turning roadways, and parking areas.

"Right-of-way" means land area dedicated to public use for the highway and its maintenance, and includes land acquired in fee simple or by permanent easement for highway purposes, but does not include temporary easements or rights for supplementary highway appurtenances.

"Unzoned industrial area" means land occupied by a regularly used building, parking lot, storage area or processing area of an industrial activity, and land within 1,000 feet thereof which is:

1. Located on the same side of the highway as the activity,
2. Not predominantly used for residential or commercial purposes, and
3. Not zoned by state or local law, regulation or ordinance.

"Visible" means capable of being seen without visual aid by a person of normal visual acuity.

This rule is intended to implement Iowa Code sections 306C.1 to 306C.9.

761—116.2(306C) Junkyards prohibited—exceptions. After July 1, 1972, a person shall not establish, operate, or maintain a junkyard any portion of which is within the adjacent area and is visible from the main traveled way of any interstate highway except:

1. A junkyard which is screened by natural objects, plantings, fences, or other appropriate means.
2. A junkyard which is located within an industrial zone.
3. A junkyard which is located within an unzoned industrial area.
4. A junkyard which is not visible from the main traveled portion of the highway.

This rule is intended to implement Iowa Code section 306C.2.

761—116.3(306C) Screening or removal.

116.3(1) *Lawfully established junkyards that subsequently become nonconforming.* Any junkyard, except those junkyards which meet the requirements of rule 116.2(306C), that was lawfully in existence on July 1, 1972, and any junkyard that was lawfully established but subsequently becomes nonconforming due to changed conditions, such as a change in zoning or being located upon land adjacent to any highway or land made an interstate highway after July 1, 1972, shall be screened, if feasible, or removed by the department.

116.3(2) *Junkyards established after July 1, 1972.* Any junkyard established and any portion of any junkyard expanded after July 1, 1972, and any junkyard abandoned or discontinued, except those junkyards or any portion of any junkyard which meets the requirements of rule 116.2(306C), shall be screened or removed by the owner at no expense to the department. Required screening shall be maintained by the owner at the owner's expense so long as the junkyard remains subject to these rules.

This rule is intended to implement Iowa Code section 306C.3.

761—116.4(306C) Acquisition. When the department determines that it is in the best interests of the state, it may acquire by gift, purchase, exchange, or condemnation, as provided by law, the property or rights or interests in property as may be necessary to provide adequate screening for junkyards. When the department determines that screening of a junkyard will not be economically feasible, the department may acquire the property or rights or interests in property as may be necessary to secure the relocation, removal, or disposal of the junkyard and shall pay the cost of the relocation, removal, or disposal. However, no plan for relocation, removal, or disposal which qualifies for federal participation shall be undertaken unless the department has received notification from the federal government that the federal share to be paid is immediately available for that purpose.

This rule is intended to implement Iowa Code section 306C.5.

761—116.5(306C) Screening. Screening for each individual junkyard required to be screened shall meet the standards of these rules. Where the owner is required to screen, the owner shall submit a screening plan which shall be approved by the department. Screening plans shall integrate the screen with the natural surroundings and shall consider and make provisions to ensure reasonable access to the screen for purposes of maintaining the screens required by these rules.

116.5(1) *Purpose.* Screening shall be designed to eliminate the visual impact of the junkyard contents by obscuring it from view from the main traveled portion of the highway.

116.5(2) *Type.* Materials for use in screening and junkyards shall generally consist of natural objects, plantings, fences, or other appropriate means such as storage sheds, buildings and other similar elements.

a. Natural objects shall be earthen berms, rock formations, wooded areas, or other similar elements.

b. Plantings shall be shrubs and trees of such types as to provide year-round obscurement commensurate with local site conditions. All plant material used for screening shall be of a size and quantity to provide obscurement.

c. Screens shall be made of wood, metal or other materials commonly used in the building trade, and shall be of a height and type necessary to provide obscurement. Screens shall be designed to withstand a minimum wind load of 20 pounds per square foot and shall be of a permanent nature. All materials used for finishing screens shall be a nonreflective material which will blend with the natural surroundings. Screening shall not be placed so that either the screen or the maintenance of the screen will create or contribute to the creation of a safety hazard or endanger public safety or will interfere with the public's use or the department's maintenance of the highway.

116.5(3) *Maintenance.* The owner or operator of a junkyard shall maintain the screening in a condition equal to the original installation of the screening. Maintenance shall include, but not be limited to, the following items:

a. Replacement of plant material which is dead or has been damaged so that it no longer serves the intended purpose of screening the junkyard.

b. Screen maintenance shall include the renewal of the surface treatment with stains, paints, or other appropriate material as specified in subrule 116.5(2) when needed and the replacement of panels, sections, members, or support structures of the screening when needed.

This rule is intended to implement Iowa Code section 306C.4.

761—116.6(306C) Nuisance—injunction. Any junkyard operated or maintained or which is altered, changed or enlarged in violation of these rules and the Iowa Code shall be considered a public nuisance. If, after written notice by certified mail to the landowner and the owner of the junkyard of any such violation, the owner or operator fails or refuses to comply with the terms of the notice, the department may apply for an injunction to abate the nuisance.

This rule is intended to implement Iowa Code section 306C.6.

761—116.7(17A) Hearings and appeals. A person who is aggrieved by a decision of the department and who is entitled to a hearing may contest the decision pursuant to 761—Chapter 13.

This rule is intended to implement Iowa Code chapter 17A.

761—116.8(306C) Contact information. Inquiries regarding this chapter shall be directed to the Advertising Management Section, Office of Traffic and Safety, Department of Transportation, 800 Lincoln Way, Ames, Iowa, 50010.

This rule is intended to implement Iowa Code sections 306C.1 to 306C.9.

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CHAPTER 117
OUTDOOR ADVERTISING

[Prior to 6/3/87, Transportation Department[820]—(06,O) Ch 5]

761—117.1(306B,306C) Definitions. The definitions in Iowa Code section 306C.10 are adopted. In addition:

"Abandoned sign" means an advertising device for which the owner has failed to timely apply for the required outdoor advertising permit(s) or has failed to timely pay the required fee(s).

"Area zoned and used for commercial or industrial purposes" means an area zoned for commercial or industrial purposes in accordance with Iowa Code chapter 414, in the case of city zoning, or in accordance with Iowa Code chapter 335, in the case of county zoning, in which one or more commercial or industrial activities, as defined under the city or county zoning ordinance, are located.

"Billboard control Act" means Iowa Code chapter 306C, division II.

"Bonus Act" means Iowa Code chapter 306B.

"Daylight area" means a triangular area formed by a line connecting two points each back (50 feet in city, 100 feet in unincorporated area) from the point where the right of way lines of the main traveled way and an intersecting street meet or would meet if extended.

"Development directory sign" means the same as defined in rule 761—117.15(306C).

"Directional and official signs and notices" means official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs.

"Directional sign" means a sign governed by 761—Chapter 120.

"Face" means that part of an advertising device that is devoted to the display of advertising and that is visible to traffic proceeding in any one direction.

"Interchange" means the entire area constructed for a junction of two or more public streets or highways by a system of separate levels that permit traffic to pass from one level to another without the crossing of traffic streams. This includes all acceleration and deceleration lanes constructed to accommodate this movement of traffic.

"Lease" means an agreement, oral or written, by which possession or use of land or interests therein are given by the owner or other person to another person for a specified purpose.

"LED display" means a face, as defined herein, displaying a message that is formed by light emitting diodes and that is changed by an electronic process. An LED display is a single face.

"Modification" means any addition to or change in dimensions, lighting, structure or advertising face, except as incidental to the customary maintenance of an advertising device.

1. A change in the number or type of support posts is a modification. A change in dimensions is a modification. However, the addition of extensions or cutouts, including forward projecting, is not a modification if the extensions or cutouts are added for a period of 90 days or less and if they are illuminated only by existing sign lighting and do not contain internal lighting.

2. A lawful change in advertising message is not a modification. The use of a vinyl overlay or wrap on either a poster panel or paint unit is a change in advertising message, not a modification.

3. On an advertising device that conforms to all current requirements, the replacement of one metal-framed face with another metal-framed face of the same size, using dissimilar component parts or assembly methods, or both, is not a modification.

4. The addition of LED display capabilities to an advertising device is a modification.

"Nonconforming sign" means an advertising device that was lawfully erected and continues to be lawfully maintained, but that does not comply fully with current size and spacing requirements due to changed conditions, such as a change in zoning, establishment of a new highway, or a similar change that affects compliance.

"Obsolete sign" means an advertising device displaying information pertaining to activities that are no longer conducted or products or services that are no longer available at the advertised location.

"Official sign or notice" means a sign or notice lawfully erected and maintained by a city, county or public agency within its territorial or zoning jurisdiction for the purpose of carrying out an official

duty or responsibility. The definition includes a historical marker lawfully erected by a state or local government agency or a nonprofit historical society.

"On-premises sign" or *"on-property sign"* means an advertising device advertising the sale or lease of, or activities being conducted upon, the property where the sign is located. The criteria to be used to determine if an advertising device qualifies as on-premises signing, excluding development directory signing, include but are not limited to the following:

1. A sign that consists solely of the name of the establishment or that identifies the establishment's principal or accessory products or services offered on the property is an on-premises sign.

2. An on-premises sign must be located on the same property as the advertised activity or the same property as that advertised for sale or lease. A subdivided property is considered to be one property if all lots remain under common ownership and all lots share a common, private access to public roads. However, if any lot in the subdivided property is sold or disposed of in any manner, that lot will be considered to be separate property.

3. Contiguous lots or parcels of land combined for development purposes are considered to be one property for outdoor advertising control purposes provided they are owned or leased by the same party or parties. However, land held by lease or easement must be used for a purpose related to the advertised activity other than signing.

4. An on-premises sign shall not be located on a narrow strip of land that cannot reasonably be used for a purpose related to the advertised activity other than signing.

5. An on-premises sign is limited to advertising the property's sale or lease, or identifying the activities located on or products or services available on the property.

6. An advertising device is not an on-premises sign if it consists principally of brand- or trade-name advertising and either the product or service advertised is only incidental to the establishment's principal products or services or the advertising brings rental income to the property owner. "Principally" means 50 percent or more of the display area of the sign.

7. An on-premises sign concerning the sale or lease of property shall not display the legend "sold" or "leased" or a similar message.

"Public utility sign" means a warning or informational sign, notice or marker that is customarily erected and maintained by a publicly or privately owned utility to mark the location of a utility facility.

"Regularly used" means open for business and staffed by an owner or employee for at least 20 hours per week, on property assessed as commercial or industrial by the jurisdiction having authority; the hours of operation must be visibly posted on the premises. The department may delay action on the permit application for up to 180 days from the date of the application in order to conduct periodic checks on the site as necessary to determine whether the purported commercial or industrial activity meets this definition. A rental storage business is excepted from the staffing requirement if it has 24-hour access for customers and a minimum of 50 units, each occupying at least 50 square feet, individually separated, and enclosed by walls.

"Scenic area" means any area of particular scenic beauty or historical significance, as determined by the federal, state or local officials having jurisdiction of the area. It includes real property interests that have been acquired for the restoration, preservation and enhancement of scenic beauty.

"Service club or religious notice" means a sign displaying a message that is limited to the name of a nonprofit service club, charitable association, church or religious group or cemetery, the location and hours of its meetings or services or the hours it is open to the public, and an appropriate emblem.

"Tri-face device" means an advertising device with three singular faces attached to one common structure in a triangular configuration. The maximum area of any face is 750 square feet. The inside angle formed by any two faces may not exceed 60 degrees.

"Tri-vision device" means an advertising device that has an advertising face with a mechanical device that allows three advertising messages to be alternately visible to traffic proceeding in any one direction. Each message is attached to individual vertical or horizontal louvers, which are mechanically rotated to change the message.

761—117.2(306B,306C) General provisions.

117.2(1) *Scope.* This chapter of rules pertains to all advertising devices which are visible from the main traveled way of any interstate, freeway-primary, or primary highway, with the following exceptions:

a. Within incorporated areas, this chapter does not apply to advertising devices which are beyond 660 feet from the nearest edge of the right of way.

b. Except where specified otherwise, this chapter does not apply to official traffic control devices, logo signing, tourist-oriented directional signing, or private directional signing.

117.2(2) *Contact information.* Inquiries, requests for forms, and applications regarding this chapter shall be directed to the Advertising Management Section, Office of Traffic and Safety, Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

117.2(3) *Unauthorized signs, signals, or markings.* Any sign, signal, marking or device prohibited by Iowa Code section 321.259 is a public nuisance and shall be removed by the department if it is within the department's jurisdiction.

117.2(4) *Advertising devices obstructing the view of a highway or railway.* Any advertising device that obstructs the view of any portion of a public highway or railway track in violation of Iowa Code subsection 318.11(2) or 657.2(7) is a public nuisance, which shall be abated as provided in Iowa Code chapter 657.

117.2(5) *Advertising devices within the right of way.* Any advertising device placed or erected within the right of way of any interstate, freeway-primary, or primary highway, except signs or devices authorized by law or approved by the department, is an obstruction in the highway right of way and violates Iowa Code section 318.3 and subsection 318.11(1). In accordance with Iowa Code sections 318.4 and 318.5, the department shall remove the advertising device and assess the cost of removal against the owner of the device.

761—117.3(306B,306C) General criteria. The department shall control the erection and maintenance of advertising devices, subject to the provisions of these rules, in accord with the following criteria:

117.3(1) *Prohibition.* Advertising devices shall not be erected, maintained or illuminated unless they comply with the following:

a. No sign shall attempt or appear to attempt to direct the movement of traffic.

b. No sign shall interfere with, imitate or resemble any official sign, signal or device.

c. No directional sign or sign subject to the more restrictive controls of the bonus Act shall move or have any animated or moving parts.

d. No sign shall be erected or maintained upon trees, painted or drawn upon rocks or other natural features.

e. No off-premises sign shall include any flashing, intermittent or moving light or lights except those signs giving public service information such as time, date, temperature, weather and news. No on-premises sign located within the adjacent area of an interstate highway but outside an area zoned and used for commercial or industrial purposes, as defined in rule 761—117.1(306B,306C), shall include any flashing, intermittent or moving light or lights except those signs giving public service information such as time, date, temperature, weather and news. Any variation or addition to the stated service information is subject to department approval . This paragraph does not prohibit an LED display, provided:

(1) Each change of message is accomplished in one second or less.

(2) Each message remains in a fixed position for at least eight seconds.

(3) No traveling messages (e.g., moving messages, animated messages, full-motion video, scrolling text messages) or segmented messages are presented.

f. No lighting shall be used in any way in connection with any sign unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of any highway, or is of such low intensity or brilliance as to not cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle. This paragraph does not prohibit an LED display provided the light intensity presented does not exceed that allowed for other illuminated displays.

g. No directional sign or sign subject to the more restrictive controls of the bonus Act shall be obsolete.

h. Signs shall be maintained in good repair so as to be legible. Any advertising device that for a period of at least 90 days is in a state of disrepair or is illegible due to deferred maintenance is subject to removal in the manner specified in subrule 117.8(1), and any permit that has been issued for the advertising device is subject to revocation.

i. Signs shall be securely affixed to a substantial structure.

j. No directional sign or sign subject to the more restrictive controls of the bonus Act shall advertise activities which are illegal under federal or state laws in effect at the location of those activities or at the location of the sign.

k. An advertising device shall comply with all applicable state and local laws, regulations and ordinances, including but not limited to zoning, building and sign codes as locally interpreted and applied and enforced, which may be stricter than this chapter.

l. No off-premises advertising device may be erected within the adjacent area of any interstate, freeway-primary or primary highway that has been designated a scenic highway or scenic byway if the advertising device will be visible from the highway.

m. An advertising device shall not be constructed or reconstructed beyond the adjacent area in unincorporated areas of the state if the advertising device is visible from the main traveled way of any interstate, freeway-primary, or primary highway except for on-premises signs and official signs and notices.

117.3(2) *Measurements of distance.* Distance from the edge of a right of way shall be measured horizontally along a line normal or perpendicular to the centerline of the highway. All other measurements of distance shall be measured horizontally between points on a line parallel to the highway centerline.

117.3(3) *Measurement of area.* The area of an advertising device shall be measured by the smallest square, rectangle, triangle, circle or combination thereof which will encompass the entire display area including border and trim, but excluding temporary cutouts and extensions, base, apron, support, and other structural members.

117.3(4) *Zoning.*

a. A zone in which limited commercial or industrial activities are permitted incidental to other primary land uses is not a commercial or industrial zone for outdoor advertising control purposes.

b. Action which is not a part of comprehensive zoning and is taken primarily to permit outdoor advertising devices is not zoning for advertising control purposes.

761—117.4(306B,306C) Interstate special provisions for on-premises signs. This rule applies to on-premises signs located within the adjacent area of any interstate highway, except those areas exempt from control under Iowa Code section 306B.2(4).

117.4(1) *Interstate on-premises signs (restricted).* Within the adjacent area of any interstate highway not more than one on-premises sign, visible to traffic proceeding in any one direction on any one interstate highway, advertising activities conducted upon the real property where the sign is located, may be erected or maintained more than 50 feet from the advertised activity. Such on-premises signs more than said 50 feet shall be subject to the permit provisions of rule 117.6(306C).

117.4(2) *Interstate on-premises signs (for sale or lease).* Within the adjacent area of any interstate highway, not more than one on-premises sign advertising the sale or lease of the same property upon which the sign is located may be permitted in such a manner as to be visible to traffic proceeding in any one direction on any one interstate highway.

117.4(3) *Interstate on-premises size limitations.* An on-premises sign within the adjacent area of an interstate shall be no larger than 20 feet in length, width or height and 150 square feet in area. However, an on-premises sign advertising activities conducted within 50 feet of the sign is exempt from these size limitations. This exemption does not apply to a sign advertising the sale or lease of property where the sign is located.

117.4(4) *Interstate on-premises signs (unrestricted).* Within the adjacent area of any interstate highway, on-premises signs advertising activities conducted within 50 feet of the sign, located upon the same real property where the sign is located, are not subject to regulations as to number of signs, size, or spacing; however, for the purpose of determining the 50-foot distance, the limits of the advertised activity shall be determined as follows:

a. When the advertised activity is a business, commercial or industrial land use, the distance shall be measured from the regularly used buildings, parking lots, storage or processing areas or other structures which are essential and customary to the conduct of the business.

b. When the advertised activity is a noncommercial or nonindustrial land use such as a residence, farm, or orchard, the distance shall be measured from the major structures or areas used in furtherance of the advertised activities.

117.4(5) *Interstate advertising devices not subject to control until July 1, 1972.* Rescinded IAB 8/4/04, effective 9/8/04.

761—117.5(306B,306C) Location, size and spacing requirements. This rule does not apply to on-premises signs.

117.5(1) *Advertising devices lawfully in existence prior to July 1, 1972.*

a. An advertising device that was lawfully in existence prior to July 1, 1972, and is visible from any interstate, freeway-primary or primary highway, including a device located beyond the adjacent area in unincorporated areas, may remain in existence without conforming to subrule 117.5(5) as long as the device otherwise conforms to all other applicable statutory and regulatory requirements. The permit provisions of rule 761—117.6(306C) apply.

b. If the advertising device is located in an adjacent area which is neither a zoned nor an unzoned commercial or industrial area, the device may remain in existence as described in paragraph *"a"* of this subrule only until such time as the device is acquired by the department. The permit issued for the device will be a provisional permit. See subrule 117.6(3) and rule 761—117.9(306B,306C).

117.5(2) *Advertising devices lawfully in existence prior to July 1, 1972, beyond 660 feet from the right of way.* Rescinded IAB 11/27/02, effective 1/1/03.

117.5(3) *Abandoned signs.* Abandoned signs which do not comply with these rules shall be removed by the department without compensation regardless of when erected.

117.5(4) *Advertising devices lawfully in existence prior to July 1, 1972, within adjacent areas neither zoned nor unzoned commercial or industrial.* Rescinded IAB 11/27/02, effective 1/1/03.

117.5(5) *Advertising devices erected after July 1, 1972.* Except as otherwise provided in this chapter, an advertising device which is visible from the main traveled way of any interstate, freeway-primary, or primary highway shall not be erected after July 1, 1972, or subsequently maintained within the adjacent area unless the advertising device complies with the following:

a. *Permit required.* A current permit from the department is required for the erection or subsequent maintenance of the advertising device.

b. *Commercial or industrial area.*

(1) An advertising device visible from the main traveled way of an interstate highway must be located within an area zoned and used for commercial or industrial purposes, as defined in rule 761—117.1(306B,306C); within 750 feet of the regularly used portion of a commercial or industrial activity visible from the main traveled way; and on the same, individual, platted parcel of land as that commercial or industrial activity. The commercial or industrial activity must be one defined under the city's or county's, as applicable, zoning ordinance.

(2) An advertising device visible from the main traveled way of a freeway-primary or primary highway must be located within a commercial or industrial zone or an unzoned commercial or industrial area, as defined in Iowa Code section 306C.10.

c. *Spacing within city—interstate and freeway-primary highway.* Within the corporate limits of a municipality, the following provisions apply to an advertising device which is visible from an interstate or a freeway-primary highway:

(1) The advertising device shall not be located within 250 feet of another advertising device when both are visible to traffic proceeding in any one direction. If the advertising device has an LED display, the advertising device shall not be located within 500 feet of another advertising device that has an LED display when both are visible to traffic proceeding in any one direction.

(2) The advertising device shall not be located within the adjacent area on either side of the highway within 250 feet of an interchange or rest area. The 250 feet shall be measured along a line parallel to the centerline from a point opposite the end or beginning of whichever acceleration or deceleration ramp extends the farthest from the interchange or rest area to a point opposite the advertising device.

(3) In an area where two interchanges are in such close proximity that the acceleration or deceleration lanes or ramps merge or overlap or where there are continuous acceleration or deceleration lanes between interchanges, the area will be treated as one continuous interchange.

d. Spacing outside city—interstate and freeway-primary highway. Outside the corporate limits of a municipality, the following provisions apply to an advertising device which is visible from an interstate or a freeway-primary highway:

(1) The advertising device shall not be located within 500 feet of another advertising device when both are visible to traffic proceeding in any one direction. If the advertising device has an LED display, the advertising device shall not be located within 1000 feet of another advertising device that has an LED display when both are visible to traffic proceeding in any one direction.

(2) The advertising device shall not be located within the adjacent area on either side of the highway within 250 feet of an interchange or rest area. The 250 feet shall be measured along a line parallel to the centerline from a point opposite the end or beginning of whichever acceleration or deceleration ramp extends the farthest from the interchange or rest area to a point opposite the advertising device.

(3) In an area where two interchanges are in such close proximity that the acceleration or deceleration lanes or ramps merge or overlap or where there are continuous acceleration or deceleration lanes between interchanges, the area will be treated as one continuous interchange.

e. Spacing within city—nonfreeway-primary highway. Within the corporate limits of a municipality, the following provisions apply to an advertising device which is visible from a nonfreeway-primary highway:

(1) The advertising device shall not be located within 100 feet of another advertising device when both are visible to traffic proceeding in any one direction. If the advertising device has an LED display, the advertising device shall not be located within 500 feet of another advertising device that has an LED display when both are visible to traffic proceeding in any one direction.

(2) The advertising device shall not be located within the daylight area. However, if a building is located within the daylight area, a wall advertising device may be attached to the building provided the device does not protrude more than 12 inches, exclusive of catwalk and lights. No part of a catwalk or lights may overhang the right of way. The permit for the advertising device shall be revoked if the building the device is attached to is removed.

f. Spacing outside city—nonfreeway-primary highway. Outside the corporate limits of a municipality, the following provisions apply to an advertising device which is visible from a nonfreeway-primary highway:

(1) The advertising device shall not be located within 300 feet of another advertising device when both are visible to traffic proceeding in any one direction. If the advertising device has an LED display, the advertising device shall not be located within 1000 feet of another advertising device that has an LED display when both are visible to traffic proceeding in any one direction.

(2) The advertising device shall not be located within the daylight area. However, if a building is located within the daylight area, a wall advertising device may be attached to the building provided the device does not protrude more than 12 inches exclusive of catwalk and lights. No part of a catwalk or lights may overhang the right of way. The permit for the advertising device shall be revoked if the building the device is attached to is removed.

g. Spacing—signs separated by a building. The distance and spacing requirements of subparagraphs *"c"*(1), *"d"*(1), *"e"*(1), and *"f"*(1), above, shall not apply to advertising devices which

are separated by a building in such a manner that only one advertising device located within the minimum spacing distance is visible from a highway at any one time.

h. *Spacing—measurement of distance.* The minimum distance between two advertising devices visible to traffic proceeding in the same direction shall apply without regard to the side of the highway on which the advertising devices may be located and shall be measured along a line parallel to the centerline of the highway between points directly opposite the advertising devices. When a sign is visible and subject to control from more than one highway (interstate, freeway-primary or primary), it must meet spacing requirements along each route.

i. *Spacing—rural area next to incorporated area.*

(1) In a rural area next to an incorporated area, the first rural sign placement shall be no closer than the rural spacing requirement measured from the point where the corporation line intersects the centerline or from the point where a line normal or perpendicular to the centerline of the highway intersects the first unincorporated area within the adjacent area to a point directly opposite the first potential sign location.

(2) In those areas where the adjacent area on one side of the highway is incorporated and on the opposite side of the highway all or part of the adjacent area is not, the spacing on both sides of the highway shall be regulated by the rural or unincorporated area spacing requirements.

j. *Signs not considered when determining spacing.* Directional and other official signs and notices and on-premises advertising devices shall not be taken into consideration in determining compliance with spacing requirements.

k. *Sizes and types.* Only the following types of advertising devices are permitted: single-face, side-by-side, double-deck, tri-vision, back-to-back, v-type, and tri-face.

(1) The multiple faces or panels of an advertising device must be contiguous or on a common structure. Side-by-side configurations are contiguous if the faces are not more than two feet apart and they are owned by the same permit holder. Side-by-side configurations must be on the same vertical and horizontal planes.

(2) A maximum of one face of an advertising device may be visible to traffic proceeding in any one direction. An advertising device other than a tri-face device may have no more than two faces.

(3) For an advertising device with one face, the maximum display area of the face is 1200 square feet. This applies to single-face, side-by-side, double-deck and tri-vision devices. For permit purposes, side-by-side and double-deck configurations are considered one face with the surface areas combined into one square footage.

(4) For an advertising device with two or more faces, the maximum display area of each face is 750 square feet. This applies to back-to-back and v-type devices (which have two faces) and tri-face devices (which have three faces).

(5) Each message on a tri-vision device must be displayed for a minimum of four seconds and the transition between messages must be completed in two seconds.

l. *Spacing—transition to freeway-primary highway.* As a segment of a noninterstate primary highway changes to a freeway-primary highway, the first freeway-primary highway sign placement shall be no closer than the freeway-primary highway spacing requirements measured along a line parallel to the centerline from a point opposite the point where the centerline of the highway and centerline of the at-grade crossing intersect to a point opposite the first potential sign location. See the appendix for an illustration of this spacing requirement.

761—117.6(306C) Outdoor advertising permits and fees required. The owner of an advertising device must apply to the department for an outdoor advertising permit if the device is visible from the main traveled way of any interstate, freeway-primary or primary highway and the device is regulated by subrule 117.4(1) or rule 117.5(306B,306C).

1. If an advertising device was in existence on July 1, 1972, application for a permit must have been made on or before July 31, 1972.

2. After July 1, 1972, the owner or an advertising device must obtain a permit from the department prior to the erection of the advertising device.

3. If an advertising device that was lawfully erected later becomes subject to these rules due to an event such as, but not limited to, a change in zoning, the establishment of a new highway or a change in the designation of a highway, the owner of the advertising device shall apply to the department for an outdoor advertising permit within 30 days after the event that made the device nonconforming. A nonconforming advertising device that complies with the permit provisions of rule 117.6(306C) may remain in existence without being in compliance with subrule 117.5(5) as long as the device otherwise complies with all other applicable statutory and regulatory requirements.

117.6(1) *Application.* Application for a permit shall be made in accordance with Iowa Code section 306C.18.

a. A permit is required for each face of an advertising device; thus, a permit application must be submitted for each face. Three permits are required for a tri-face device if all three faces are visible from the main traveled way of an interstate, freeway-primary, or primary highway. However, only one application and permit are required for a back-to-back advertising device that identifies the same business or service on each face if each face is no larger than 8 feet in width or height and 32 square feet in area.

b. A copy of the current lease shall be submitted upon application for a permit.

c. Any intentional falsification or misrepresentation of information in the application or renewal process shall result in immediate denial or revocation of the permit.

117.6(2) *Fees.*

a. The initial fee, payable at the time of application, is $100 per permit. This fee is not refundable unless the application is withdrawn prior to the department's field review of the proposed location.

b. The annual renewal fee for each permit, due on or before June 30 of each year, is as follows:

Area of Sign	Annual Renewal Fee
Up to 375 square feet	$15
376 to 999 square feet	$25
1000 square feet or more	$50

For tri-vision signs, the area shall be calculated by multiplying the area of the face by three.

(1) The renewal fee is not refundable.

(2) Failure to timely pay the annual renewal fee when due shall result in revocation of any permit that has been issued for the advertising device and removal of the advertising device as an abandoned sign.

c. Fees shall not be prorated.

d. If an outdoor advertising permit is revoked, any permit fee paid is forfeited.

117.6(3) *Permits to be issued.*

a. The department shall issue an outdoor advertising permit in accordance with Iowa Code section 306C.18.

b. An advertising device that was lawfully in existence prior to July 1, 1972, and is located within an adjacent area which is neither a zoned nor an unzoned commercial or industrial area shall be issued a provisional permit and annual renewals thereof upon timely application and payment of the required fees, until such time as the department acquires the advertising device. See rule 761—117.9(306B,306C).

117.6(4) *Permit plate.*

a. Upon approval of the application, the department shall issue a metal permit plate for the advertising face.

b. The owner of the advertising device shall securely attach the plate to the advertising face at the bottom corner nearest the main traveled way or to the support structure immediately below the bottom corner. If these locations do not permit unobscured display of the permit number, the permit plate shall be attached to another prominent area of the advertising device. The permit number shall not be obscured when viewed from the main traveled way.

c. The owner of an advertising device is responsible for replacing a permit plate that is missing or illegible. To obtain a replacement, the owner shall apply to the department and pay a $10 fee.

d. If the department notifies the owner of the advertising device that a permit plate is not properly displayed, the owner shall within 90 days of notification either correct the situation or secure and display a replacement permit plate. Failure to properly display a permit plate after the 90-day period has expired shall result in revocation of any permit that has been issued for the advertising device and removal of the advertising device in the manner specified in subrule 117.8(1).

117.6(5) *New permit required for reconstruction or modification.* A new permit is required from the department prior to the reconstruction or modification of an advertising device subject to the permit provisions of this rule.

a. To obtain a new permit, the owner of the advertising device shall submit a new application to the department, accompanied by the initial application fee.

b. A reconstructed or modified advertising device is subject to the provisions of this chapter as if it were a new advertising device.

c. Reconstruction or modification of an advertising device prior to the issuance of the required permit shall result in revocation of any permit that has been issued for the advertising device and removal of the advertising device in the manner specified in subrule 117.8(1).

d. Rescinded IAB 4/7/99, effective 5/12/99.

117.6(6) *One year to erect advertising device.* The permit for an advertising device that has not been erected within one year after the date the permit was issued shall be revoked. After revocation, a new permit is required. To obtain a new permit, the owner of the advertising device shall submit a new application to the department, accompanied by the initial application fee and a copy of the current lease.

117.6(7) *Access.* Access to the private property upon which an advertising device is located shall be gained from highway right of way only at access points designated or allowed by the department in accordance with 761—Chapter 112. An initial violation of this requirement by or on behalf of the permit holder shall result in the department sending a written warning by certified mail to the permit holder. A second violation of this requirement shall result in revocation of any permit that has been issued for the advertising device and removal of the advertising device in the manner specified in subrule 117.8(1). If a permit is revoked for an access violation, the permit holder is ineligible to apply for a permit for at least 12 months after revocation for any location within 500 feet of the revoked permit's sign location.

117.6(8) *Destruction of vegetation.* Without the written authorization of the department, vegetation growing on the highway right of way shall not be cut, trimmed, removed, or in any manner altered or damaged to improve the visibility of an advertising device. Violation of this prohibition by or on behalf of the permit holder shall result in revocation of any permit that has been issued for the advertising device and removal of the advertising device in the manner specified in subrule 117.8(1). If a permit is revoked for destruction of vegetation, the permit holder is ineligible to apply for a permit for 12 months after revocation for any location within 500 feet of the revoked permit's sign location.

117.6(9) *Blank sign.*

a. A blank sign is:

(1) An advertising device that has had a face physically removed.

(2) An advertising device that has been completely removed.

(3) An advertising device that does not display copy. "This space for rent" or a similar message is not copy.

(4) An advertising device that qualifies as an obsolete sign.

b. A sign that is a blank sign for at least six months shall result in revocation of any permit that has been issued for the advertising device and removal of the advertising device in the manner specified in subrule 117.8(1).

761—117.7(306C) Official signs and notices, public utility signs, and service club and religious notices. This rule does not pertain to on-premises signs.

117.7(1) *Official signs and notices.* Official signs and notices regulated by the Manual on Uniform Traffic Control Devices, as adopted in 761—Chapter 130, shall comply with its provisions. All other official signs and notices shall comply with applicable state law, local ordinance or administrative

authority. Historical markers are subject to the approval of the department if they are erected within the right of way of any interstate, freeway-primary or primary highway.

117.7(2) *Public utility signs.* Public utility signs shall be erected no larger than required to adequately convey the necessary message, and only at such places as are required to adequately mark the location of the utility. Public utility signs are subject to the approval of the department if they are erected within the right of way of any interstate, freeway-primary or primary highway.

117.7(3) *Service club and religious notices.*

a. Service club and religious notices shall not be placed within the right of way.

b. Service club and religious notices may be placed within the adjacent area of an interstate highway only if they are eligible for issuance of an outdoor advertising permit. All permit provisions apply, including but not limited to size and spacing requirements of subrule 117.5(5) and permit fees.

c. Service club and religious notices may be placed outside the right of way of a freeway-primary or primary highway and outside the adjacent area of an interstate highway. Notices in these locations may be grouped upon a common panel and shall comply with the following:

(1) The message shall comply with the definition of "service club or religious notice" in rule 761—117.1(306B,306C).

(2) A notice shall not exceed eight square feet in area.

(3) A notice shall comply with rule 761—117.3(306B,306C).

(4) The department's approval shall be obtained prior to erection. A special application form shall be filed with the department, but no fees are required.

761—117.8(306B,306C) Removal procedures. The department shall cause to be removed every advertising device illegally erected or maintained and every abandoned sign.

117.8(1) *Removal of illegal and abandoned advertising devices.* In accordance with Iowa Code sections 306B.5 and 306C.19, an advertising device erected or maintained in violation of Iowa Code chapter 306B or 306C or these rules is a public nuisance and may be removed by the department upon 30 days' notice, by certified mail, to the owner of the advertising device and to the owner of the land on which the advertising device is located.

a. The notice shall require the owner of the advertising device to remove the advertising device if it is prohibited, or to cause it to conform to the provisions of these rules if it is not.

b. If the advertising device has not been removed or made to conform with the provisions of these rules, the advertising device is deemed to be forfeited and the department may enter upon the land and remove the advertising device, aided by injunction to abate the nuisance and to ensure peaceful entry, if necessary.

c. Costs of removal, including fees and costs or expenses as may arise out of any action brought by the department to ensure peaceful entry and removal, shall be assessed against the owner of the advertising device. Should the owner of the advertising device fail to pay such fees, costs, or expenses within 30 days after assessment, the department may commence an action to collect them.

d. The advertising device may be used, scrapped, dismantled, or otherwise destroyed or disposed of by the department as it sees fit.

e. No compensation shall be paid to the owner of any advertising device which is illegally erected or maintained.

117.8(2) *Removal from right of way and other state-owned property.* The department shall remove advertising devices erected upon the right of way of any interstate, freeway-primary or primary highway; see subrule 117.2(5). Unauthorized advertising devices erected upon other property owned by the state of Iowa are subject to removal by the agency, board, commission or department having control or jurisdiction of the property.

761—117.9(306B,306C) Acquisition of advertising devices that have been issued provisional permits.

117.9(1) The department will acquire an advertising device for which a provisional permit has been issued only if all of the following conditions are met:

a. Acquisition is required by federal law.

b. All necessary federal and state funding is available for the purpose.

c. The permit has not been revoked.

117.9(2) If the advertising device will be acquired, the department will use the following procedure:

a. The department shall mail or deliver to the owner of the advertising device and to the owner of the land upon which the device is located a written notice of the department's intent to revoke the provisional permit and acquire the device. The notice shall include an offer to purchase the advertising device. If good-faith negotiations with the owner of the device and the owner of the land upon which the device is located do not result in a mutually agreeable sale price, the department shall revoke the provisional permit and initiate condemnation proceedings as provided in Iowa Code chapter 6B.

b. In the event of condemnation, the department will take possession of the advertising device as soon as the award has been deposited with the sheriff.

761—117.15(306C) Development directory signing.

117.15(1) *Definition.* "Development directory sign" means a type of on-premises sign displaying a message that is limited to the names of two or more businesses located within a commercial or industrial development. The sign may also display the name of the development. The sign must be located within the limits of the development but may be located anywhere within the development regardless of land ownership.

117.15(2) *Limitation.* Each business within the development is limited to its name appearing on not more than two development directory signs visible to traffic proceeding in any one direction on any interstate, freeway-primary or primary highway.

117.15(3) *Commercial or industrial development.* A development directory sign must be located within a commercial or industrial development. For the purposes of this rule, a commercial or industrial development is a single premises that meets all of the following requirements:

a. All of the lots, regardless of whether they are individually owned, are contiguous, except for roadways or driveways providing access to lots or common areas within the development.

b. No part of the development is separated from another part by an interstate, freeway-primary, or primary highway.

c. The development is approved for the establishment of commercial or industrial activities by an authorized governing authority, and is occupied by commercial or industrial activities. The term "commercial or industrial activities" is defined in Iowa Code section 306C.10.

d. The development is subject to a common development and common use plan that provides for common areas such as sidewalks, roadways, parking, storage, and service areas, to which all businesses within the development have irrevocable shared use and shared property rights, and for which they have irrevocable shared obligations.

e. The development operates through an association or other entity, actively managed and maintained, through which all lot owners have irrevocable rights and obligations with respect to the development and its common areas.

f. The development and the businesses within the development present themselves to the public as a common development through signage or other marketing efforts.

g. The common areas of the development have necessary and true value to the regular operations of the businesses within the development, and were created for purposes other than establishing eligibility for development directory signing.

These rules are intended to implement Iowa Code chapters 306B and 306C.

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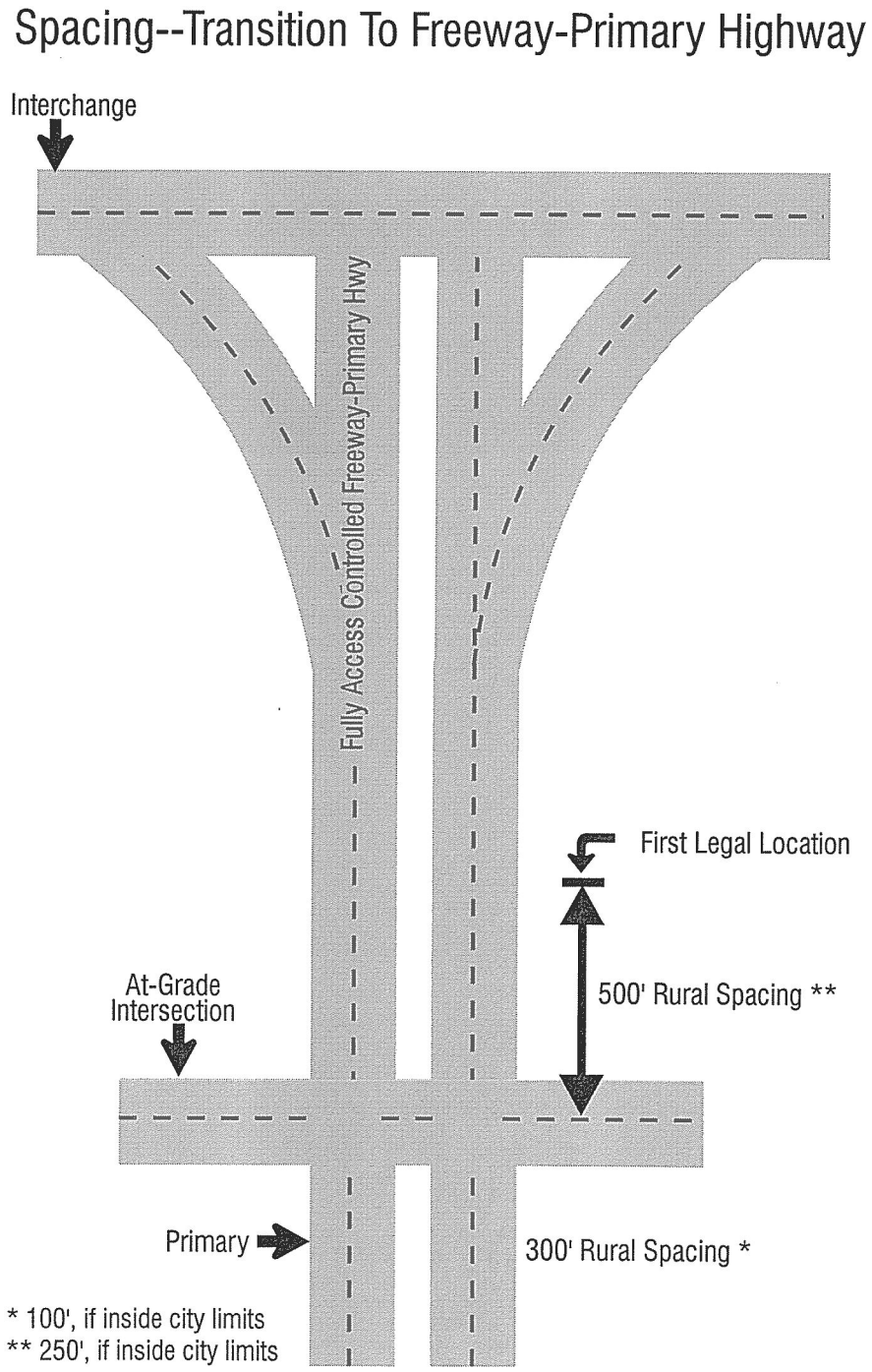
[Editorial change: IAC Supplement 1/25/12[2]]

1 Two or more ARCs
2 Spacing—Transition to Freeway-Primary Highway diagram replaced with a clearer image.



CHAPTER 118
LOGO SIGNING

761—118.1(306C) Introduction. Logo signing consists of individual business signs attached to specific service signs erected by the department within the right-of-way of interstate and freeway-primary highways. The purpose of logo signing is to provide specific motorist service information of interest to the traveling public. Logo signing shall comply with this chapter and the "Manual on Uniform Traffic Control Devices," as adopted in rule 761—130.1(321). The department shall perform all required installation, maintenance, removal and replacement of specific service signs and business signs within the right-of-way.

761—118.2(306C) Definitions.

"Business sign" means a separate sign attached to a specific service sign; the business sign shows the name, symbol or trademark of a business that provides the type of motorist service identified on the specific service sign.

"General service sign" means an official guide sign that identifies general road user services such as gas, food, lodging and camping. This sign does not provide for the placement of business signs.

"Mainline" means the main-traveled way of an interstate or a freeway-primary highway.

"Motorist service" means one of the following five types of services: gas, food, lodging, camping or attraction.

"Qualified business" means a business that meets all requirements to participate in the logo signing program and meets all qualifications pertaining to a particular type of motorist service without the granting of an exception.

"Specific service sign" means an official guide sign that identifies one or more types of motorist services, provides directional information, and has spaces for the attachment of business signs to identify businesses providing those services.

"Trailblazing sign" means a sign erected on the road network accessed from an interchange that has logo signing; the sign directs motorists to a particular business signed on the mainline.

761—118.3(306C) Erection and location of specific service signs and placement of business signs.

118.3(1) *General.*

a. The department shall erect specific service signs at rural interchanges if the requirements of this chapter are met and sufficient space is available. If sufficient space is not available for more than one specific service sign, the department may install a general service sign in lieu of a specific service sign.

b. Specific service signs shall be erected at an interchange only when the motorist can conveniently reenter the interstate or freeway-primary highway and continue in the same direction of travel.

118.3(2) *Mainline specific service signs and placement of business signs.* Following are the requirements for mainline specific service signs erected in advance of an interchange, in a single direction of travel, and limitations regarding the number and types of business signs attached to these service signs.

a. As spacing permits, a maximum of four mainline specific service signs may be erected in advance of an interchange from which motorist services are available.

b. The minimum spacing required between mainline specific service signs and between mainline specific service signs and other official guide or destination signs on the mainline is 800 feet.

c. If spacing limitations and the four-sign limit prohibit the erection of mainline specific service signs for the types of motorist services available, preference shall be given to available gas, food, lodging, camping or attraction services, in that order.

d. If services are displayed, the order of display of services in the direction of travel on successive mainline specific service signs is as follows: attraction, camping, lodging, food, and gas.

e. Each mainline specific service sign is limited to six business signs. This restriction applies regardless of whether the specific service sign displays a single type of motorist service or a combination of service types.

f. In general, only one type of motorist service should be displayed on each mainline specific service sign. However, the department may combine service types on one sign for a reason such as, but not limited to, the following:

(1) There is limited space available on the mainline for specific service signs.

(2) There is limited interest from qualified businesses or limited availability of motorist services at the interchange.

(3) There is an imbalance of qualified businesses between service types.

g. The requirements for mainline specific service signs that display a combination of motorist services are as follows:

(1) Each combination sign is limited to six business signs.

(2) No more than three types of motorist services shall be represented on any combination sign.

(3) For a combination sign displaying three types of motorist services, the number of business signs for each service type is limited to two.

(4) For a combination sign that will accommodate at least four business signs, each type of motorist service displayed on the sign must have at least two positions designated for that service type.

h. Either preference or equal representation shall be given for higher priority service types, as set out in paragraph *"c"* of this subrule, depending upon the motorist services available at the interchange, the interest expressed by qualified businesses in the logo signing program, and the anticipated future development of the area near the interchange.

i. In a single direction of travel, the total number of business signs displayed for a single type of motorist service is limited to 12, and no more than two mainline specific service signs shall display business signs for a single service type.

j. The department shall designate each mainline specific service sign for a particular type of motorist service, although the service sign may, in use, be displaying more than one service type, subject to paragraph *"h"* of this subrule. When a specific service sign designated for a particular service type exists and that sign is full, the department may grant an exception, in accordance with subrule 118.4(11), to allow the placement of a business sign for that service type on a specific service sign designated for another service type.

118.3(3) *Ramp specific service signs and placement of business signs.*

a. On a single-exit interchange, the department shall erect a ramp specific service sign if businesses for that type of motorist service are signed on the corresponding mainline specific service sign and one or more of these businesses or their on-premises signing is either not visible from the mainline or is not visible from the ramp at or before the point where a motorist needs to make a lane decision or turning decision. However:

(1) The department shall not erect ramp specific service signs if ramp design or spacing limitations prohibit the erection of these signs.

(2) The department may erect a general service sign on the ramp for the appropriate service type in lieu of a ramp specific service sign.

(3) If all services represented by business signs on the mainline specific service signs are located the same direction from the interchange, the department may erect a general service sign on the ramp in lieu of ramp specific service signs.

b. The number of ramp specific service signs that may be erected, the order of preference when space for ramp signs is limited, and the order in which motorist services are displayed on successive ramp signs are the same as the requirements for mainline specific service signs. Also, each ramp specific service sign is limited to six business signs.

c. Ramp specific service signs shall not be erected on double-exit interchanges.

d. If a business sign for a motorist service is displayed on a mainline specific service sign, the department has erected a ramp specific service sign for that service type, and the department has determined that the business or its on-premises signing is either not visible from the mainline or is not visible from the ramp at or before the point where a motorist needs to make a lane decision or turning decision, then a ramp business sign corresponding to the mainline business sign is required.

e. A ramp business sign is allowed only if it has a corresponding business sign displayed on a mainline specific service sign.

118.3(4) *Trailblazing signs.*

a. Trailblazing signs are required for a business that has a business sign displayed on a mainline specific service sign when the business is neither located on nor is visible from the road that intersects the mainline at the logo-signed interchange.

b. Trailblazing signs are used only on non-fully controlled access highways and are installed only for businesses that have business signs displayed on mainline specific service signs.

c. The department shall install trailblazing signs on routes under its jurisdiction and shall make signs available for local jurisdictions to place on routes within their jurisdictions.

d. The department may approve the use of an official traffic control device that is placed by the department or a local jurisdiction on the public right-of-way in compliance with the "Manual on Uniform Traffic Control Devices" as a substitute for a trailblazing sign.

e. If site or other conditions do not permit the erection of a trailblazing sign, the department may approve the use of an off-premises advertising device as a substitute for a trailblazing sign if the advertising device complies, as applicable, with 761—Chapter 117 (including permit requirements) and any local regulations; the device is legible and understandable; and the device is placed along the route in advance of the intersection where the trailblazing sign would have been placed.

f. No more than two trailblazing signs or approved substitutes are allowed for a business. If the department determines that more than two trailblazing signs or approved substitutes would be needed to guide motorists to the business, the business does not qualify for logo signing at the interchange. Also, if the department determines that one or two trailblazing signs or approved substitutes are required and conditions do not permit the erection of the required trailblazing signs or approved substitutes, the business does not qualify for logo signing at the interchange.

761—118.4(306C) Eligibility for placement of business signs on mainline specific service signs. To qualify for placement of a business sign on a mainline specific service sign, the business must meet the following requirements:

118.4(1) *Written assurance.* The business shall give the department written assurance of its conformity with all applicable laws concerning the provision of public accommodations without regard to race, religion, color, age, sex or national origin, and shall not be in continuing breach of that assurance.

118.4(2) *Maximum distance from exit.*

a. *Three-mile limit of eligibility.* The maximum distance that a business may be located from the exit to qualify for a business sign shall not exceed three miles in either direction. The distance shall be measured from the beginning of the widening for the deceleration ramp at the exit to the entrance of the business.

b. *Limit of eligibility reduced to one mile.* In urban areas where the number of qualified businesses for a particular type of motorist service exceeds six within the three-mile limit, the department may reduce the maximum distance to one mile for that service type.

c. *Exceptions.* If there is space for additional business signs on a mainline specific service sign for a particular type of motorist service and no businesses which provide that motorist service within the limit of eligibility have expressed an interest to the department in the space, the department may grant a distance exception, in accordance with subrule 118.4(11), to a business which provides that motorist service and is located within 15 miles of the exit.

118.4(3) *Gas.*

a. *Qualifications.* To qualify for placement of a business sign on a gas specific service sign, the business must:

(1) Be appropriately licensed as required by law.

(2) Provide vehicle services including gasoline, oil, and water.

(3) Provide free air for tire inflation.

(4) Provide restroom facilities and drinking water.

(5) Operate year-round at least 12 continuous hours per day, 7 days per week.

(6) Provide a public telephone.

b. *Exceptions.* Card-operated fueling stations may be granted an exception, in accordance with subrule 118.4(11), from the requirements to provide oil and water, restroom facilities, drinking water, and a public telephone. These fueling stations must operate 24 hours per day, 7 days per week, and must be operable by motorists without membership.

118.4(4) *Food.*

a. *Qualifications.* To qualify for placement of a business sign on a food specific service sign, the business must:

(1) Be appropriately licensed as required by law, including a state food service establishment license, except for a food service operated on Indian lands.

(2) Operate a minimum of six days per week, and serve three meals per day: breakfast, lunch, and dinner.

1. At a minimum, breakfast shall be served from 10 a.m. to 11 a.m. and shall consist of eggs, bacon, ham, sausage, pancakes, cereal, fruit or rolls, or combinations thereof. Hamburgers, hot dogs, pizza, burritos, or other foods not commonly associated with breakfast menus do not meet the breakfast requirement.

2. At a minimum, lunch shall be served from 11 a.m. to 1 p.m.

3. At a minimum, dinner shall be served from 5 p.m. to 7 p.m.

(3) Provide a public telephone.

(4) Have its own employees, seating, menu and cash register for the food service. The business sign must identify the entity providing the food service.

b. *Exceptions.* A business that serves only two meals per day may be granted an exception, in accordance with subrule 118.4(11), from the requirement to serve three meals per day.

c. *Seasonal operations.* Food service may be operated seasonally. See subrule 118.5(7) for the fee options for seasonal operations.

118.4(5) *Lodging.*

a. *Qualifications.* To qualify for placement of a business sign on a lodging specific service sign, the business must:

(1) Be appropriately licensed as required by law.

(2) Provide adequate sleeping accommodations consisting of a minimum of ten units each. Each unit must have a bathroom and a sleeping room. However, a bed and breakfast establishment is not required to have more than two guest rooms or provide separate bathroom facilities for each room.

(3) Provide a public telephone.

b. *Seasonal operations.* Lodging service may be operated seasonally. See subrule 118.5(7) for the fee options for seasonal operations.

118.4(6) *Camping.*

a. *Qualifications.* To qualify for placement of a business sign on a camping specific service sign, the business must:

(1) Meet applicable state and local standards for health and sanitation.

(2) Have a minimum of 20 spaces for camping or parking of camping vehicles.

(3) When in operation, be available to the public 24 hours per day.

(4) Provide a public telephone.

b. *Seasonal operations.* Camping service may be operated seasonally. See subrule 118.5(7) for the fee options for seasonal operations.

118.4(7) *Attraction.*

a. *Qualifications.* To qualify for placement of a business sign on an attraction specific service sign, the site or attraction must:

(1) Be appropriately licensed as required by law.

(2) Be a site or attraction listed in paragraph *"c"* of this subrule.

(3) Be of significant interest to the traveling public.

(4) Be nationally or regionally known through a marketing or advertising plan or media articles and exposure.

(5) Maintain normal business hours at least five days per week, totaling at least 40 hours per week. Racetracks are excepted from this requirement.

(6) Have adequate parking accommodations, with a minimum of 30 parking spaces.

(7) Have restroom facilities available for use by the traveling public.

(8) Be approved by the tourist signing committee; see subrule 118.5(3).

b. *Seasonal operations.* The site or attraction may be operated seasonally. See subrule 118.5(7) for the fee options for seasonal operations.

c. *Types of qualifying sites or attractions.* The site or attraction must be one of the following:

(1) Area of natural beauty or phenomena.

(2) Historic site.

(3) Cultural site or museum.

(4) Scientific site.

(5) Four-year accredited college or university.

(6) Religious site.

(7) Area of outdoor recreation.

(8) Winery, with on-site production, tours, gift shop, and tasting room.

(9) Amusement park.

(10) Botanical park or zoological facility.

(11) Casino.

(12) Racetrack for horses, dogs, or motorized vehicles.

(13) Antique mall with at least 20,000 square feet devoted to retail sales.

(14) Area containing eight or more antique shops within a three-block radius.

(15) Shopping mall or retail outlet with a minimum, active store count of 50, excluding kiosks and temporary booths within the common areas, and including only those stores that occupy owned or leased areas whose boundaries are defined by permanent walls with doors or gates.

(16) Sporting goods store or recreational retail outlet with at least 100,000 square feet devoted to retail sales.

(17) Cultural and entertainment district as officially designated by the department of cultural affairs, provided that the local jurisdiction implements a signing plan to direct motorists to the various cultural and entertainment sites within the district.

118.4(8) *Compliance with Iowa Code sections 306C.11 and 306C.13.* The business must be in compliance with Iowa Code sections 306C.11 and 306C.13. If an advertising device which serves the business is erected or maintained in violation of either of these sections, that business shall be disqualified from obtaining or maintaining a business sign upon any specific service sign.

118.4(9) *On-premises sign required.* The business must erect and maintain a legal on-premises sign at the site where the service is provided. The sign must be visible to motorists at the entrance to the business premises.

118.4(10) *Noncompliance.* The department shall remove and dispose of a mainline business sign and the corresponding ramp and trailblazing business signs of a business that does not meet or no longer meets the requirements of this chapter. In order to have its business signs reinstalled, the business must submit a new application to the department. The new application is subject to all the requirements of this chapter, including payment of the application fee and a drawing, if needed, to select applicants.

118.4(11) *Granting of exceptions.*

a. The department may grant an exception and approve the placement of a business sign on a mainline specific service sign for the following:

(1) When a specific service sign designated for a particular type of motorist service exists and that sign is full, placement of a business sign for that service type on a specific service sign designated for another service type. See paragraph 118.3(2)*"j."*

(2) Maximum distance from the exit. See paragraph 118.4(2)*"c."*

(3) Card-operated fueling stations. See paragraph 118.4(3)*"b."*

(4) Number of meals served. See paragraph 118.4(4)*"b."*

b. If there is available space on a specific service sign and no application has been received by the department from a qualified business for that space, the department may allow an applicant to submit to the department for review a signed Exception Acknowledgement form along with a logo signing application.

c. The acknowledgement form states that if the department grants the exception and approves the application, the business is guaranteed a space on the specific service sign for at least five years if:

(1) The business pays the required fees in a timely manner;

(2) The business complies with all program requirements unrelated to the exception granted; and

(3) The department continues to maintain the specific service sign to which the business sign is attached.

d. After the five-year period has expired and at the end of the fiscal year, the department may remove the business sign from the specific service sign if:

(1) An exception was granted for maximum distance from the exit, number of meals served or a card-operated fueling station; an application has been received from a qualified business providing the same type of motorist service as the business granted the exception; and space is not available on that specific service sign.

(2) An exception was granted for the situation described in subparagraph 118.4(11)*"a"*(1); an application has been received from a qualified business for the service type designated for the specific service sign; and space is not available on that service sign.

761—118.5(306C) Application, drawing, and fees.

118.5(1) *Application.*

a. A business requesting placement of a business sign upon a mainline specific service sign shall submit a completed application form, provided by the department, along with the application fee, to the Advertising Management Section, Office of Traffic and Safety, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

b. A separate application is not needed for the corresponding ramp business sign or trailblazing business signs. The department will advise the applicant what signs are required once the department approves the application.

c. Once the application is approved and the department has determined what business signs are required, the applicant shall furnish the department with business signs meeting department specifications.

d. Approved applications are valid for the fiscal year (July 1 to June 30) or portion thereof and expire on June 30. If the fees, as billed by the department, are paid by the business in accordance with subrule 118.5(5), the application is renewed on July 1.

118.5(2) *Drawing to select applicants.* If the number of applicants that are qualified businesses is greater than the number of vacant spaces on a mainline specific service sign, the department shall hold a drawing among these applicants to select the applicants to fill the vacant spaces. If no qualified businesses have applied for the vacant spaces, the department shall consider applicants that would qualify if exceptions were granted. If the number of these applicants is greater than the number of vacant spaces, the department shall hold a drawing among these applicants to select the applicants to fill the vacant spaces.

118.5(3) *Applications for attraction signing.* The department shall submit applications for attraction signing to the tourist signing committee. The tourist signing committee will determine whether the applications meet the qualifications for an attraction under the logo signing program. The composition of the committee is set out in 761—subrule 119.5(3).

118.5(4) *New application required for business name change.* If a business participating in the logo signing program changes its name or franchise affiliation from that which appears on its business sign, a new application is required. If the new application is received by the department prior to the change on the business premises, the business will retain its position on the specific service sign, the department will approve the application, and no application fee is due.

118.5(5) *Fees.* A business is required to pay the following fees to the department for participation in the logo signing program.

a. *Application fee.* For a new application, the application fee is $100, except that no application fee is required for an application submitted in accordance with subrule 118.5(4) (business name change). The application fee is a one-time fee and is nonrefundable once the department has performed an on-site review to verify compliance with the requirements of this chapter. The application fee shall be submitted with the application.

b. *Annual fee.* The annual fee is $230 for each business sign posted on a mainline specific service sign and $230 for each business sign posted on a ramp specific service sign and is due on or before July 1 of each fiscal year (July 1 to June 30). However, for a new application, the department shall prorate the annual fee for the portion of the fiscal year that the business signs are installed and, following installation of the signs, shall invoice the business for the prorated annual fee; the fee is due within 30 days.

c. *Service fee.* The department may install replacement business signs at the request of the business and shall assess a $50 service fee per business sign installed. The department shall also assess a $50 service fee to install a renovated or new business sign that replaces a misleading, unsightly, badly faded or dilapidated sign, as specified in subrule 118.7(5). The department shall invoice the business once installation is complete; the service fee is due within 30 days.

d. *RV symbol fee.* See rule 761—118.8(306C).

118.5(6) *Failure to pay annual fee or service fee.* Failure to pay the annual fee or service fee when due shall terminate the business's existing application on file with the department and shall be cause for removal and disposition of the affected business signs by the department. Termination of the application shall occur on the day of delinquency without respect to the date the department removes the business signs. In order to have its business signs reinstalled, the business must submit a new application to the department. The new application is subject to all of the requirements of this chapter, including payment of the application fee and a drawing, if needed, to select applicants.

118.5(7) *Fee options for seasonal operations.* Subject to subrule 118.5(5), a business that operates on a seasonal basis and is permitted to do so by this chapter has the following payment options:

a. Pay the annual fee for a full year. The department shall remove and reinstall each business sign once each year, free of additional charge, coinciding with the dates of operation, if possible.

b. Pay the annual fee for a prorated year, based on the calendar months in which the business is in operation, plus a $50 annual service fee per business sign for removal and reinstallation services performed. The department shall remove and reinstall each business sign once each year, coinciding with the dates of operation, if possible.

c. Pay the annual fee for a prorated year, based on the calendar months in which the business is in operation, and provide mainline business signs that contain a supplemental message indicating the dates of operation. Ramp business signs, if required, may contain a supplemental message indicating the dates of operation. The supplemental message must comply with subrule 118.7(4).

118.5(8) *Fees for temporary specific service signs.* In cases where the attachment of a business sign will require the installation of a new or larger specific service sign, an applicant that wishes to have its business sign installed sooner than the estimated date of installation as performed by the department's contractor may request the department to erect a temporary specific service sign. The time frame for erection of a temporary specific service sign will depend on the availability of department resources, but is typically one to three months. The applicant shall be charged a fee of $700 per mainline specific service sign if none exists for that service type, $400 per mainline specific service sign if the existing specific service sign is full, and $300 per ramp specific service sign if a ramp business sign is required but cannot be accommodated on the existing ramp specific service sign. This is in addition to the fees specified in subrule 118.5(5). The applicant shall furnish the business sign to be attached to the temporary specific service sign. When the permanent specific service sign is erected, the department shall remove the business sign from the temporary specific service sign and reinstall it on the permanent specific service sign at no additional charge.

761—118.6(306C) Business sign blank specifications. Business signs shall meet the following specifications for the sign blank and shall not be installed until they are inspected and approved by the department.

118.6(1) *Mainline business sign blank.* Mainline business signs shall be fabricated from a rectangular sheet of aluminum, between 0.074 inches and 0.125 inches thick, with 3-inch radius corners. Gas business signs shall be 48 inches wide and 36 inches high. Food, lodging, camping and attraction business signs shall be 60 inches wide and 36 inches high.

118.6(2) *Ramp business sign blank.* Ramp business signs shall be fabricated from a rectangular sheet of aluminum, between 0.074 inches and 0.125 inches thick, with 2-inch radius corners. Gas business signs shall be 24 inches wide and 16 inches high. Food, lodging, camping and attraction business signs shall be 36 inches wide and 16 inches high.

118.6(3) *Trailblazing business sign blank.* Trailblazing business signs shall be fabricated from a rectangular sheet of aluminum, between 0.074 inches and 0.125 inches thick, with 2-inch radius corners. All trailblazing signs shall be 20 inches wide and 12 inches high.

761—118.7(306C) Business sign face specifications. Business signs shall meet the following specifications for the sign face and shall not be installed until they are inspected and approved by the department. Businesses shall submit a proposed sign design to the department for approval before proceeding with fabrication.

118.7(1) *Design layout.* A legend layout or a logo layout, but not both, shall be used for the design of the sign's message.

a. *Legend layout.* A legend layout shall reflect the name of the business in white letters on a blue background. Recommended letter height is 10 inches on a mainline business sign, 4 inches on a ramp business sign, and 3 inches on a trailblazing business sign. The recommended number of text lines is one or two. Reducing the letter height or adding a third text line will reduce the legibility of the message.

b. *Logo layout.* A logo layout shall reflect the nationally, regionally, or locally known symbol or trademark of the business, using colors consistent with customary use of the symbol or trademark and resembling the business's on-premises sign. The symbol or trademark may be modified to improve legibility.

118.7(2) *Borders.* Mainline business signs shall have a white ¾-inch border on the outside edge of the sign. Ramp business signs shall have a white ½-inch border on the outside edge of the sign. Trailblazing business signs shall have a white ½-inch border on the outside edge of the sign. If a logo layout has a white background, no border is required. No inset border is allowed on legend layouts, and no inset border is allowed on logo layouts unless it is customary usage for the symbol or trademark.

118.7(3) *Reflectorization.* Reflectorization of business signs is optional, at the discretion of the applicant.

118.7(4) *Supplemental messages.*

a. With department approval, supplemental messages such as "OPEN 24 HRS," "DIESEL," "E-85," "MECHANIC ON DUTY," "24 HR TOWING," or the dates of operation for seasonal operations may be displayed on mainline business signs provided the letter height is at least 6 inches. Approval shall be limited to essential motorist information and does not extend to messages such as, but not limited to, "INDOOR POOL," "CAR WASH" or "PLAY AREA."

b. With departmental approval, supplemental messages indicating the dates of operation for seasonal operations may be displayed on ramp business signs provided the letter height is at least 2 inches.

118.7(5) *Misleading or dilapidated signs.* No business sign shall be displayed if it would mislead or misinform the traveling public, or if it is unsightly, badly faded, or dilapidated. The department may remove or mask business signs that violate these provisions. The department shall require a business to provide a renovated or new business sign to replace a misleading, unsightly, badly faded or dilapidated sign and shall assess a $50 service fee to install the renovated or new sign.

118.7(6) *Signs that interfere with or imitate official signs.* Messages, trademarks, or brand symbols that interfere with, imitate, or resemble any official warning or regulatory traffic sign, signal or device are prohibited.

118.7(7) *Damaged signs.* The department is not responsible for damages to business signs caused by vandalism, vehicle accidents or acts of God. If a business sign is so damaged and it requires repair or replacement, the business shall provide a renovated or new business sign to the department for replacement of the damaged business sign. If a specific service sign is damaged beyond repair, the department shall erect a temporary specific service sign to accommodate the reattachment of the affected business signs.

761—118.8(306C) RV symbol. An RV symbol is a 12-inch diameter thin aluminum plaque with the letters "RV" in black on a yellow reflective background. It is intended to inform motorists that a business participating in the logo signing program is designed to accommodate the on-site movement and parking of recreational vehicles. RV symbols are optional and are posted on mainline business signs only; to qualify, the business must meet the requirements for posting and pay the required fee.

118.8(1) *Requirements for posting an RV symbol.*

a. Roadway access and egress must be hard surface, free of potholes and at least 12 feet wide with a minimum swing radius of 50 feet to enter and exit the facility.

b. Roadway access, egress, and parking facilities must be free of any electrical wires, tree branches or other obstructions up to 14 feet above the surface.

c. Facilities requiring short-term parking, such as restaurants or attractions, are required to have two or more spaces that are at least 12 feet wide and 65 feet long with a minimum swing radius of 50 feet to enter and exit the spaces.

d. Fueling facilities with canopies are required to have a 14-foot clearance, and those selling diesel fuel are required to have pumps with noncommercial nozzles.

e. Fueling facilities must allow for pull-through with a minimum swing radius of 50 feet.

f. Campgrounds must have two or more spaces that are at least 18 feet wide and 45 feet long.

g. The business must post directional signing on its site as needed, in conformance with 761—Chapter 117, to on-site RV-friendly parking spaces and other RV-friendly services, so that the motorist is given additional guidance upon leaving the public highway and entering the business's property.

h. The business must certify in writing on a form prescribed by the department that it meets the requirements for the RV symbol, and that it will continue to meet those requirements as long as the RV symbol is posted on its business sign.

118.8(2) *Fee.* The fee is $15 per RV symbol if the symbol is posted at the time the business sign is installed. The fee to add an RV symbol to an existing business sign is $50 per RV symbol.

These rules are intended to implement Iowa Code section 306C.11.

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CHAPTER 119
TOURIST-ORIENTED DIRECTIONAL SIGNING

761—119.1(321) Definitions.

"Primary highway," for the purpose of this chapter, does not include an interstate highway or a freeway primary highway as defined in Iowa Code section 306C.10.

"Tourist-oriented directional signing" is official signing that is located within the right-of-way of a primary highway and that identifies and gives directions to activities or sites of significant interest to the traveling public. However, official signing for campgrounds and ski area facilities is not included in this definition. This signing is provided for elsewhere.

761—119.2(321) General.

119.2(1) *Conformance to MUTCD.* Tourist-oriented directional signing shall conform to the "Manual on Uniform Traffic Control Devices" (MUTCD), as adopted in rule 761—130.1(321).

119.2(2) *Spacing and location.*

a. Tourist-oriented directional signing shall be installed only when sufficient space is available.

b. Tourist-oriented directional signing shall be installed in advance of the intersection where the motorist leaves the primary highway system to travel to the activity or site. However, tourist-oriented directional signs may be placed within the maximum travel distance on a higher classified highway to direct motorists onto a lower classified highway, or on a greater traveled highway to direct motorists onto a lesser traveled highway.

c. Tourist-oriented directional signing shall not be placed at interchanges. If an at-grade intersection on a primary highway is replaced with an interchange, the intersection will no longer qualify for tourist-oriented directional signing. Any tourist-oriented directional signing previously erected shall be removed by the department.

d. If an adjacent landowner complains to the department about the placement of a tourist-oriented directional sign, the department shall attempt to reach an agreement with the landowner for relocating the sign. If possible, the sign shall be relocated to the least objectionable place.

119.2(3) *Advance signing.* Advance signing authorized by the MUTCD may be installed where the department determines that advance notification of an activity or site would reduce vehicle conflicts and improve highway safety.

119.2(4) *Message.* The message on a tourist-oriented directional sign is limited to a descriptive name, a directional arrow, and travel distance to the activity or site. However, if an agricultural business activity offers tours, the message for the activity shall include the word "tours."

761—119.3(321) General eligibility requirements for an activity or site. This rule describes the general requirements which an individual activity or site must meet to qualify for tourist-oriented directional signing.

119.3(1) *Significant interest to the traveling public.* An activity or site must be of significant interest to the traveling public. This means that a major portion of the activity's or site's products or services is tourist- or motorist-oriented.

119.3(2) *Hours.* The activity or site shall be open to the general public during regular and reasonable hours and not by appointment, reservation or membership only.

a. Seasonal activities shall be in operation a minimum of four consecutive weeks.

b. The current months, days and hours of operation shall be conspicuously posted on the premises.

119.3(3) *Building or area.* The activity shall be conducted in an appropriate area or in a building appropriately designed or well-suited for the purpose.

a. The activity shall not be conducted in a building principally used as a residence unless there is a convenient, separate, and well-marked entrance.

b. The building or area must be maintained in a manner consistent with standards generally accepted for that type of business or activity.

119.3(4) *Location of activity or site.* The activity or site shall be located:

a. In an unincorporated area or inside the corporate limits of a city with a population of 2500 or less.

b. Outside the corporate limits of a city with a population between 2500 and 5000. However, tourist-oriented directional signing for the activity or site may be located within the corporate limits.

c. Outside the urban area, as established by the U.S. Census Bureau, of a city with a population of 5000 or more. However, tourist-oriented directional signing for the activity or site may be located within the urban area or corporate limits.

119.3(5) *Signing restrictions.* An activity or site does not qualify for a tourist-oriented directional sign if:

a. The activity or site is identified by an off right-of-way directional sign, as authorized in 761—Chapter 120, that is within one mile, is on the same route, and is facing the same direction as the proposed tourist-oriented directional sign.

b. The activity or site or an on-premises sign advertising the activity or site is readily recognizable from the primary highway far enough ahead of the entrance to allow the motorist time to safely make the turn into the entrance.

c. An advertising device which serves the activity or site is erected or maintained in violation of Iowa Code chapter 306B; Iowa Code chapter 306C, division II; or other statutes or administrative rules regulating outdoor advertising.

119.3(6) *Nondiscrimination.* The activity or site shall comply with all applicable laws concerning public accommodations without regard to race, religion, color, age, sex, or national origin.

761—119.4(321) Specific eligibility requirements for the type of activity or site. This rule describes the types of activities or sites that may qualify for tourist-oriented directional signing. Within each type, this rule also describes the specific requirements that an individual activity or site must meet to qualify for tourist-oriented directional signing. These requirements are in addition to those found in rule 119.3(321).

119.4(1) *Motorist service.*

a. *A* service of significant interest to motorists may qualify. The types of services which may qualify include, but are not limited to: gas, food, lodging, or passenger vehicle service or repair.

b. An activity or a site providing a motorist service must:

(1) Be open a minimum of eight hours a day, six days a week.

(2) Be open 12 months a year or during the normal seasonal period.

(3) Be located within five miles of the primary highway.

119.4(2) *Tourist attraction.*

a. An attraction that is of significant interest to tourists as a historic, cultural, scientific, or religious site, or as a site of natural scenic beauty or naturally suited for outdoor recreation, may qualify.

b. In determining significant interest, the tourist signing committee shall consider information provided by the applicant and a site review of the attraction, and may seek advice from agencies or organizations who have specific information on the attraction.

c. A tourist attraction must:

(1) Be open a minimum of 40 hours a week, five days a week.

(2) Be open a minimum of three consecutive months each year.

(3) Be located within five miles of the primary highway or within ten miles if open a minimum of eight hours a day, seven days a week.

119.4(3) *Agricultural business activity.*

a. An agricultural business activity of significant interest to the traveling public may qualify.

b. "Significant interest" means the agricultural business activity does one of the following:

(1) Provides a regular and reasonable tour along with a brochure. The brochure must fully describe the tour if it is self-guided.

(2) Offers products which are of interest to the general public and can be purchased from the site.

(3) Provides a service which is of interest to the traveling public.

c. An agricultural business activity must:

(1) Be open a minimum of 40 hours a week, five days a week.

(2) Be open 12 months a year or during the normal seasonal period.

(3) Be located within ten miles of the primary highway.

119.4(4) *Other commercial activity.*

a. *A* nonagricultural commercial activity, business, service or site of significant interest to the traveling public may qualify. A major portion of the products or services provided must be tourist- or motorist-oriented.

b. A nonagricultural commercial activity must:

(1) Be open a minimum of 40 hours a week, five days a week.

(2) Be open 12 months a year or during the normal seasonal period.

(3) Be located within five miles of the primary highway.

761—119.5(321) Application and approval procedure.

119.5(1) Applications for tourist-oriented directional signing shall be submitted to: Advertising Management Section, Office of Traffic and Safety, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

119.5(2) The department of transportation shall verify compliance with the minimum requirements and develop an agenda for the tourist signing committee's review of applications that meet the minimum requirements. The department shall return to the applicant an application that does not meet the minimum requirements.

119.5(3) The tourist signing committee consists of representatives from the department of economic development, the department of transportation, the department of agriculture and land stewardship, the department of natural resources, the department of cultural affairs, the travel federation of Iowa, and the outdoor advertising association of Iowa. The committee's responsibility is to approve or deny applications.

119.5(4) If the number of approved applicants for an intersection is greater than the number of spaces available, the department of transportation shall hold a lottery among the approved applicants to select the applicants who will fill any vacant spaces.

761—119.6(321) Installation, maintenance, replacement and removal.

119.6(1) *Installation and maintenance of tourist-oriented directional signs.* Except as provided in subrule 119.6(5), the department shall fabricate and perform all required installation, maintenance, removal and replacement of tourist-oriented directional signs that are located within the right-of-way.

a. The department shall design the tourist-oriented directional sign and provide a scaled drawing of it to the applicant prior to sign fabrication.

b. A tourist-oriented directional sign for a for-profit activity or site shall not be installed until the applicant has paid the department the initial fee specified in subrule 119.6(3). If the activity or site is not for profit, the department shall fabricate and install the sign and provide normal maintenance at no cost to the applicant.

119.6(2) *Installation and maintenance of trailblazing signs.* If the activity or site is not located adjacent to the secondary road or city street intersecting the primary route, trailblazing signs are required. Trailblazing signs shall conform to requirements in the MUTCD.

a. The department shall fabricate trailblazing signs and provide them to cities and counties for installation on secondary roads and city streets. Cities and counties are responsible for the installation and maintenance of trailblazing signs on routes under their jurisdiction.

b. Trailblazing signs for a for-profit activity or site shall not be installed until the applicant has paid the department a fee for the cost of sign fabrication.

c. Tourist-oriented directional signs shall not be installed until necessary trailblazing signs are in place.

119.6(3) *Fees.* The initial fee, payable once an application is approved, is $100 per sign plus the cost of sign fabrication and installation. The annual renewal fee, payable on or before June 30 of each year, is $50 per sign, which covers administrative costs and normal maintenance. These fees apply to for-profit activities or sites only.

119.6(4) *Additional services.* The department may perform additional services requested for an activity or site in connection with the modification of a tourist-oriented directional sign. If the sign is for a for-profit activity or site, the activity or site shall prepay a $50 service charge plus the cost of any required new or renovated sign.

119.6(5) *Seasonal activity or site.* A tourist-oriented directional sign for a seasonal activity or site must either be masked or have a "closed" panel installed over the sign's directional information when the activity or site is closed or when the hours of operation decrease below the minimum requirements during the off-season period. Either the department or the activity or site with the department's permission shall perform the work. If the department performs the work, the approved applicant must pay the actual cost to install and remove the "closed" panel or to mask the sign.

119.6(6) *Required replacement.*

a. The department shall determine when a tourist-oriented directional sign is no longer serviceable and needs to be replaced. A for-profit activity or site must pay for the cost of a new sign and its installation prior to installation. If the activity or site is not for profit, the department shall replace the sign at no cost to the activity or site.

b. The department is not responsible for theft of tourist-oriented directional signs or damage to them caused by vandalism, vehicle accidents, or natural causes. If a sign for a for-profit activity or site requires repair or replacement due to theft or damage, the activity or site must pay the cost of a new sign and its installation. At the activity's or site's request, this cost may be spread over a 12-month period. If the activity or site is not for profit, the department shall repair or replace the sign at no cost to the activity or site.

119.6(7) *Removal.* The department shall remove a tourist-oriented directional sign if the activity or site no longer qualifies for tourist-oriented directional signing. As official signs, all tourist-oriented directional signs are the property of the department and shall not be given to applicants upon the signs' removal.

These rules are intended to implement Iowa Code section 321.252.

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CHAPTER 120
PRIVATE DIRECTIONAL SIGNING

761—120.1(306C) Definitions. The definitions in Iowa Code section 306C.10 apply to this chapter. In addition:

"Daylight area" means a triangular area formed by a line connecting two points back (50 feet in cities and 100 feet in unincorporated areas) from the point where the right-of-way lines of the main traveled way and an intersecting road or street meet or would meet if extended.

"Interchange" means the entire area constructed for the junction of two or more roads or streets by a system of separate levels that permit traffic to pass from one to another without crossing traffic streams. This definition includes all acceleration and deceleration lanes constructed to accommodate this movement of traffic.

"Lease" means an oral or written agreement by which possession or use of land or interests therein are given by the owner or other person to another person for a specified purpose.

"Parkland" means any public land that is designated or used as a public park, recreation area, wildlife management area, wildlife or waterfowl refuge or historic site.

"Private directional signs" means signs containing directional information about public places owned or operated by federal, state or local governments or their agencies; publicly or privately owned natural phenomena or historical, cultural, scientific, educational or religious sites; or publicly or privately owned areas of natural scenic beauty or naturally suited for outdoor recreation. This definition includes sites set aside as refuges for the preservation of species on the federal or state endangered species list. "Private directional signs" pertains only to signs erected on private property.

"Scenic area" means any area of particular scenic beauty or historical significance, as determined by the federal, state, or local officials having jurisdiction over the area. "Scenic area" includes real property interests that have been acquired for the restoration, preservation and enhancement of scenic beauty.

761—120.2(306C) General requirements.

120.2(1) A private directional sign visible from an interstate, freeway primary or primary highway shall not be erected or maintained unless the requirements of this chapter are met.

120.2(2) A private directional sign shall not:

a. Attempt or appear to attempt to direct the movement of traffic.

b. Interfere with, imitate or resemble any official traffic sign, signal, or device.

c. Move or have any animated or moving part.

d. Be erected or maintained on a tree or painted or drawn on a rock or other natural feature.

e. Violate state or local law.

761—120.3(306C) Size requirements.

120.3(1) A private directional sign shall not exceed the following dimensions:

a. Area: 150 square feet.

b. Height: 20 feet.

c. Length: 20 feet.

120.3(2) These dimensions include border and trim, but exclude supports.

120.3(3) A private directional sign shall be rectangular in shape.

761—120.4(306C) Lighting requirements. A private directional sign may be illuminated, subject to the following:

120.4(1) A private directional sign shall not contain or be illuminated by any flashing, intermittent, variable intensity, or moving light.

120.4(2) The illumination of a private directional sign shall not interfere with the effectiveness of or obscure an official traffic sign, signal or device.

120.4(3) The illumination of a private directional sign shall be either:

a. Effectively shielded so that beams or rays of light are not directed at any portion of the main traveled way, or

b. Of an intensity or brilliance that does not cause glare, impair a motorist's vision, or otherwise interfere with the operation of a motor vehicle.

761—120.5(306C) Spacing and location requirements.

120.5(1) A private directional sign shall be located off the highway right-of-way.

120.5(2) A private directional sign for a privately owned activity or site shall not be located in a publicly owned rest area, parkland or scenic area.

120.5(3) The following spacing requirements apply to private directional signs:

a. A private directional sign shall not be located within the adjacent area on either side of the highway within 2,000 feet of an interchange or a publicly owned rest area, parkland or scenic area.

b. Private directional signs facing the same direction of travel shall be spaced at least one mile apart.

c. A private directional sign shall not be erected within one mile of a tourist-oriented directional sign for the same activity or site if both signs would be on the same route and face the same direction.

d. Distance (spacing) is measured along a line parallel to the highway centerline from a point perpendicular to the starting point (e.g., another sign or the boundary of a rest area, parkland, scenic area or interchange) to a point perpendicular to the proposed sign location.

e. The boundary of an interchange is the end or beginning of whichever acceleration or deceleration ramp that extends the farthest from the interchange. In an area where two interchanges are in such close proximity that the acceleration or deceleration lanes or ramps merge or overlap or where there are continuous acceleration or deceleration lanes between interchanges, the area will be treated as one continuous interchange.

f. A private directional sign shall not be located within the daylight area.

g. Except as otherwise specified, on-premises signs, permitted billboards, and official signs and notices are not taken into consideration when determining compliance with spacing requirements.

120.5(4) In unincorporated areas, private directional signs shall not be located beyond the adjacent area.

120.5(5) No more than three private directional signs pertaining to the same activity or site and facing the same direction of travel may be erected along a single route approaching the activity or site.

120.5(6) A private directional sign visible from an interstate highway shall be within 75 air miles of the activity or site it identifies.

120.5(7) A private directional sign visible from a freeway primary or primary highway shall be within 50 air miles of the activity or site it identifies.

120.5(8) The location of a private directional sign shall be subject to approval by the department of transportation.

761—120.6(306C) Message content.

120.6(1) The message on a private directional sign shall identify the activity or site and contain directional information to assist motorists in locating the activity or site, including route numbers and exit numbers.

120.6(2) Unless otherwise specified by the department, the sign message shall include travel distance to the activity or site and information that sufficiently informs motorists of the hours, days, and months of operation of the activity or site. At the department's discretion, this information may be omitted if the department determines that the omission will not inconvenience motorists.

120.6(3) Unless otherwise specified by the department, the sign message for an area naturally suited for outdoor recreation shall advise the motorist of the types of recreational amenities available. At the department's discretion, this information may be given by either listing the activities or displaying the appropriate symbols, and may be omitted altogether if the department determines that the omission will not inconvenience motorists.

120.6(4) The sign message shall not contain additional words or phrases descriptive of the activity or site, pictorial or photographic representations of the activity or site or its environs, or advertisements of brand-name goods. However, the department may authorize the display of a nationally or regionally recognized trademark or logo.

120.6(5) The sign message shall contain current information.

120.6(6) The sign message shall not identify an activity or site that is illegal, either at the location of the activity or site or at the location of the sign.

120.6(7) The sign message is subject to approval by the department. A change in the message is also subject to this approval.

761—120.7(306C) Eligibility for private directional signs. The activity or site shall meet the following eligibility requirements for private directional signing:

120.7(1) The types of activities or sites eligible for private directional signing are limited to those found in the definition of private directional signs in rule 120.1(306C).

120.7(2) Eligibility is limited to activities or sites that are nationally or regionally known and are of outstanding interest to the traveling public.

120.7(3) The activity or site must be open to the general public and not by appointment, reservation or membership only and must comply with all applicable laws concerning public accommodations without regard to race, religion, color, age, sex or national origin.

120.7(4) To be eligible for a private directional sign visible from an interstate highway, the activity or site shall meet the location requirement of subrule 120.5(6). It shall also have an annual visitor count of 15,000 or more.

120.7(5) To be eligible for a private directional sign visible from a freeway primary or primary highway, the activity or site shall meet the location requirement of subrule 120.5(7). It shall also have an annual visitor count of 10,000 or more. However:

a. The annual visitor count need only be 5,000 or more if the activity or site is on the National Register of Historic Places.

b. The annual visitor count need only be 2,500 or more if at least 25 percent of its visitors reside in another state or in a county other than the county in which the activity or site is located.

761—120.8(306C) Application and approval procedures.

120.8(1) An application for a private directional sign shall be submitted to: Advertising Management Section, Office of Traffic and Safety, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

120.8(2) The department shall verify compliance with minimum requirements and develop an agenda for the tourist signing committee's review of applications that meet minimum requirements. The department shall return to the applicant an application that does not meet minimum requirements.

120.8(3) The tourist signing committee will approve or deny applications. The composition of the committee is set out in 761—subrule 119.5(3).

120.8(4) If an application is approved and the applicant has obtained the department's approval of the sign location and message and has paid the appropriate fee, the department shall issue a directional signing permit. A directional signing permit is issued for a specific sign at a specific location for a qualifying activity or site and is not transferable.

120.8(5) If there are two or more applications for qualifying activities or sites and space limitations will not permit the installation of signs for all applications, applications shall be approved on a first-come, first-served basis.

761—120.9(306C) Fees. The initial fee, payable at the time of application, is $100 per permit. The annual renewal fee, payable on or before June 30 of each year, is $15 per permit.

761—120.10(306C) Erection and maintenance.

120.10(1) A private directional sign shall not be erected until a directional signing permit has been issued for it.

120.10(2) A private directional sign shall be securely affixed to a substantial structure.

120.10(3) A private directional sign shall be maintained in a neat, clean, and attractive condition and shall be in good repair.

120.10(4) The permit holder is responsible for procurement, erection, and maintenance of the sign, including associated costs.

120.10(5) The department shall revoke a directional signing permit for any of the reasons listed below. If the permit is revoked, the permit holder shall remove the sign without compensation.

a. The activity or site no longer qualifies for private directional signing.

b. The annual renewal fee has not been paid.

c. The sign violates a provision of this chapter.

d. Information or facts in the application are intentionally falsified or misrepresented.

120.10(6) Permit plate.

a. The department shall issue a metal permit plate for a permitted sign. The permit plate displays the permit number for the sign.

b. The permit holder shall securely attach the plate to the sign face at the bottom corner nearest the main traveled way or to the support structure immediately below the bottom corner. However, if these locations do not provide an unobstructed view of the permit number from the main traveled way, the permit plate shall be attached to another prominent area of the sign so that the view of the permit number is unobstructed.

c. The permit holder is responsible for replacing a permit plate that is missing or illegible. To obtain a replacement, the permit holder shall apply to the department and pay a $10 fee.

d. If the department notifies the permit holder that a permit plate is not properly displayed, the permit holder shall within 90 days of notification either correct the situation or secure and display a replacement permit plate. Failure to properly display a permit plate after the 90-day period has expired shall result in revocation of the directional signing permit for the sign.

120.10(7) Access. Access to the private property upon which a private directional sign is located shall be gained from highway right-of-way only at access points designated or allowed by the department in accordance with 761—Chapter 112. An initial violation of this requirement by or on behalf of the permit holder shall result in the department's sending a written warning by certified mail to the permit holder. A second violation of this requirement shall result in revocation of the directional signing permit. If a directional signing permit is revoked for an access violation, the permit holder is ineligible to apply for a permit for at least 12 months after revocation for any location within 500 feet of the revoked permit's sign location.

120.10(8) Destruction of vegetation. Without the written authorization of the department, vegetation growing on the highway right-of-way shall not be cut, trimmed, removed, or in any manner altered or damaged to improve the visibility of a private directional sign. Violation of this prohibition by or on behalf of the permit holder shall result in revocation of the directional signing permit. If a directional signing permit is revoked because of destruction of vegetation, the permit holder is ineligible to apply for a permit for 12 months after revocation for any location within 500 feet of the revoked permit's sign location.

These rules are intended to implement Iowa Code sections 306C.10 to 306C.19.

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[Filed 11/7/02, Notice 9/4/02—published 11/27/02, effective 1/1/03]

CHAPTER 121
ADOPT-A-HIGHWAY PROGRAM

761—121.1(307) Purpose. These rules describe the adopt-a-highway program and the procedure for applying to participate in the program.

761—121.2(307) Information and location. Information and application forms relating to the adopt-a-highway program may be obtained by contacting the local maintenance office for the name of the person administering the program in the local area, or: Office of Maintenance, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. Applications shall be submitted to the person administering the program in the local area.

761—121.3(307) Program guidelines. All primary roads, including interstate highways, under the jurisdiction of the department shall be eligible for participation in the adopt-a-highway program.

761—121.4(307) Sponsors.

121.4(1) *Eligible sponsors.* Communities, organizations and individuals are eligible to participate in the adopt-a-highway program.

121.4(2) *Ineligible sponsors.* The department shall not grant sponsorship of a highway section in the adopt-a-highway program if the sponsorship might be deemed a partisan endorsement by the state or have an adverse effect on the program.

761—121.5(307) Eligible activities.

121.5(1) The adopt-a-highway program allows individuals or groups to assume responsibility for performing one or more of the eligible activities for a specific segment of highway.

121.5(2) Eligible activities for sponsorship in the adopt-a-highway program include, but are not limited to: litter pickup, wildflower and prairie grass plantings, planting and harvesting seed for wildlife and reseeding operations, tree planting, landscaping and landscape maintenance, living snow fence plantings, and hand weeding of sensitive areas.

761—121.6(307) Procedure.

121.6(1) *Application.* Form 810105, "Application to Adopt-A-Highway," includes the agreements to be signed by the sponsor and the department and lists the responsibilities of both the sponsor and the department.

121.6(2) *Selection.* If more than one individual or group applies to adopt a specific highway segment, the department shall determine the sponsor.

121.6(3) *Termination.* If the department determines that a sponsor is not fulfilling the terms and conditions of the agreement, the department may terminate the sponsorship.

These rules are intended to implement Iowa Code section 307.24.

[Filed 3/13/90, Notice 1/24/90—published 4/4/90, effective 5/9/90]
[Filed 10/28/98, Notice 8/26/98—published 11/18/98, effective 12/23/98]
[Filed 3/13/02, Notice 2/6/02—published 4/3/02, effective 5/8/02]

CHAPTER 122
KEEP IOWA BEAUTIFUL PROGRAM

761—122.1(314) Purpose. The purpose of the keep Iowa beautiful program established by Iowa Code section 314.28 is to provide funds for litter prevention, waste management and recycling, and beautification projects. The program is funded from moneys appropriated to the department by the general assembly from the keep Iowa beautiful fund. These rules establish eligibility standards and the application and approval procedures for project funding.

761—122.2(314) Information. Information and application forms regarding the keep Iowa beautiful program may be obtained from the following sources:

1. Office of Systems Planning, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.
2. Keep Iowa Beautiful, 300 E. Locust Street, Suite 100, Des Moines, Iowa 50309; telephone (515)323-6507. Keep Iowa Beautiful is a nonprofit, charitable organization.
3. The following Web sites: www.keepiowabeautiful.com or www.iowadot.gov/forms.

761—122.3(314) Allocation of funds. The director of transportation shall allocate up to 70 percent of the moneys appropriated to the department from the keep Iowa beautiful fund to community projects. Community projects are those that will have a local impact. The director shall allocate the remaining funds to the Keep Iowa Beautiful organization for projects that will have a statewide impact.

761—122.4 Reserved.

761—122.5(314) Community projects.

122.5(1) *Applicant eligibility.* Any public or private, nonprofit organization is eligible to apply for and receive funds for a community project under the keep Iowa beautiful program. Once a project is approved, the applicant is termed the "project sponsor."

122.5(2) *Project eligibility.*

a. A community project must have as its primary purpose litter removal or prevention, improving waste management or recycling efforts, or beautification.

b. The purchase of motorized equipment costing more than $1,000 is not eligible for funding.

c. Administrative and operating costs of the project sponsor are not eligible for funding.

d. A community project must be completed within one year.

122.5(3) *Funding.*

a. Projects are funded on a grant basis.

b. A project need not include matching contributions. However, the higher degree of match, the more likely a project will be approved.

c. Keep Iowa beautiful funds approved for a project are for a maximum dollar amount. Cost overruns are the responsibility of the project sponsor.

122.5(4) *Project application.*

a. A project application shall be submitted to the office of systems planning on the application form prescribed by the department. Funding for projects is approved each year. The application deadline is December 31 of each year or on the first workday following that date if December 31 falls on a weekend. Applications must be received by the department no later than 4:30 p.m. on the due date.

b. A project application shall include:

(1) The name and a description of the applicant organization.

(2) The applicant's mailing address and telephone number, along with the name of the contact person who will serve as project liaison with the department.

(3) A description of the project, including its purpose and the expected results.

(4) A timetable for the project.

(5) The amount of keep Iowa beautiful funds requested.

(6) The value of matching contributions. See paragraph *"c"* of this subrule for a discussion of matching contributions.

(7) An estimate of the hours of volunteer labor anticipated.

(8) On a separate sheet, an itemized budget for the total project. For each funding source (i.e., keep Iowa beautiful funds or matching contributions), the applicant shall list each item to be purchased or the resource to be donated along with its cost or value.

c. Matching contributions include cash donations from sources other than the keep Iowa beautiful fund, in-kind contributions, and volunteer labor.

(1) In-kind contributions include donated materials, supplies and business services.

(2) Business services are those services provided by a business or by a person whose trade, profession or occupation is to provide those services.

(3) The value of an in-kind contribution is its purchase price or market value.

(4) The value of volunteer labor shall be based on the minimum wage rate for the state in effect on the application deadline for each cycle.

122.5(5) *Review committee.* A keep Iowa beautiful review committee shall evaluate all applications and recommend community projects to be funded and the amount to be funded for each project. The committee is composed of individuals appointed by the director of transportation.

122.5(6) *Project selection.* Considering the recommendations of the review committee, the director of transportation shall select community projects to be funded and the amount to be funded for each project.

122.5(7) *Project selection criteria.*

a. The primary criterion for determining funding priorities is the anticipated effectiveness of a project to clean up or prevent litter, improve waste management or recycling efforts, improve the attractiveness of an area, or beautify a site.

b. The selection committee may balance the use of funds between rural and urban communities, various areas of the state, or diverse groups of citizens.

c. Higher priority shall be given to those applications that leverage keep Iowa beautiful funds with matching contributions.

122.5(8) *Project agreement.* Once a project is approved, the approved project application constitutes the agreement between the department and the project sponsor.

122.5(9) *Project administration.*

a. The project sponsor is accountable for the keep Iowa beautiful funds used on the project.

b. The project sponsor shall submit a report to the office of systems planning upon completion of the project. The report shall describe the project, include an accounting of the use of keep Iowa beautiful funds used on the project, and state the results and effectiveness of the project.

c. The department may audit all project costs incurred for compliance with the agreement, including costs that are part of the matching contribution.

122.5(10) *Noncompliance.* The department may seek repayment of keep Iowa beautiful funds for any of the following reasons:

a. The project sponsor fails to fulfill the terms of the agreement.

b. The department finds that the application contains material inaccuracies, omissions, errors or misrepresentations.

c. The time schedule for project completion is misrepresented or has not been maintained.

761—122.6 Reserved.

761—122.7(314) Statewide projects.

122.7(1) *Agreement.* The use of keep Iowa beautiful funds for statewide projects shall be governed by a written agreement between the department and the Keep Iowa Beautiful organization. The agreement shall specify the approved funding level and the conditions for funding.

122.7(2) *Project eligibility.*

a. A statewide project must have as its primary purpose litter removal or prevention, improving waste management or recycling efforts, or beautification.

b. The purchase of motorized equipment costing more than $1,000 is not eligible for funding.

c. Administrative and operating costs of the Keep Iowa Beautiful organization are not eligible for funding.

122.7(3) *Project administration.*

a. The Keep Iowa Beautiful organization is accountable for the keep Iowa beautiful funds allocated to it.

b. The Keep Iowa Beautiful organization shall submit a report to the office of systems planning each year. The report shall describe the projects funded using keep Iowa beautiful funds, include an accounting of the use of keep Iowa beautiful funds used on each project, and state the results and effectiveness of each project.

c. The department may audit all project costs incurred for compliance with the agreement.

122.7(4) *Noncompliance.* The department may seek repayment of keep Iowa beautiful funds if the Keep Iowa Beautiful organization fails to fulfill the terms of the agreement.

These rules are intended to implement Iowa Code section 314.28.

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[Filed 6/12/08, Notice 4/23/08—published 7/2/08, effective 8/6/08]

CHAPTER 123
REST AREA SPONSORSHIP PROGRAM

761—123.1(307) Introduction and purpose. The rest area sponsorship program is an exchange of a monetary contribution from a person, a firm, or an entity for public recognition in the form of identification displayed on an acknowledgment sign on the main-traveled way of an interstate highway in advance of the exit for a rest area and an interior sign within the primary rest area building. The purpose of the program is to provide contributory support for the primary road fund. The rest areas are funded through the primary road fund and provide a public service.
[**ARC 0187C**, IAB 7/11/12, effective 8/15/12; see Delay note at end of chapter]

761—123.2(307) Contact information. Information relating to the issuance of requests for proposals when sponsorship opportunities become available may be obtained from the Office of Maintenance, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010, or by telephone at (515)239-1971.
[**ARC 0187C**, IAB 7/11/12, effective 8/15/12; see Delay note at end of chapter]

761—123.3(307) Definitions. As used in this chapter, unless the context otherwise requires:

"Acknowledgment sign" means an official sign placed within the right-of-way which meets all design and placement guidelines for acknowledgment signs as covered in Part 2 of the MUTCD, and all sign design principles covered in the most current edition of the "Standard Highway Signs and Markings Book," as published by the U.S. Department of Transportation, Federal Highway Administration, and which is intended only to inform the traveling public that a highway-related service, product or monetary contribution has been sponsored by a person, firm or entity.

"Advertise" means to provide information on a sign which includes, but is not limited to, any of the following: promotional offers, location directions, a listing of amenities, descriptive words or phrases, telephone numbers, Internet addresses including domain names, slogans or any message that is extraneous to the identification of a single-sponsoring person, firm or entity.

"Identification" means a display on an acknowledgment sign which is limited to the name of the sponsor or a registered or unregistered trademark in addition to or instead of the name of the sponsor, if such mark is used consistently by the sponsor whenever and wherever the firm's or entity's name is visible to the public, and the medium will allow. If multiple trademarks are used by the sponsor, identification is provided only by the one in the simplest form needed to identify the sponsor.

"Interstate highway" means any highway of the primary system at any time officially designated as a part of the national system of interstate and defense highways by the department and approved by the appropriate authority of the federal government.

"Main-traveled way" means the portion of the roadway for movement of vehicles on which through traffic is carried, exclusive of shoulders and auxiliary lanes. In the case of a divided highway, the main-traveled way includes each of the separated roadways for traffic in opposite directions, exclusive of frontage roads, turning roadways or parking areas.

"MUTCD" means the Manual on Uniform Traffic Control Devices as adopted in 761—Chapter 130.

"Rest area" means an area or site established and maintained within or adjacent to the right-of-way of an interstate, freeway-primary or primary highway under supervision and control of the department for the safety, recreation, and convenience of the traveling public. Subject to paragraph 123.4(1)*"b,"* if two rest areas are located in close proximity and serve opposite directions of travel, both rest areas are individually eligible for sponsorship.

"Right-of-way" means land area dedicated to public use for the highway and its maintenance, and includes land acquired in fee simple or by permanent easement for highway purposes, but does not include temporary easements or rights for supplementary highway appurtenances.

"Sponsor" means a single person, firm or entity which has been approved by the department for the rest area sponsorship program.
[**ARC 0187C**, IAB 7/11/12, effective 8/15/12; see Delay note at end of chapter]

761—123.4(307) General provisions.

123.4(1) *Scope.*

a. This program is limited to the sponsorship of all rest areas located on the interstate highways in Iowa.

b. This program may be limited by the department to those rest areas located in areas where adequate spacing for acknowledgment signs along the main-traveled way is available, in accordance with the MUTCD, Section 2H.08, "Acknowledgment Signs."

123.4(2) *Authority and conditions.*

a. Subject to the provisions of Iowa Code section 321.253, the department may erect in advance of the exit for the rest area one acknowledgment sign per rest area, per direction of travel, on the interstate highway right-of-way along the main-traveled way.

b. The department may allow an interior sign, with size and message approved by the department, within the primary building which may advertise the sponsor.

c. Subject to the provisions of Iowa Code chapter 23A, the department may, through an equitable procurement process, receive a monetary contribution from an approved sponsor. This monetary contribution shall be deposited into the primary road fund and subsequently spent for highway purposes, including the maintenance and operation of the rest areas.

d. The department shall have the right to discontinue the program, or portions thereof, if the program or any component part of the program is found to be in violation of federal law or regulation.

e. The department shall have the right to terminate a sponsorship agreement for reasons, as determined by the department, based on safety concerns, interference with the free and safe flow of traffic, or a determination that the sponsorship agreement or acknowledgment sign is not in the public interest.

[**ARC 0187C**, IAB 7/11/12, effective 8/15/12; see Delay note at end of chapter]

761—123.5(307) Sponsorship agreements.

123.5(1) *Federal Highway Administration approval.* All sponsorship agreements are subject to approval by the Federal Highway Administration.

123.5(2) *Qualifications.* A person, firm or entity may be eligible to participate as a sponsor for the program. However, the department may deny the proposal or application from any potential sponsor if the sponsor's participation might be deemed by the state as a partisan endorsement or have an adverse effect on the program.

123.5(3) *Selection process.* Sponsors will be approved through a fair and transparent procurement process, as approved by the department, subject to the provisions of 761—Chapter 20.

123.5(4) *Discrimination prohibited.* As a condition of approval as a sponsor, the sponsor shall give the department written assurance of the sponsor's conformity with all applicable laws prohibiting discrimination based on age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability.

[**ARC 0187C**, IAB 7/11/12, effective 8/15/12; see Delay note at end of chapter]

761—123.6(307) Acknowledgment sign criteria.

123.6(1) *Identification displayed.*

a. An acknowledgment sign shall not advertise.

b. An acknowledgment sign shall not contain any messages, lights, symbols or trademarks that resemble any official traffic control device.

c. An acknowledgment sign shall contain the appropriate lettering to indicate "REST AREA" and may contain an identification of one sponsor.

d. The department shall review the acknowledgment sign proposed by the sponsor and shall have full authority to determine whether proposed designs from sponsors advertise or provide identification.

e. The department shall not approve any acknowledgment sign proposed by the sponsor if the sign might be deemed a partisan endorsement or have an adverse effect on the program.

123.6(2) *Design and placement of acknowledgment sign.*

a. The department shall determine when adequate spacing is available to accommodate the placement of an acknowledgment sign in accordance with the MUTCD.

b. The entire sign display area shall not exceed 24 square feet.

c. The area reserved for the identification of the sponsor shall not exceed one-third of the total area of the sign, shall be a maximum of 8 square feet, and shall not be located at the top of the sign.

d. Sponsors must provide signs measuring 24 inches high and 48 inches wide that are fabricated from .080 aluminum with 2-inch radius corners and have a ½-inch white border for placement on the acknowledgment signs.

e. The department shall inspect signs received from sponsors, and if the signs meet the requirements contained in this rule, the department shall perform the installation.

f. All acknowledgment signs erected by the department shall conform to the MUTCD.

[**ARC 0187C**, IAB 7/11/12, effective 8/15/12; see Delay note at end of chapter]

These rules are intended to implement Iowa Code subsection 23A.2(9) and Iowa Code section 307.24.

[Filed ARC 0187C (Notice ARC 0113C, IAB 5/2/12), IAB 7/11/12, effective 8/15/12][1]

[1] August 15, 2012, effective date of Chapter 123 [ARC 0187C] delayed 70 days by the Administrative Rules Review Committee at its meeting held August 14, 2012.

CHAPTER 124
HIGHWAY HELPER SPONSORSHIP PROGRAM

761—124.1(307) Introduction and purpose. The department operates the highway helper sponsorship program on the primary highways to keep traffic flowing by providing minor breakdown assistance and aiding with traffic control at crash scenes. This chapter establishes the requirements for a sponsorship for this program. The purpose of this sponsorship program is to provide contributory support for the primary road fund. The highway helper fleet is funded through the primary road fund and provides a public service.
[**ARC 0187C**, IAB 7/11/12, effective 8/15/12; see Delay note at end of chapter]

761—124.2(307) Contact information. Information relating to the issuance of requests for proposals when sponsorship opportunities become available may be obtained from the Office of Traffic and Safety, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010, or by telephone at (515)239-1296.
[**ARC 0187C**, IAB 7/11/12, effective 8/15/12; see Delay note at end of chapter]

761—124.3(307) Definitions. As used in this chapter, unless the context otherwise requires:

"Acknowledgment sign" means an official sign placed within the right-of-way which meets all design and placement guidelines for acknowledgment signs as covered in Part 2 of the MUTCD, and all sign design principles covered in the most current edition of the "Standard Highway Signs and Markings Book," as published by the U.S. Department of Transportation, Federal Highway Administration, and which is intended only to inform the traveling public that a highway-related service, product or monetary contribution has been sponsored by a person, firm or entity.

"Advertise" means to provide information on a sign which includes, but is not limited to, any of the following: promotional offers, location directions, a listing of amenities, descriptive words or phrases, telephone numbers, Internet addresses including domain names, slogans or any message that is extraneous to the identification of a single-sponsoring person, firm or entity.

"Freeway-primary highway" means those highways under department jurisdiction which have been constructed as a fully controlled access facility with no access to the facility except at established interchanges.

"Highway helper vehicle" means a motor vehicle included in the program as designated by the department.

"Identification" means a display on an acknowledgment sign which is limited to the name of the sponsor or a registered or unregistered trademark in addition to or instead of the name of the sponsor, if such mark is used consistently by the sponsor whenever and wherever the firm's or entity's name is visible to the public, and the medium will allow. If multiple trademarks are used by the sponsor, identification is provided only by the one in the simplest form needed to identify the sponsor.

"Interstate highway" means any highway of the primary system at any time officially designated as a part of the national system of interstate and defense highways by the department and approved by the appropriate authority of the federal government.

"Main-traveled way" means the portion of the roadway for movement of vehicles on which through traffic is carried, exclusive of shoulders and auxiliary lanes. In the case of a divided highway, the main-traveled way includes each of the separated roadways for traffic in opposite directions, exclusive of frontage roads, turning roadways or parking areas.

"MUTCD" means the Manual on Uniform Traffic Control Devices as adopted in 761—Chapter 130.

"Right-of-way" means land area dedicated to public use for the highway and its maintenance, and includes land acquired in fee simple or by permanent easement for highway purposes, but does not include temporary easements or rights for supplementary highway appurtenances.

"Sponsor" means a single person, firm or entity which has been approved by the department for the highway helper sponsorship program. If the highway helper sponsorship program includes more than one urban area, this definition shall not preclude the approval of one sponsor per urban area.
[**ARC 0187C**, IAB 7/11/12, effective 8/15/12; see Delay note at end of chapter]

761—124.4(307) General provisions.

124.4(1) *Program ownership and operation.* The department shall retain ownership and operation of the highway helper program.

124.4(2) *Monetary contributions.* Subject to the provisions of Iowa Code chapter 23A, the department may, through an equitable procurement process, receive a monetary contribution from an approved sponsor. This monetary contribution shall be deposited into the primary road fund and subsequently spent for highway purposes, including the maintenance and operation of the highway helper sponsorship program.

124.4(3) *Placement of signs.* Subject to the provisions of Iowa Code section 321.253, the department may erect acknowledgment signs within the right-of-way along the main-traveled way of any interstate or freeway-primary highway patrolled by the highway helper vehicles.

124.4(4) *Program discontinuance.* The department shall have the right to discontinue the program, or portions thereof, if the program or any component part of the program is found to be in violation of federal law or regulation.

124.4(5) *Termination of sponsorship agreement.* The department shall have the right to terminate a sponsorship agreement for reasons, as determined by the department, based on safety concerns, interference with the free and safe flow of traffic, or a determination that the sponsorship agreement or acknowledgment sign is not in the public interest.

[**ARC 0187C**, IAB 7/11/12, effective 8/15/12; see Delay note at end of chapter]

761—124.5(307) Sponsorship agreements.

124.5(1) *Federal Highway Administration approval.* All sponsorship agreements are subject to approval by the Federal Highway Administration.

124.5(2) *Qualifications.* A person, firm or entity may be eligible to participate as a sponsor for the program. However, the department may deny the proposal or application from any potential sponsor if the sponsor's participation might be deemed by the state as a partisan endorsement or have an adverse effect on the program.

124.5(3) *Selection process.* Sponsors will be approved through a fair and transparent procurement process, as approved by the department, subject to the provisions of 761—Chapter 20.

124.5(4) *Sponsor benefits.* Subject to terms mutually agreed upon by the department and sponsor during or following the procurement process, the following benefits may be offered:

a. Identification of the sponsor on acknowledgment signs along the interstate or freeway-primary highway, subject to rule 761—124.6(307).

b. Placement of the sponsor's name and logo on a highway helper vehicle, not to exceed the dimension and size requirements for the particular highway helper vehicle, as determined by the department.

124.5(5) *Discrimination prohibited.* As a condition of approval as a sponsor, the sponsor shall give the department written assurance of the sponsor's conformity with all applicable laws prohibiting discrimination based on age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability.

[**ARC 0187C**, IAB 7/11/12, effective 8/15/12; see Delay note at end of chapter]

761—124.6(307) Acknowledgment sign criteria.

124.6(1) *Identification displayed.*

a. An acknowledgment sign shall not advertise.

b. An acknowledgment sign shall not contain any messages, lights, symbols or trademarks that resemble any official traffic control device.

c. An acknowledgment sign shall contain the appropriate lettering to indicate "HIGHWAY HELPER" and may contain an identification of one sponsor.

d. The department shall review the acknowledgment sign proposed by the sponsor and shall have full authority to determine whether proposed designs from sponsors advertise or provide identification.

e. The department shall not approve any acknowledgment sign proposed by the sponsor if the sign might be deemed a partisan endorsement or have an adverse effect on the program.

124.6(2) *Design and placement of acknowledgment sign.*

a. The department shall determine when adequate spacing is available to accommodate the placement of an acknowledgment sign in accordance with the MUTCD.

b. No more than one acknowledgment sign per interstate or freeway-primary route per direction shall be installed within an urban area. If routes run concurrently, each route may be afforded one acknowledgment sign per direction, at the department's discretion.

c. The entire sign display area shall not exceed 24 square feet.

d. The area reserved for the identification of the sponsor shall not exceed one-third of the total area of the sign, shall be a maximum of 8 square feet, and shall not be located at the top of the sign.

e. Sponsors must provide signs measuring 24 inches high and 48 inches wide that are fabricated from .080 aluminum with 2-inch radius corners and have a ½-inch white border for placement on the acknowledgment signs.

f. The department shall inspect signs received from sponsors, and if the signs meet the requirements contained in this rule, the department shall perform the installation.

g. All acknowledgment signs erected by the department shall conform to the MUTCD.

[**ARC 0187C**, IAB 7/11/12, effective 8/15/12; see Delay note at end of chapter]

These rules are intended to implement Iowa Code subsection 23A.2(9) and Iowa Code section 307.24.

[Filed ARC 0187C (Notice ARC 0113C, IAB 5/2/12), IAB 7/11/12, effective 8/15/12][1]

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CONSTRUCTION

CHAPTER 125
GENERAL REQUIREMENTS AND COVENANTS FOR HIGHWAY AND BRIDGE CONSTRUCTION

[Prior to 6/3/87, Transportation Department[820]—(06,G) Ch 1]

761—125.1(307A) Standard specifications. Sections 1101 to 1105 of the manual, "Standard Specifications for Highway and Bridge Construction, Series of 2001," constitute the standards and requirements governing terminology, proposal requirements and conditions, approval for award and award of contracts, scope of work and control of work for highway construction and maintenance performed under contracts awarded by the department.

761—125.2(307A) Standard specifications. Rescinded IAB 9/5/01, effective 10/10/01.

761—125.3(307A) Availability of specifications.

125.3(1) The publication entitled "Standard Specifications for Highway and Bridge Construction" may be obtained from the Central Warehouse, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. Copies of the publication are also available for examination at various departmental offices located throughout the state.

125.3(2) Copies of supplemental specifications may be obtained from the Office of Contracts, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

125.3(3) Supplemental specifications applicable to a particular project also accompany each bidding proposal issued for that project.

These rules are intended to implement Iowa Code section 307A.2.

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CHAPTER 126
CONTRACTS SET ASIDE FOR DISADVANTAGED BUSINESS ENTERPRISES

[Prior to 6/3/87, Transportation Department[820]—(06,G) Ch 2]

Rescinded IAB 9/5/01, effective 10/10/01

CHAPTER 127
BIKEWAYS AND WALKWAYS

[Prior to 6/3/87, Transportation Department[820]—(06,A) Ch 2]

Rescinded IAB 3/29/95, effective 5/3/95

CHAPTER 128
CONSTRUCTION PROJECTS

Rescinded IAB 9/4/02, effective 10/9/02

CHAPTER 129
Reserved

TRAFFIC OPERATIONS

CHAPTER 130
SIGNING MANUAL

[Prior to 6/3/87, Transportation Department[820]—(06,K) Ch 2]

761—130.1(321) Manual. The "Manual on Uniform Traffic Control Devices" (MUTCD), 2009 Edition dated December 2009, published by the U.S. Department of Transportation, Federal Highway Administration, shall constitute the manual and specifications for a uniform system of traffic control devices for use upon the highways of this state.

130.1(1) The department makes the following exception to the MUTCD for school zones: In Part 2, Section 2B.04, paragraph 12, of the MUTCD, Right-of-Way at Intersections, Standard, in lieu of the sentence "Portable or part-time STOP or YIELD signs shall not be used except for emergency and temporary traffic control zone purposes," the department adopts the following: "Portable or part-time STOP signs may be used only in the following situations:

"1. When necessary for emergency and temporary traffic control zone purposes, or

"2. In school zones at appropriate school crosswalks."

130.1(2) The department makes the following exception to the MUTCD, Section 1A.09, Engineering Study and Engineering Judgment: Add the following paragraphs to the Guidance section prior to paragraph 03:

"The decision to use a particular device at a particular location should be made on the basis of either an engineering study or the application of engineering judgment. While the MUTCD provides standards, guidance, and options for design and application of traffic control devices, the MUTCD should not be considered a substitute for engineering judgment.

"Engineering judgment should be exercised in the selection and application of traffic control devices, as well as in the location and design of the roads and streets that the devices complement."

130.1(3) The department makes the following exception to the MUTCD, Section 1A.13, Definitions of Headings, Words, and Phrases in this Manual, paragraph 01, definition of "Standard," to read as shown:

"A. Standard—a statement of required, mandatory, or specifically prohibitive practice regarding a traffic control device. All Standard statements are labeled, and the text appears in bold type. The verb 'shall' is typically used. The verbs 'should' and 'may' are not used in Standard statements. Standard statements are sometimes modified by Options."

130.1(4) Copies of the MUTCD are available for examination at the Office of Traffic and Safety, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. The MUTCD is also available on the Internet at http://mutcd.fhwa.dot.gov.

This rule is intended to implement Iowa Code sections 321.249 and 321.252.

[**ARC 9362B**, IAB 2/9/11, effective 3/16/11]

[761—Chapter 130 appeared as Highway Commission rule, 1973 IDR, p. 517; amended January 1975 Supplement, p. 89. (Note: No chapter number was given.)]

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[1] Effective date of subrule 2.1(2) delayed until the expiration of 45 calendar days into the 1986 Session of the General Assembly pursuant to Iowa Code section 17A.8(9). The 1986 General Assembly took no formal action; therefore, subrule 2.1(2) is effective 2/28/86.

CHAPTER 131
SIGNING ON PRIMARY ROADS

[Prior to 6/3/87, Transportation Department[820]—(06,K) Ch 3]

761—131.1(321) Destination signs at an intersection. This rule establishes the requirements and procedure for placing destination signs on a primary highway at the intersection of a secondary road.

131.1(1) *Requirements.*

a. A destination shown on a primary highway destination sign shall be one reached by following either the secondary road or the primary highway.

b. A secondary road destination shall not be located beyond the next primary highway.

c. The secondary road must be marked with sufficient route markers, arrows, and destination signs to guide a motorist through intersecting roads, winding roads and built-up areas.

d. To qualify for signing, a secondary road destination must be one of the following:

(1) Another primary highway.

(2) An incorporated community.

(3) An unincorporated village shown on the state transportation map.

(4) A publicly maintained park.

(5) A public-use or publicly owned airport.

(6) A historical site recognized and approved by the department of cultural affairs.

e. The department shall determine which primary road destinations qualify for signing.

131.1(2) *Procedure.*

a. To request placement of destination signs at the intersection of a primary highway and a secondary road, the county engineer shall obtain Form 740023, "Proposed Directional Signing," from the appropriate district office, complete it and submit it to the appropriate district office. The county engineer may request signs for destinations on the secondary road that meet the criteria in paragraph 131.1(1)*"d"* and destinations on the primary highway.

b. If destination signs are already in place at the intersection, any person may request listing additional destinations by submitting a written request to the office of traffic and safety.

c. The office of traffic and safety shall determine if a request is to be approved or denied and notify the requester of its action on the request.

d. The department shall install and maintain the primary road destination signs. The department shall also furnish primary route markers and auxiliary signs for installation on the secondary road and install secondary road route markers and auxiliary signs furnished by the county on the primary route.

761—131.2(321) Erection of signs for numbered business routes. The purpose of this rule is to establish signing requirements, responsibilities and procedures for the erection of signs for numbered business routes.

131.2(1) *Definition.* A business route is a route principally within the corporate city limits which provides the public a marked route through the business area of the city as an alternate to the regular route which bypasses the city or its congested area.

131.2(2) *Requirements.*

a. The business route must connect with the regular route outside the congested area or the corporate limits, but within a reasonable distance of those limits.

b. The route must be designated over paved streets and highways which are available to all types of vehicles.

131.2(3) *Responsibilities.*

a. All business route identification signs, including the "Business" route sign, U.S. or state numbered route marker and directional arrow, will be furnished by the city.

b. The city and county shall erect all signs required on streets and highways within their respective jurisdictions.

c. The department of transportation shall erect all signs required within the right-of-way of primary highways and primary highway extensions.

d. The municipality shall maintain all signs at proper position and elevation, and in a clean and legible state.

131.2(4) *Procedures.*

a. A request for the designation of a business route shall be submitted by a city to the appropriate district office.

b. The office of traffic and safety shall determine if the request is to be approved or denied.

c. The office of traffic and safety shall designate the signing requirements for establishment of the business route.

131.2(5) *Service level to be maintained.* If either the signs or the streets and highways are not maintained at acceptable levels for traffic service, the department of transportation may require removal of the signs designating a business route.

761—131.3(321) Erection of signs for schools. The purpose of this rule is to establish requirements and procedures for the erection of signs for schools.

131.3(1) *Requirements.*

a. Signs may be erected for a junior college, college, university or an area community college.

(1) The school shall provide an accredited program of academic study or an approved program of technical or vocational training under the supervision of the state department of education or the state board of regents.

(2) The school shall have a minimum enrollment of 500 full-time students at that school site.

b. Signs may be erected for a public or private elementary, middle, junior high or senior high school.

(1) The school shall provide an accredited program of academic study under the supervision of the state board of education.

(2) Signs shall not be installed on the federal system of interstate highways or at freeway interchanges.

c. The school is not immediately adjacent to a primary highway or a primary highway extension.

d. The school is located on and directly served by the street or highway considered for signing.

131.3(2) *Procedures.*

a. A request for school signing shall be submitted to the appropriate district office.

b. The office of traffic and safety shall determine if the request is to be approved or denied.

c. Signs shall be furnished, erected and maintained by the department of transportation upon determination that the requirements of subrule 131.3(1) have been satisfied.

761—131.4(321) Erection of camping service signs on interstate highways. The purpose of this rule is to establish requirements and procedures for the erection of camping service signs.

131.4(1) *Definition.* "All-weather roads" are roads with sufficient surfacing so as to be passable regardless of weather conditions.

131.4(2) *Requirements.*

a. The distance of the camp facility from the nearest off-ramp intersection with the intersected highway or street should not exceed five miles via an all-weather road or street.

b. Campsites should have a minimum of 20 spaces available for camping and parking.

c. The camping area and all facilities shall be available to the public 24 hours a day on a year-round basis. If a camping facility meets the "24 hours a day" condition but is operated on a seasonal basis, camping service signs shall be provided with the condition that the sign be masked (at no cost to the owner) during that part of the year when the facility is not open to the public.

131.4(3) *Procedures.*

a. A request for camping service signs should be made to the appropriate district office.

b. The appropriate district office shall forward Form 810013, "Application and Agreement for Installation of Camping Service Signs on Interstate Highways," to the requesting camp owner.

c. The camp owner shall complete Form 810013, sign it, and return it to the appropriate district office.

d. The appropriate district office shall review Form 810013 and verify by inspection that the requirements established in subrule 131.4(2) have been met.

e. When the appropriate district office has verified through inspection that the requirements are satisfied, the engineer shall complete and sign Form 810013, signifying approval of the application. A copy of the approved application shall be promptly forwarded to the applicant.

f. Upon approval of Form 810013, the department of transportation shall erect and maintain, at no cost to the camp owner, camping service signs on the interstate highway. (The department of transportation shall also bear the cost of masking camping service signs during the periods that seasonal campsites are closed to the public.)

131.4(4) *Conditions.*

a. The campground must meet applicable state and local standards for health and sanitation. Camping service signs may be removed if the department is notified by the responsible state or local agency that the campground is in violation of these standards.

b. Camping service signs may be removed if the campground is found to be in violation of any other requirement of this rule.

c. Signing shall not be reinstalled without proper notification that the violation has been corrected.

761—131.5(321) Erection of signs for sanitary landfills. The purpose of this rule is to establish requirements and procedures for the erection of signs for sanitary landfills.

131.5(1) *Requirements.*

a. The access from the primary highway must be a direct connection to the sanitary landfill;

b. If the access to the sanitary landfill is connected to a secondary road, the county must make a request on Form 740023, "Proposed Directional Signing," to the appropriate district office; and

c. The sanitary landfill site must be operated under a permit issued by the Iowa department of natural resources.

131.5(2) *Procedure.*

a. A request for sanitary landfill signing shall be submitted to the appropriate district office.

b. The county shall be promptly informed of the final disposition of the request.

c. If the request is approved, the department of transportation shall secure, erect and maintain the sanitary landfill sign on the primary highway.

761—131.6(321) Erection of signs for special events. The purpose of this rule is to establish requirements, procedures and responsibilities for the erection of signs for special events.

131.6(1) *Requirements.*

a. Expected attendance of over 10,000 people per day.

b. Gathering to involve attendance of people on a statewide basis or nationwide basis.

c. Events shall not be regularly scheduled activities, such as the state fair, an area fair, a county fair, 4-H exhibits, rodeos or auto races.

131.6(2) *Procedures.*

a. A request for special event signing shall be submitted to the appropriate district office.

b. The office of traffic and safety shall determine if the request is to be approved or denied.

c. The office of traffic and safety shall designate the signing requirements and locations for the signs.

131.6(3) *Responsibilities.*

a. The required signs shall be furnished by the sponsoring organization.

b. The signs shall be placed and removed by the sponsoring organization.

c. The sponsoring organization shall provide for personnel to direct traffic during the duration of the event.

131.6(4) *Duration of placement.* The signs are to be in place only on the day or days of the special event.

761—131.7(321) Erection of signs for organized off-highway camps. The purpose of this rule is to establish requirements, procedures and responsibilities for the erection of signs for organized off-highway camps.

131.7(1) *Requirements.* The camps shall be permanent and operated by recognized and established civic, religious, and nonprofit charitable organizations.

131.7(2) *Procedures.*

a. A request for signing shall be submitted to the appropriate district office.

b. The office of traffic and safety shall determine if the request is to be approved or denied.

131.7(3) *Financial responsibility.* The department of transportation shall purchase, install and maintain the signs upon the prepayment by the organization of the cost of purchase, installation and maintenance.

761—131.8(321) Erection of signs for county conservation parks. The purpose of this rule is to establish requirements, procedures and responsibilities for the erection of signs for county conservation parks.

131.8(1) *Requirements.* The park shall have as its primary purposes outdoor recreation and nature appreciation.

131.8(2) *Procedures.*

a. A request for county conservation park signing shall be submitted on Form 740023, "Proposed Directional Signing," to the appropriate district office.

b. The office of traffic and safety shall review and make the final determination on the request and promptly inform the county of the determination.

131.8(3) *Responsibilities.*

a. If the request is approved, the office of traffic and safety shall design the signs and furnish the applicant a scaled drawing of the required signs.

b. The applicant shall furnish to the department of transportation the required signs at a location specified by the department.

c. The department of transportation will erect the signs and provide normal maintenance.

d. If the sign(s) must be replaced for any reason, the applicant shall furnish new sign(s) to the department of transportation.

761—131.9(321) Erection of no parking signs. The purpose of this rule is to establish procedures and conditions for the erection of no parking signs on rural primary highways.

131.9(1) *Procedures.* Requests for the erection of no parking signs on rural primary highways shall be made by the Iowa state patrol or sheriff to the appropriate district office.

131.9(2) *Conditions.* The signs will be furnished, erected and maintained by the department of transportation; however, they shall be removed if the department determines the parking prohibition is not enforced.

761—131.10(321) Signing for named routes. This rule establishes the requirements and procedures for placing special signs along the primary road system for the purpose of designating a primary highway as a memorial highway, historic trail or scenic trail.

131.10(1) *Definitions.*

"Historic trail" means a route located on or near the approximate alignment of a trail on which a person or group traveled while making a journey of regional or national historic significance.

"Manual on Uniform Traffic Control Devices (MUTCD)" means the Federal Highway Administration standards on traffic control devices, as adopted in rule 761—130.1(321).

"Memorial highway" means a primary highway that has been given a name to commemorate a person, group, place or event of regional or national significance.

"Named route" means a memorial highway, a historic trail or a scenic trail.

"Primary highway," for the purpose of this rule, does not include an interstate highway.

"Scenic trail" means a route, loop or circuit with special scenic or recreational appeal.

131.10(2) *General requirements.*

a. The named route shall be continuous with no breaks at the boundaries of political subdivisions. Each city and county through which a named route passes must approve the route designation. This includes portions of the route off the primary road system.

b. A memorial highway should normally encompass the entire length of a primary route within the state. However, it is permissible to name a section of a primary route if the section is unique or independent by virtue of its design characteristics, such as a freeway, or its geographic location, such as a segment between two junctions. No more than one name shall be used for the same section of a route.

c. Signs designating a named route shall be furnished and paid for by the applicant including any replacements needed due to sign deterioration or damage. Failure to comply with this requirement may result in removal of all signs for the named route along the primary road system.

d. A named route shall not be given a name which could be considered discriminatory, biased or inappropriate.

131.10(3) *Memorial highway signing.* Signing for memorial highways shall comply with Section 2D-48 of the MUTCD as modified by the following:

a. Memorial highway signing off the primary highway right-of-way:

(1) Preferably, signing for a memorial highway should neither appear on or along the route nor be placed on bridges or other highway components. Signing is best accomplished by placing memorial plaques in rest areas, scenic overlooks or other appropriate locations off the right-of-way where parking is provided. These plaques shall be located in a manner that will not distract motor vehicle operators.

(2) Departmental approval is not needed for memorial highway signing placed off the right-of-way at locations not subject to control under Iowa Code chapter 306B or chapter 306C, division II.

b. Memorial highway signing within the primary highway right-of-way:

(1) If placement of memorial plaques off the right-of-way is not acceptable, the department may approve the installation of memorial highway signs within the right-of-way provided they are independent of other guide and directional signing and they do not adversely compromise the safety or efficiency of traffic flow.

(2) A memorial highway sign within the right-of-way shall be no larger than 24 inches in width and 30 inches in height. The color and design must be approved by the department.

(3) The number of memorial highway signs within the right-of-way shall be limited to one sign at each end of the memorial highway and one sign when entering the corporate limits of each city through which the memorial highway passes.

131.10(4) *Historic trail and scenic trail signing.* The department may approve the installation of historic trail and scenic trail signing within the primary highway right-of-way. Signing for historic trails and scenic trails shall comply with Section 2D-49 of the MUTCD and the following:

a. A sign designating a historic trail or scenic trail shall be no larger than 24 inches in width and 30 inches in height. The colors used shall be limited to white, black, brown, blue or green. The color and design must be approved by the department.

b. Signs designating a historic trail or scenic trail may be placed at each end of the trail, when entering the corporate limits of cities through which the trail passes, and at points where the trail direction changes.

c. Additional trail signs may be placed between cities along the trail. These signs when facing the same direction of travel shall be spaced at least five miles apart. An exception may be made when the trail direction changes.

d. A sign designating a historic trail or scenic trail shall be placed alone on a post.

131.10(5) *Procedures.*

a. To request placement of signs designating a primary highway as a named route, the applicant shall submit a formal written request to the appropriate district office.

b. The request shall contain the following:

(1) A detailed description of the proposed named route, including those portions of the route off the primary road system.

(2) If the request is for a memorial highway, documentation supporting the significance of the person, group, place or event for which the memorial highway is named.

(3) If the request is for a historic trail, documentation supporting the historical significance of the trail.

(4) If the request is for a scenic trail, information outlining the features or facilities that are of special scenic or recreational appeal.

(5) A sketch of the sign proposed for designating the named route.

(6) Proposed locations for placement of the signs, including those locations off the primary road system.

(7) A signed ordinance or resolution from each city and county through which the named route passes, indicating approval of the route designation.

c. The department shall evaluate the request against the requirements of this rule and notify the requester of approval or denial of the request. Notification of denial shall include the reasons for denial.

d. The department shall install approved signs provided by the applicant (see paragraph 131.10(2)*"c"*) and provide routine maintenance when the signs are to be located within the primary highway right-of-way.

e. The department is not responsible for the installation or maintenance of signs placed off the right-of-way.

761—131.11 to **131.14** Reserved.

761—131.15(321) Information and address. Information regarding the signing addressed in this chapter is available from: Office of Traffic and Safety, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. Submissions to the office of traffic and safety shall also be sent or delivered to this address.

These rules are intended to implement Iowa Code sections 321.252 and 321.253.

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CHAPTER 132
IOWA SCENIC BYWAY PROGRAM

761—132.1(306D) Purpose, overview and information.

132.1(1) *Purpose.* The purpose of the Iowa scenic byway program is to designate qualifying Iowa roads as scenic byways.

132.1(2) *Overview.* Under the Iowa scenic byway program, proposed routes are identified via an application process. The department inventories and evaluates the proposed routes. The advisory council selects the routes to be designated. The department provides identifying signs for the designated routes.

132.1(3) *Information and forms.* Information, instructions and application forms may be obtained from the Office of Location and Environment, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

761—132.2(306D) Definition.

"Advisory council" means the scenic byway advisory council. This group is responsible for selecting routes for scenic byway designation. It is comprised of representatives from the department of transportation, the department of economic development, the department of cultural affairs, and the department of natural resources.

761—132.3(306D) Designations.

132.3(1) A scenic byway shall have one of the following three designations:

a. *Naturally scenic.* This is a route that has naturally scenic features along its length.

b. *Scenic and heritage.* This is a route that has a combination of naturally scenic features and heritage features along its length.

c. *Heritage.* This is either a route that has historic significance or one that connects areas or sites of historic significance along its length.

132.3(2) Reserved.

761—132.4(306D) General requirements.

132.4(1) Primary roads, secondary roads and city streets are eligible for designation as scenic byways.

132.4(2) A scenic byway should be continuous and at least 20 miles in length. Scenic or heritage features in one form or another should exist along the entire route.

132.4(3) Each city and county through which a route passes must approve the scenic byway designation.

132.4(4) Signs designating scenic byways shall be paid for and furnished by the department. Each roadway jurisdiction is responsible for installing scenic byway signs on roads under its jurisdiction in accordance with a signing plan provided by the department.

761—132.5(306D) Application and approval process.

132.5(1) *Program cycle.* The scenic byway program shall operate on a two-year cycle, with the following steps and timetable:

Step	Timetable
Deadline for submission of applications	October 1 of even-numbered years
Field inventories of proposed routes	April to October of odd-numbered years
Evaluation and rating of proposed routes	November to February following field inventories
Designation and signing of routes	March to August of even-numbered years

Subrules 132.5(2) to 132.5(7) further explain each step of the program cycle.

132.5(2) *Application.* Application to designate a route as a scenic byway shall be on a form provided by the department and shall be submitted to the office of location and environment by the application

deadline. The application must be accompanied by a document indicating approval of the designation from the city council of each city and the board of supervisors of each county through which the proposed route passes.

132.5(3) *Initial review.* Applications shall be reviewed by the advisory council to acquaint the council members with the proposed routes, to allow the members time to provide any information from their areas of expertise regarding the routes, and to provide guidance to the program.

132.5(4) *Field inventory.* The department shall conduct a field inventory of proposed routes. The department shall collect the following information for each proposed route:

a. Types of views along the route, including panoramas, scenes and focal points. Several elements or items related to material or color are also pinpointed.

b. Quality of the various views along the route, from outstanding to poor or distracting.

c. How long one sees a particular view or element.

d. Relative ease of seeing the various views and elements as the road is driven.

e. Visual character of the roadway alignment.

f. Types of scenic areas or historic sites along the route.

g. Variety of views as the route is driven.

132.5(5) *Evaluation and rating.* The department shall compile and evaluate the field inventory data for each proposed route, calculate an overall quality rating for each proposed route, and prepare a written report documenting these findings. A potential quality rating ranges from "excellent" to "very poor." The midpoint is "average."

132.5(6) *Selection.* The advisory council shall review the evaluations and ratings and select the routes to be designated based on this information and any other information the council may have obtained regarding the routes. For a route to be designated, it must have an overall quality rating that is above "average." Also, at least 50 percent of the length of the route must be rated above "average."

132.5(7) *Signing.* The department shall provide the necessary state scenic byway signs and accompanying posts and hardware for the newly designated scenic byways.

761—132.6(306D) Reevaluation. Every four years from the date of designation, the department shall inventory and evaluate the scenic byway to determine its continued eligibility in the program. The department reserves the right to remove a route from the scenic byway program if the route no longer meets the designating criteria.

761—132.7(306D) Promotional and tourism efforts. The department is not responsible for promotional and tourism efforts for scenic byways.

These rules are intended to implement Iowa Code chapter 306D.

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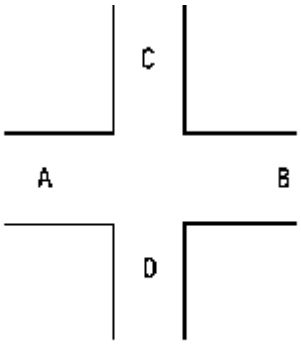
CHAPTERS 133 to 135
Reserved

CHAPTER 136
LIGHTING

[Prior to 6/3/87, Transportation Department[820]—(06,K) Ch 4]

761—136.1(319) Lighting of primary-secondary intersections. The purpose of this rule is to establish the qualification criteria, application procedure and financial responsibilities for the placement of roadway luminaires within the limits of the primary road right-of-way at a rural intersection of a primary road and a paved secondary road.

136.1(1) *Lighting criteria.* A primary-secondary intersection is a candidate for lighting if one of the following is met:



Major traffic flow (primary): A to B and B to A
Minor traffic flow (secondary): C to D and D to C
Possible left turns: A to C, B to D, C to B and D to A

a. The night-to-day accident rate ratio is 2.0 or greater with a minimum of three reportable nighttime accidents in a 12-month period.

b. Substantial lighted commercial or business development that is affecting operations exists adjacent to the intersection.

c. Motorists are experiencing operational problems which might be expected to be reduced by lighting.

d. The current average daily traffic (ADT) is 3500 entering vehicles for the intersection and:

(1) The intersection is channelized or "T," or

(2) A change in the direction of the major route occurs.

e. After making the following calculations, the total in subparagraph (3) below exceeds 3000 points.

(1) Determine the "Roadway/Traffic Factors" for traffic at A and for traffic at B, using the following formula and "Standard Sight Distances for Speed":

$$\text{Roadway/Traffic Factor} = \frac{\text{Standard Passing Sight Distance for Speed}}{\text{Actual Sight Distance}} \times \frac{\text{Actual Approaching Traffic Volume}}{1000}$$

Standard Passing Sight Distances For Posted Speeds

Speed	Distance
55 mph	2000 ft.
50 mph	1800 ft.
45 mph	1700 ft.
40 mph	1500 ft.

(2) Compare the two answers; the larger number is the "Greater Roadway/Traffic Factor."

(3) Calculate points based on the following formula, using current average daily traffic (ADT):

Greater Roadway/Traffic Factor × Traffic Volume from C to D = _____
Greater Roadway/Traffic Factor × Traffic Volume from D to C = _____
Greater Roadway/Traffic Factor × Traffic Volume from C to B × (1.5) = _____
Greater Roadway/Traffic Factor × Traffic Volume from D to A × (1.5) = _____
Roadway/Traffic Factor for A × Traffic Volume from B to D × (1.5) = _____
Roadway/Traffic Factor for B × Traffic Volume from A to C × (1.5) = _____
TOTAL = _____

136.1(2) Reserved.

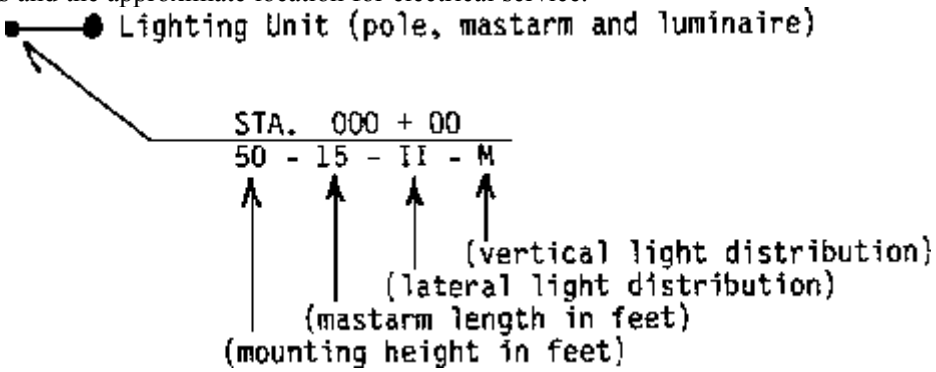
136.1(3) *Procedures.*

a. A request for lighting shall be made by the county to the appropriate district engineer. The request shall indicate the type and size of luminaires proposed, sight distance measurements and posted speed. If the county is requesting that the department participate in the installation costs as a C-STEP (County-State Traffic Engineering Program) project, this should be indicated in the request. A lighting plan shall accompany the request showing:

(1) The complete dimensions of the intersection including pavement and shoulders.

(2) The locations of proposed luminaires and poles.

(3) The mounting heights, mast arm lengths, lateral and vertical light distributions of proposed luminaires and the approximate location for electrical service.



b. The district engineer shall forward the request to the department's office of traffic and safety for review.

c. If design requirements are satisfied, the department shall approve the lighting installation.

(1) The county shall be responsible for designing and installing the lighting and for all future energy and maintenance costs.

(2) If the location qualifies for lighting installation and if funds are available, the department shall share the installation costs on the basis of the current C-STEP participation ratio.

(3) If the department does not share the installation costs but the county wishes to install the lighting, the county shall be responsible for the installation costs.

d. If the department will share the installation costs, the department shall prepare an agreement for departmental and county approval.

This rule is intended to implement Iowa Code sections 319.1, 319.12 and 319.14.

761—136.2(319) Destination lighting. The purpose of this rule is to establish the application procedure and financial responsibilities for the placement of a roadway luminaire within the limits of primary road right-of-way at a rural intersection of a primary road and a minor road.

136.2(1) *Definition.*

"Minor road," for the purposes of this rule, is an entrance to a primary road from a frontage road, a rural commercial establishment, a governmental agency facility, a generator of a substantial traffic volume, or a secondary road.

136.2(2) Reserved.

136.2(3) *Procedures.*

a. Application shall be made to the appropriate district engineer on Form 810025, "Application for Use of Highway Right-of-Way for Utilities Accommodation." The application shall indicate the type of luminaire and intensity of illumination proposed. A sketch shall accompany the application showing the location of the proposed luminaire and pole and the mounting height of the luminaire.

b. The district engineer shall be responsible for departmental approval of the application. A copy of the application indicating the district engineer's determination shall be returned to the applicant. Approved applications are termed "permits."

c. The applicant shall be responsible for installing the lighting and for all installation, energy and maintenance costs.

This rule is intended to implement Iowa Code sections 319.1, 319.12 and 319.14.

761—136.3 to **136.5** Reserved.

761—136.6(306) Warrants and design requirements for lighting.

136.6(1) *Warrants.* Meeting departmental warrants or criteria for lighting simply establishes the location as a candidate for lighting. It does not obligate the department to provide lighting or to participate in lighting costs.

136.6(2) *Design requirements.* The design of lighting installations shall comply with departmental specifications and standard road plans for highway lighting as they exist at the time of installation of the lighting.

This rule is intended to implement Iowa Code subsections 306.4(1) and 669.14(8).

[Filed 7/1/75]
[Filed 3/12/79, Notice 1/24/79—published 4/4/79, effective 5/9/79]
[Filed 12/10/86, Notice 10/8/86—published 12/31/86, effective 2/4/87]
[Filed 5/11/87, Notice 3/11/87—published 6/3/87, effective 7/8/87]
[Filed 8/26/88, Notice 7/13/88—published 9/21/88, effective 10/26/88]
[Filed 8/7/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

NOTE: Diagrams to rule 761—136.1(319) and 761—136.2(319) rescinded IAB 9/21/88, effective 10/26/88.

CHAPTERS 137 to 139
Reserved

CHAPTER 140
TRAFFIC SIGNALS AND BEACONS ON PRIMARY ROADS

[Prior to 6/3/87, Transportation Department[820]—(06,K) Ch 5]

761—140.1(321) Erection of traffic signals and beacons on primary highways. The purpose of this rule is to establish requirements, procedures and responsibilities for the erection of traffic signals and beacons on primary highways.

140.1(1) *Requirements.* Traffic signals or beacons shall not be installed unless the guidelines in Part 4 of the "Manual on Uniform Traffic Control Devices," as adopted in rule 761—130.1(321), apply.

140.1(2) *Procedure.*

a. All requests are to be submitted to the appropriate district office.

b. The applicant shall be informed of the final disposition of the request.

140.1(3) *Responsibilities.* The applicant is responsible for the installation and maintenance of these traffic control devices.

140.1(4) *Information.* Information regarding this rule is available from the Office of Traffic and Safety, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

This rule is intended to implement Iowa Code section 321.252.

[Filed 7/1/75]

[Filed without Notice 11/23/76—published 12/15/76, effective 1/19/77]

[Filed without Notice 11/21/77—published 12/14/77, effective 1/18/78]

[Filed 5/11/87, Notice 3/11/87—published 6/3/87, effective 7/8/87]

[Filed 10/10/02, Notice 8/7/02—published 10/30/02, effective 12/4/02]

CHAPTER 141
TRAFFIC AND ENGINEERING INVESTIGATIONS ON SECONDARY ROADS

[Prior to 6/3/87, Transportation Department[820]—(06,K) Ch 6]

Rescinded IAB 5/5/99, effective 6/9/99

CHAPTER 142
SPEED ZONING ON PRIMARY HIGHWAYS

[Prior to 6/3/87, Transportation Department[820]—(06,K) Ch 7]

761—142.1(321) Adjustment of speed zones on primary highways. The purpose of this rule is to establish the procedure for processing requests to change posted speed limits on primary highways.

142.1(1) *Procedure.*

a. All requests for raising or lowering the posted speed limits on primary highways shall be made to the appropriate district office.

b. The department will conduct an engineering and traffic investigation and, if the speed limit is found to be greater or less than is reasonable or safe under the conditions found to exist, the department will declare a reasonable and proper speed limit and post appropriate signs.

c. The person or agency submitting the request for the engineering and traffic investigation shall be advised of the conclusions of the study and the action to be taken by the department.

142.1(2) *Information.* Information regarding this rule is available from the Office of Traffic and Safety, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

This rule is intended to implement Iowa Code sections 321.285 and 321.290.

[Filed 7/1/75]

[Filed 5/11/87, Notice 3/11/87—published 6/3/87, effective 7/8/87]

[Filed 10/10/02, Notice 8/7/02—published 10/30/02, effective 12/4/02]

CHAPTER 143
TRAFFIC SIGNAL SYNCHRONIZATION

761—143.1(364) Definitions. The following definitions apply to these rules:

"Arterial street" means any U.S. or state numbered route, controlled access highway, or other major street or highway designated by the city within its respective jurisdiction as a part of a major arterial system of streets or highways.

"Controller" means a supervisory device that controls the sequence and duration of indications displayed by traffic signals.

"Coordination" means the establishment of a definite timing relationship between adjacent traffic signals.

"Cycle" means any complete sequence of traffic signal indications (phases).

"Detector" means a device that senses vehicular or pedestrian demand and transmits an impulse to a controller.

"Local controller" means a controller supervising the operation of traffic signals at a single or two closely spaced intersections.

"Master controller" means a controller supervising the operation of several local controllers.

"Phase" means a portion of the cycle during which an assignment of right-of-way is made to a traffic movement or combination of traffic movements.

"Traffic signal" means any permanently installed, electrically powered traffic control device by which traffic is alternately directed to stop and to proceed.

"Traffic signal system" means two or more traffic signals operating in a coordinated manner. Types of coordinated systems:

1. *"Computerized system"* means a system in which controllers are supervised by a computer.
2. *"Interconnected master-controlled system"* means a system in which local controllers are supervised by a master controller through a communications link (wire/radio). The master establishes a base line condition; the local then operates its intersection in a predetermined relationship with the base line.
3. *"Noninterconnected system"* means a system in which timing relationships between individual local controllers are coordinated by manual settings, without physical interconnection between the controllers.
4. *"Time-based coordinated system"* means a noninterconnected system in which the local controllers use a very accurate programmable digital timing and control device (time-based coordinator) to maintain coordination.
5. *"Traffic responsive system"* means a system in which a master controller specifies cycle timings based on the real time demands of traffic as sensed by vehicle detectors.

761—143.2(364) Applicability. This chapter applies to all cities with more than three traffic signals within the corporate limits.

761—143.3(364) Traffic signal inventory. Rescinded IAB 9/4/02, effective 10/9/02.

761—143.4(364) Required synchronization.

143.4(1) Unless a traffic engineering study documents that it is not practical, traffic signals within one-half mile of each other along an arterial street or in a network of intersecting arterial streets shall be operated in coordination; preferably in a computerized, interconnected master-controlled, time-based coordinated, or traffic responsive system.

143.4(2) Reserved.

143.4(3) Timing and operational plans developed for traffic signals shall be developed by application of traffic engineering principles to provide maximum traffic flow efficiencies and safety.

143.4(4) All traffic signal installations and operations shall meet the requirements of the "Manual on Uniform Traffic Control Devices," as adopted in 761—Chapter 130.

761—143.5(364) Reporting requirements. Rescinded IAB 9/4/02, effective 10/9/02.

This chapter is intended to implement Iowa Code section 364.24.

[Filed 3/12/90, Notice 1/24/90—published 4/4/90, effective 5/9/90]
[Filed 8/7/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

CHAPTERS 144 to 149
Reserved

PRIMARY ROAD EXTENSIONS

CHAPTER 150
IMPROVEMENTS AND MAINTENANCE ON PRIMARY ROAD EXTENSIONS

[Prior to 6/3/87, Transportation Department[820]—(06,L) Ch 1]

761—150.1(306) Definitions.

"City" means a municipal corporation as defined in Iowa Code section 362.2.

"Federal control limits" means the area within the primary highway right-of-way limits, including right-of-way lines extended across side streets and roads. The term includes areas on side streets and roads where the department has acquired access control rights in accordance with 761—Chapter 112.

"Freeway" means a primary highway constructed with Priority I access control. For the purpose of highway lighting, "freeway" means a primary highway constructed with Priority I access control for a length of five miles or greater.

"MUTCD" means the "Manual on Uniform Traffic Control Devices," as adopted in 761—Chapter 130.

"Nonfreeway primary highway" means a primary highway that is not a freeway.

"Right-of-way" means the land for any public road, street or highway, including the entire area between the property lines.

This rule is intended to implement Iowa Code sections 306.2, 306.3 and 362.2.

761—150.2(306) Improvements and maintenance on extensions of freeways.

150.2(1) *Construction.* Except as otherwise provided, the department shall be responsible for all right-of-way and construction costs associated with the construction of freeways and their extensions.

a. The department shall expect the city to be responsible for providing, without cost to the department, all necessary right-of-way which involves:

(1) Dedicated streets or alleys, and

(2) Other city-owned lands, except parklands, subject to the condition that the department may reimburse the city for the functional replacement value of improved property and advanced purchases negotiated by the city for project purposes.

b. Outside the federal control limits, the department shall be responsible for the costs of construction of longitudinal and outlet storm sewers made necessary by highway construction in the proportion that the street right-of-way of the primary road extension bears to the total drainage area to be served by the proposed sewers. The city shall be expected to be responsible for the remaining portion of storm sewer costs not paid for by the department.

c. The department shall be responsible for all storm-sewer related costs within the federal control limits.

150.2(2) *Maintenance.* The department shall have an agreement with a city regarding the maintenance of primary roads within the corporate city limits. This is intended to include corporate line roads, when appropriate. Unless otherwise mutually agreed to and specified in the agreement, maintenance responsibilities shall be as follows:

a. The department shall be responsible for all maintenance costs on the through roadway, the on and off ramps, and the roadside features from right-of-way line to right-of-way line.

b. Where city streets cross the freeway, the department shall be responsible for:

(1) Roadside maintenance within the limits of the freeway fence.

(2) Surface drainage of the right-of-way.

(3) Traffic signs and pavement markings required for freeway operation.

(4) Guardrail at piers and bridge approaches.

(5) Expansion relief joints in approach pavement and leveling of bridge approach panel(s).

(6) All maintenance of bridges including deck repair, structural repair, berm slope protection, painting, and inspection, except as noted in paragraph *"c"* of this subrule.

c. Where city streets cross the freeway, the department shall expect the city to be responsible for:

(1) All roadside maintenance outside the freeway fence.

(2) All pavement, subgrade and shoulder maintenance on the cross street except expansion relief joints and bridge approach panel leveling.

(3) All traffic lane markings on the cross street.

(4) Snow removal on the cross street including bridges over the freeway.

(5) Cleaning and sweeping bridge decks on streets crossing over the freeway.

d. The department shall expect the city to be responsible for maintenance and repair of pedestrian overpasses and underpasses including snow removal, painting, lighting and structural repairs.

e. Should local service roads or streets be constructed as a part of a project, upon completion they shall become a part of the city street system. The department shall not be responsible for the maintenance of these roads or streets and corresponding drainage structures.

150.2(3) *Lighting.*

a. The department shall be responsible for the cost of installation of lighting on the main-traveled-way lanes and the on and off ramps including the terminals with cross streets when the department determines that lighting is required under established warrants.

b. The department shall be responsible for the energy and maintenance costs of lighting on the main-traveled-way lanes.

c. The department shall be responsible for the energy and maintenance costs of lighting through interchange areas and ramps thereto at interchanges between freeways which do not provide service to local streets.

d. The department shall be responsible for the energy and maintenance costs of lighting in interchange areas at interchanges between freeways and primary roads which are on corporate lines.

e. At interchanges with city cross streets, the department shall be responsible for the energy and maintenance costs of lighting on the main-traveled-way lanes, on and off ramps, ramp terminals, and, when the department determines full interchange lighting is required, the cross street between the outermost ramp terminals.

f. The department shall not be responsible for the installation, energy, and maintenance costs of any lighting on cross streets in advance of interchanges and between the outermost ramp terminals at interchanges where the department determines partial interchange lighting or no lighting is required.

g. Warrants for the lighting of freeways shall be according to the 1984 "AASHTO Information Guide for Roadway Lighting."

150.2(4) *Traffic signals at ramp terminals with cross streets.*

a. All traffic signal installations shall meet the standards and warrants established in the MUTCD.

b. On projects initiated by the department, the department may install, at no cost to the city, traffic signals warranted when replacing existing pavement or adding new lanes. In conjunction with these projects, the department may also participate in the cost of signals that are for pedestrian use only. If the department participates, the department's share of the installation costs shall be based on the current U-STEP cost apportionment.

c. When new pavement construction or additional lanes are not involved, the department may participate in the installation costs of new and modernized traffic signals or signals that are for pedestrian use only. If the department participates, the department's share of the installation costs shall be based on the current U-STEP cost apportionment; the city shall prepare plans, award the contract, supervise the installation, and be responsible for the remaining installation costs.

d. Modifications made to the traffic signal system to coordinate it with other city signal systems (not on the primary road extension system) shall be the sole financial responsibility of the city.

e. The department shall not assume ownership and shall not be responsible for the energy and maintenance costs involved in the operation of traffic signals.

f. Signal phasing, initial and future, as well as timing and coordination between intersections shall be coordinated between the department and the city.

This rule is intended to implement Iowa Code sections 306.4, 313.4, 313.5, 313.21 to 313.24, 313.27, 313.36, 314.5 and 314.6 and chapter 306A.

761—150.3(306) Improvements and maintenance on extensions of nonfreeway primary highways.

150.3(1) *Construction.*

a. The department shall be responsible for all right-of-way and construction costs to construct nonfreeway primary highways and their extensions to the minimum design criteria as established by the department. Construction improvement costs beyond minimum design criteria shall be the responsibility of the city, as specified in the project agreement. Minimum design criteria shall be in accordance with "A Policy on Geometric Design of Highways and Streets, 2001" (Fourth Edition Green Book).

b. The department shall expect the city to be responsible for providing, without cost to the department, all necessary right-of-way which involves:

(1) Dedicated streets or alleys, and

(2) Other city-owned lands, except parklands, subject to the condition that the department may reimburse the city for the functional replacement value of improved property and advanced purchases negotiated by the city for project purposes.

c. The city shall be expected to take all necessary legal action to discontinue and prohibit any past or present use of project right-of-way for private purposes. The city shall be expected to prevent any future encroachment or obstruction within the limits of project right-of-way.

d. The department shall be responsible for the costs of construction of longitudinal and outlet storm sewers made necessary by highway construction and construction of local service roads developed as a part of the construction or reconstruction of the through traffic lanes in the proportion that the right-of-way of the primary road extension bears to the total drainage area to be served by the proposed sewers. The city shall be expected to be responsible for the remaining portion of storm sewer costs not paid for by the department.

e. Unless otherwise mutually agreed to and specified in the agreement, the department shall be responsible for the cost of right-of-way and construction of local service roads developed as a part of the construction or reconstruction of the through traffic lanes.

150.3(2) *Maintenance.* The department shall enter into an agreement with a city regarding the maintenance of primary roads within the corporate city limits. This is intended to include corporate line roads, when appropriate. Unless otherwise mutually agreed to and specified in the agreement, maintenance responsibilities shall be as follows:

a. On primary roads constructed with a curbed cross section, the department shall be responsible for:

(1) Maintenance and repairs to pavement and subgrade from face of curb to face of curb exclusive of parking lanes, culverts, intakes, manholes, public or private utilities, sanitary sewers and storm sewers.

(2) Primary road signing for moving traffic as set out in subrule 150.4(1), pavement markings for traffic lanes, guardrail and stop signs at intersecting streets.

(3) Surface drainage only, within the limits of pavement maintenance.

(4) Plowing of snow from the traffic lanes of pavement and bridges and treatment of traffic lanes with abrasives and chemicals.

(5) Inspection, painting and structural maintenance of bridges as defined in Iowa Code section 309.75.

b. On primary roads constructed with a rural cross section (no curb), the department shall be responsible for all maintenance, except that tree removal, sidewalks, retaining walls and repairs due to utility construction and maintenance shall be the city's responsibility.

c. On primary roads constructed with a curbed cross section, the city shall be responsible for:

(1) Maintenance and repairs to pavement in parking lanes, intersections beyond the limits of department pavement maintenance, curbs used to contain drainage, and repairs to all pavement due to utility construction, maintenance and repair.

(2) Painting of parking stalls, stop lines and crosswalks, and the installation and maintenance of flashing lights. Pavement markings shall conform to the MUTCD.

(3) Maintenance of all storm sewers, manholes, intakes, catch basins and culverts used for collection and disposal of surface drainage.

(4) Removal of snow windrowed by departmental plowing operations, removal of snow and ice from all areas outside the traffic lanes, loading or hauling of snow which the city considers necessary and removal of snow and ice from sidewalks on bridges used for pedestrian traffic.

(5) Maintenance of sidewalks, retaining walls and all areas between curb and right-of-way line.

(6) Cleaning, sweeping and washing of streets.

(7) Maintenance and repair of pedestrian overpasses and underpasses including snow removal, painting and structural repairs.

d. The department shall expect the city to comply with the access control policy of the department as adopted in 761—Chapter 112, and to obtain prior approval from the department for any changes to existing entrances or for the construction of new entrances.

e. Drainage district assessments levied against the primary road within the corporate limits of the city shall be shared equally by the department and the city.

f. Should local service roads or streets be constructed as a part of a project, upon completion they shall become a part of the city street system. The department shall not be responsible for the maintenance of these roads or streets and corresponding drainage structures.

g. Rescinded IAB 10/2/02, effective 11/6/02.

150.3(3) *Lighting.*

a. The department shall not be responsible for the installation, energy, and maintenance costs of lighting on extensions of nonfreeway primary highways. The city may elect to provide lighting at its own expense. However:

(1) For cities with a population of 5,000 or less, the department may elect to install interchange lighting and to be responsible for or to participate in the energy and maintenance costs of this lighting.

(2) On a new construction project that results in a predominately fully controlled access highway, but incorporates some nonfreeway segments, the department may elect to participate in the installation of lighting at conflict points if the city agrees to be responsible for the energy and maintenance costs of this lighting.

b. At corporate line primary road junctions, the lighting shall be installed where necessary by the department in accordance with department warrants. The department shall be responsible for the installation costs. Unless otherwise agreed, the energy and maintenance costs shall be shared by the city and department in proportion to the number of luminaires in each jurisdiction as established by the corporate line. When and if the corporate line is extended to include any part of the lighting installation or a greater proportion of luminaires, the proportionate costs for maintenance and energy shall be redetermined on the basis of the number of luminaires in each jurisdiction as established by the new location of the corporate line.

150.3(4) *Traffic signals.*

a. All traffic signal installations shall meet the standards and warrants established in the MUTCD.

b. On projects initiated by the department, the department may install, at no cost to the city, traffic signals warranted when replacing existing pavement or adding new lanes. In conjunction with these projects, the department may also participate in the cost of signals that are for pedestrian use only. If the department participates, the department's share of the installation costs shall be based on the current U-STEP cost apportionment.

c. When new pavement construction or additional lanes are not involved, the department may participate in the installation costs of new and modernized traffic signals or signals that are for pedestrian use only. If the department participates, the department's share of the installation costs shall be based on the current U-STEP cost apportionment; the city shall prepare plans, award the contract, supervise the installation, and be responsible for the remaining installation costs.

d. Modifications made to the traffic signal system to coordinate it with other city signal systems (not on the primary road extension system) shall be the sole financial responsibility of the city.

e. The department shall not participate in the cost of signals for commercial use only.

f. The department shall not participate in the signalization of primary road stub routes which terminate within the city.

g. The department shall not assume ownership and shall not be responsible for any energy or maintenance costs for traffic signals.

h. Signal phasing, initial and future, as well as timing and coordination between intersections shall be coordinated between the department and the city.

150.3(5) *Overdimensional and overweight vehicles.* The city shall comply with all current statutes, rules and regulations pertaining to overdimensional and overweight vehicles using primary roads when issuing special permits for overdimensional and overweight vehicles.

This rule is intended to implement Iowa Code sections 306.4, 313.5, 313.21 to 313.24, 313.27, 313.36, 314.5, 314.6 and 321E.2 and chapter 306A.

761—150.4(306) General requirements for primary road extensions.

150.4(1) *Signing.*

a. The department shall be responsible for permanent traffic control signing on primary road extensions.

b. The department shall not be responsible for construction and maintenance work zone signing unless the work is being done by the department.

c. The department shall not be responsible for street name signs, any regulatory parking signs which denote special regulations as may be determined by the city in cooperation with the department, and those signs which regulate parking as to time, hours and days of the week.

d. The department shall not be responsible for signs facing traffic on primary road extensions which regulate traffic movements on city cross streets (one-way traffic).

e. "Business District" signs on primary road extensions may be permitted upon application by the city to the department.

f. All signing within the right-of-way shall conform to the MUTCD.

150.4(2) *Encroachments or obstructions.*

a. The department shall expect the city to remove any existing encroachment or obstruction and prevent any further encroachment or obstruction within the right-of-way. This includes private signs within the right-of-way.

b. The department shall expect the city to prevent the erection on private property of any private sign, awning, marquee, etc., which will overhang the right-of-way and obstruct the view of any portion of the road or the traffic signs or traffic control devices located thereon in such a manner as to render it dangerous within the meaning of Iowa Code section 319.10.

c. No overhanging sign shall be permitted within two feet of the inside edge of the curb.

150.4(3) *Pedestrian, equestrian, and bicycle routes (sidewalks).*

a. The department shall remove and replace portions of existing routes as required by construction.

b. The department will consider the impacts to pedestrian accommodation at all stages of the project development process and encourage pedestrian accommodation efforts when pedestrian accommodation is impacted by highway construction. The cost of pedestrian accommodation made at the time of the highway improvement may be considered an additional roadway construction cost. Providing pedestrian accommodation independent of a highway construction project may be considered with construction funding obtained from local jurisdictions or other federal and non-road use tax state sources.

c. The department may participate in the cost of constructing curb ramps on existing sidewalks within the right-of-way of primary road extensions to meet the requirements of the Americans With Disabilities Act. If the department participates, the department's share of the construction cost shall be 55 percent; the city shall prepare plans, award the contract, supervise construction, and be responsible for the remaining construction cost. However, departmental participation shall not exceed $250,000 per year for any one city and $1.5 million per year in total.

150.4(4) *Overpasses and underpasses for pedestrian, equestrian, and bicycle routes.*

a. During initial construction of freeways and other relocated primary road extensions and when user-volumes and topographic conditions warrant the construction of a separation, the cost shall be shared between the department and the city on the basis of the current U-STEP cost apportionment.

b. The department may participate in a city-initiated separation as an unscheduled project.

150.4(5) *Utility relocation and removal.*

a. Except as otherwise provided by paragraph *"b"* of this subrule, the department shall expect the city to relocate or cause to be relocated, without cost to the department, all utilities necessary for construction when these utilities are within the existing street or alley right-of-way. The department shall reimburse the owner of a utility which is located on private right-of-way for the costs of relocation or removal, including the costs of installation in a new location.

b. Iowa Code section 306A.10 authorizes the department to pay the costs of relocation or removal, including the costs of installation in a new location, of utilities within existing street right-of-way when determined necessary for the construction of a project on routes of the national system of interstate and defense highways or resulting from interstate substitutions in a qualified metropolitan area. In accordance with Iowa Code section 306A.12, no reimbursement shall be made for any relocation or removal of facilities unless funds to be provided by federal aid amount to at least 85 percent of each reimbursement payment.

c. The department shall expect the city to comply with the utility accommodation policy of the department, as adopted in 761—Chapter 115.

d. The term "utility" shall be as defined in Iowa Code section 306A.13.

150.4(6) *Project concept statements and predesign project agreements for proposed construction projects.*

a. As early as possible after an urban project is included in the department's "Five-Year Construction Program," a concept statement for the project shall be developed and shall be reviewed with the officials of the city prior to the public hearing.

b. During the design process, a predesign project agreement may be submitted to city officials for their approval. It shall include:

(1) A preliminary description of the project,

(2) The general concepts of the project,

(3) Responsibilities for right-of-way acquisition, storm sewer costs and utility adjustment costs,

(4) The parking and access control restrictions to be applied to the project, and

(5) Financial participation above minimum standards.

150.4(7) *Preconstruction project agreements for proposed construction projects.*

a. The department shall maintain a close liaison with the city during the development of the project plan so that all parties will be fully informed of the details involved in the proposed improvement.

b. When the plan is sufficiently complete to provide typical cross sections, plan and profile drawings and incidental details, the department shall submit a preconstruction project agreement, which shall include known design data, to city officials for their approval. Terms for reimbursement to the state and local financial participation shall be stated in this agreement.

c. Modifications to this agreement necessitated by design changes encountered during construction shall be made by extra work order agreed to in writing by the city, the contractor, and the department.

150.4(8) *Reverting primary road extensions.* Rescinded IAB 10/2/02, effective 11/6/02.

This rule is intended to implement Iowa Code sections 306.4, 313.21 to 313.24, 313.27, 313.36, 314.5 and 314.6, and chapters 306A and 319.

[Filed 7/1/75]
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CHAPTER 151
CITY REQUESTS FOR CLOSURE OF PRIMARY ROAD EXTENSIONS

[Prior to 4/24/85, (06,J) Ch 1]
[Prior to 6/3/87, Transportation Department[820]—(06,L) Ch 2]

761—151.1(321) Closing primary road extensions. The purpose of this rule is to establish requirements and procedures for the closing of primary road extensions for reasons other than fire, construction or repair in accordance with Iowa Code section 321.348.

151.1(1) *Definitions.* The following terms shall have these meanings unless the context indicates a different meaning.

"Adequate detour" shall mean an alternate route which, based on the engineering judgment of the district engineer, has the operational capability to handle the increased traffic for the specified period of the detour.

"Local enforcement officers" shall mean city police, town marshals, or other entities legally granted police power for control of traffic.

"Primary road extensions" shall mean the extension of any primary road into or through the corporate limits of a city.

"Primary stub" shall mean the extension of any primary road that crosses the corporate limits and terminates at the central business district of a city.

151.1(2) *Requirements.*

a. Adequate detour over paved roads shall be provided with traffic controls as prescribed in the "Manual on Uniform Traffic Control Devices," as adopted in rule 761—130.1(321). City officials shall secure the written approval of the county board of supervisors to use any county road as a detour.

b. The city shall be responsible for maintenance and restoration of the detour, and shall accept responsibility for any damages that may occur to the closed section of the primary extension. The city shall accept full liability for conditions and operations of the detour.

c. The closed streets shall be used only for a civic purpose; no closing for promotion of commercial activities shall be allowed.

d. The benefit to the community must outweigh the temporary inconvenience to motorists.

e. The city shall request the Iowa state patrol to review the proposed detour for safety. During use, traffic shall be policed by local enforcement officers.

151.1(3) *Arterial system.* Rescinded IAB 4/3/02, effective 5/8/02.

151.1(4) *Arterial connector system.* Rescinded IAB 4/3/02, effective 5/8/02.

151.1(5) *Procedures.* Procedures for closing primary road extensions shall be as follows:

a. Cities shall file a "Request for Closing Primary Road Extension," Form 810030, available from district offices. The request shall include the name of the city, period that the covered route is to be closed, the precise section involved, the proposed detour and the purpose for the closure. If the proposed detour involves any part of a county road, the written approval of the county board of supervisors must be submitted with the request.

b. The request shall be signed by the city officials, be reviewed by the Iowa state patrol, and submitted to the district engineer 45 days prior to the first day of closure. The department shall respond to the city in 20 days from the date the request is received. If all requirements in this rule are met, the department may approve the request.

c. The department shall erect any necessary signs on the detour.

151.1(6) *Primary stub routes.* The city may close a section of a primary stub route for a municipal celebration without obtaining department approval if substitute traffic arrangements are provided. The requirements set out in subrules 151.1(2) to 151.1(5) shall not apply.

These rules are intended to implement Iowa Code section 321.348.

[Filed 7/22/77, Notice 5/4/77—published 8/10/77, effective 9/14/77]
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[Filed 3/13/02, Notice 2/6/02—published 4/3/02, effective 5/8/02]

CHAPTERS 152 to 159
Reserved

SPECIAL HIGHWAY PROGRAMS

CHAPTER 160
COUNTY AND CITY BRIDGE CONSTRUCTION FUNDS

Note: 761—Ch 160, Special Great River Road Fund, rescinded IAB 3/7/90, effective 4/11/90

761—160.1(312) Source of funds. Iowa Code section 312.2 provides for yearly credits from the road use tax fund of $2 million to the county bridge construction fund and $500,000 to the city bridge construction fund.

761—160.2(312) Administration of funds. The department shall allocate the funds to counties and cities for bridge construction and reconstruction projects based on needs. The funds shall be administered by the department's office of local systems.

160.2(1) The county bridge construction fund shall be allocated for projects on secondary roads as determined by the department after consultation with county officials through their representative organizations.

160.2(2) The city bridge construction fund shall be allocated for projects on city streets as determined by the department after consultation with city officials through their representative organizations. City streets do not include primary road extensions.

160.2(3) To be considered for funding, a proposed project must be on the appropriate eligibility list maintained by the department.

a. The department shall maintain a county bridge construction fund eligibility list and a city bridge construction fund eligibility list.

b. A local jurisdiction may propose a project by submitting a project application to the following address: Office of Local Systems, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

c. Unless otherwise agreed, a proposed project for a bridge located on the line dividing incorporated and unincorporated areas shall be placed on the eligibility list that corresponds to the jurisdiction submitting the application.

160.2(4) Prior to allocation, the department shall rank the proposed projects within each eligibility list by a priority system based on needs, as developed under subrules 160.2(1) and 160.2(2). The priority system will include various items such as, but not limited to, structural condition, traffic, and detour length. For each list, the department shall allocate funds, within the limits of funding availability, to those projects ranked as having the greatest needs.

These rules are intended to implement Iowa Code section 312.2.

[Filed 2/7/90, Notice 12/27/89—published 3/7/90, effective 4/11/90]
[Filed 8/7/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

CHAPTER 161
FEDERAL-AID HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION PROGRAM

[Prior to 6/3/87, Transportation Department[820]—(06,Q) Ch 8]

761—161.1(307) Source of funds. Section 144 of Title 23 of the United States Code provides for the use of federal funds to replace or rehabilitate public road bridges that are unsafe because of structural deficiencies, physical deterioration, or functional obsolescence. At least 15 percent, but not more than 35 percent, of the funds apportioned to the state shall be expended to replace or rehabilitate bridges on public roads which are not a part of a federal-aid system.

761—161.2(307) Administration of funds. The funds apportioned to the state shall be made available for obligation throughout the state on a fair and equitable basis. The department shall administer the program by dividing each fiscal year apportionment into three separate funds: one for the state; one for the counties; and one for the incorporated cities. The amount allocated to each of the three funds shall be determined by the department after consultation with county and city officials through their representative organizations. This consultation shall precede any change in allocation.

161.2(1) The state share shall be administered and obligated by the department.

161.2(2) The counties' share shall be administered by the department's office of local systems and shall be divided among the counties as determined by the department after consultation with county officials through their representative organizations.

161.2(3) The cities' share shall be administered by the department's office of local systems and shall be divided among the cities as determined by the department after consultation with city officials through their representative organizations.

161.2(4) To be eligible, the bridge must have a completed structural inventory and appraisal (SI & A) report on file with the department in accordance with National Bridge Inspection Standards, be structurally deficient or functionally obsolete, and have a sufficiency rating that complies with federal requirements.

These rules are intended to implement Iowa Code section 307.44.

[Filed emergency 3/31/83—published 4/27/83, effective 4/1/83]
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[Filed 8/7/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

CHAPTER 162
BRIDGE SAFETY FUND

761—162.1(83GA,SF376) Purpose and source of funds. This chapter implements 2009 Iowa Acts, Senate File 376, section 34, which creates a bridge safety fund. 2009 Iowa Acts, Senate File 376, section 13, subsection 6, appropriates $50 million to the department from tax-exempt revenue bonds to be used for infrastructure projects relating to functionally obsolete and structurally deficient bridges on the state's primary road system.
[**ARC 8026B**, IAB 8/12/09, effective 7/15/09]

761—162.2(83GA,SF376) Definitions.

"Functionally obsolete" means the classification of a highway structure indicating one or more geometric features of the structure are below the standard required for current traffic. The classification is based on criteria established by the Federal Highway Administration in the "Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges."

"Primary road system" means the same as defined in Iowa Code section 306.3.

"Structurally deficient" means the classification of a highway structure indicating one or more elements of the structure are in need of monitoring or repair. The classification is based on criteria established by the Federal Highway Administration in the "Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges."
[**ARC 8026B**, IAB 8/12/09, effective 7/15/09]

761—162.3(83GA,SF376) General information.

162.3(1) Information regarding this chapter is available from the Office of Bridges and Structures, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1564.

162.3(2) The publication entitled "Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges," December 1995, may be obtained from the office of bridges and structures or is available on the Internet at http://www.fhwa.dot.gov/bridge/mtguide.pdf.
[**ARC 8026B**, IAB 8/12/09, effective 7/15/09]

761—162.4(83GA,SF376) Eligibility.

162.4(1) In order for a bridge to be eligible for funding under this chapter, it must:

a. Be on the state's primary road system as defined in rule 761—162.2(83GA,SF376).

b. Be either functionally obsolete or structurally deficient as defined in rule 761—162.2(83GA,SF376).

c. Be able to be developed, designed, constructed, completed and paid for within the prescribed time frames of 2009 Iowa Acts, Senate File 376.

162.4(2) The aggregate estimated cost of the projects must fall within the $50 million that was appropriated to the bridge safety fund in 2009 Iowa Acts, Senate File 376.
[**ARC 8026B**, IAB 8/12/09, effective 7/15/09]

These rules are intended to implement 2009 Iowa Acts, Senate File 376, section 34.

[Filed Emergency ARC 8026B, IAB 8/12/09, effective 7/15/09]

CHAPTER 163
RISE PROGRAM

[Prior to 6/3/87, Transportation Department[820]—(06,Q) Ch 4]

761—163.1(315) Definitions. When used in this chapter, unless the context otherwise requires:

"Brownfield site" means an abandoned, idled, or underutilized industrial or commercial facility where expansion or redevelopment is complicated by real or perceived environmental contamination.

"Commission" means the state transportation commission.

"Department" means the Iowa department of transportation.

"Direct jobs created" refers to new jobs in firms, developments, or sites specifically assisted by a RISE project.

"Direct jobs retained" refers to existing jobs that would otherwise be lost in firms, developments, or sites specifically assisted by a RISE project.

"Economic development" means private investment involving the creation of new jobs and income or the retention of existing jobs and income that would otherwise be lost. For the purposes of this program, economic development shall be viewed from a statewide perspective rather than a local or substate, regional perspective.

"Funding commitment" means commission approval of the use of RISE funds for a project.

"Grant" means funds received for a RISE project with no provision for applicant repayment of principal.

"Immediate opportunity project," one of the two types of RISE projects, is a roadway project that needs a funding commitment within a short time period and meets the threshold criteria in subrule 163.8(6). The project primarily provides improved access to either a single economic unit, such as a county, a city, an industrial park, a plant or other business, a development site or a tourist attraction, or to a portion of a metropolitan area.

"Import substitution" means replacing inputs, products or services from out-of-state firms or locations with Iowa inputs, products or services.

"Jurisdiction" means the state, county, or city having legal authority over a road or street.

"Loan" means funds received for a RISE project with provision for applicant repayment of principal. A loan may or may not involve the payment of interest charges.

"Local development project," one of the two types of RISE projects, is a roadway project which is programmed through a semiannual competitive rating procedure. The project primarily provides improved access to either a single economic unit, such as a county, a city, an industrial park, a plant or other business, a development site or a tourist attraction, or to a portion of a metropolitan area.

"Metropolitan area" means the area encompassed by the metropolitan area boundary established by the metropolitan planning organization (MPO) for a U.S. census-defined urbanized area.

"Project" means an eligible activity or cost or set of eligible activities or costs funded with RISE program funds. The two types of projects which may be funded under the RISE program are immediate opportunity projects and local development projects.

"RISE" means revitalize Iowa's sound economy.

"RISE fund" means the fund created in Iowa Code section 315.2.

"Total capital investment" means the economic value of all permanent purchases, donations, or improvements directly associated with an economic development activity but not funded with RISE moneys, including land; improvements to land; buildings; equipment; furnishings; electric, gas, telephone, and other utilities; sanitary sewer and storm sewer extensions and hookups; and railroad spurs, access roads, parking lots, and other transportation facilities.

"Transportation justification" means the reasons given for a project from a transportation planning and engineering standpoint. The justification should address the current condition of existing roadways or bridges, the relationship of the project to connecting roads, anticipated total traffic, anticipated large truck traffic, proposed major design features, roadway function, and the reasons the proposed alternative was selected over other available alternatives.

761—163.2(315) Purpose of RISE program. The purpose of the RISE program is to promote economic development in Iowa through the establishment, construction, improvement, and maintenance of roads and streets. The RISE program shall be targeted toward value-adding activities to provide maximum economic impact to the state. Value-adding activities feed new dollars into the economy. As these dollars are circulated, the state experiences economic growth. Residential development, local government facilities, local public schools, locally oriented business services and personal services are generally not value-adding activities and will rarely meet the intent of the program.

The RISE program shall also be administered to encourage economic diversification, new business opportunities, small business development, exporting, import substitution and tourism in Iowa.

761—163.3(315) Administration of RISE program.

163.3(1) The RISE program shall be administered by the department as a statewide program, with projects evaluated primarily on the basis of economic development criteria rather than solely on the basis of transportation criteria. In carrying out its program responsibilities, the department shall:

a. Involve local officials in program development and periodic program review and evaluation, including evaluation of the accomplishments and effectiveness of the RISE program. However, all project funding decisions shall be the responsibility of the commission.

b. Simplify application processes and administrative procedures to the maximum practicable extent.

c. Design the RISE program administrative procedures so that they are flexible enough to meet county and city needs.

d. Ensure neutrality and fairness in the treatment of all applications submitted for funding under the RISE program.

e. Promote intergovernmental cooperation on economic development.

f. Promote the use of innovative financing mechanisms for RISE projects.

163.3(2) The commission shall be responsible for all RISE project funding commitments. All project funding commitments are made subject to the availability of RISE funds.

163.3(3) The department's office of systems planning shall be responsible for administering the RISE project selection process. RISE application instructions and forms are available upon request to the Office of Systems Planning, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1664. Application forms and instructions are also available on the Internet at www.dot.state.ia.us/forms.

163.3(4) The department shall annually prepare a written report indicating the amount and percentage of funds expended during the previous year on primary roads, secondary roads, city streets, state park roads and county conservation parkways.

761—163.4(315) Source, allocation, and use of RISE funds.

163.4(1) *Source.* The RISE program is funded with dedicated state motor fuel and special fuel tax revenues as set out in Iowa Code section 312.2 and chapter 315.

163.4(2) *Allocation and use.*

a. *Allocation among roadway jurisdictions.* The RISE fund shall be allocated as specified in Iowa Code section 315.4.

b. *Funding restricted to public roads.* The use of RISE funds is restricted to construction or improvement of primary roads, secondary roads, city streets, state park roads and county conservation parkways presently open to public use or ones which will be dedicated and open to public use in the future. RISE funds may not be used for private road projects or for any other private purpose. Project activities which may and may not be funded under the RISE program are listed in rule 163.7(315).

c. *Use of county or city RISE funds on primary road projects.* Counties or cities may at their option make application to the department to apply RISE funds allocated for use on secondary road or city street projects toward primary road projects. Use of county or city RISE funds on primary road projects shall be approved by the commission.

d. *Type of projects.* The two types of projects which may be funded under the RISE program are immediate opportunity projects and local development projects. The requirements and procedures specifically applicable to the two project types are located in the following rules of this chapter:

(1) Immediate opportunity projects: Rule 163.8(315).

(2) Local development projects: Rule 163.9(315).

e. *Relationship of project.* The demonstrated relationship of a project to economic development shall generally be the main criterion employed in determining the priority for funding. The department is required to assign the lowest priority to a project if it involves a business with wages substantially below other area businesses or with a consistent record of law violations. In terms of project type, an immediate opportunity project shall have first priority for all available RISE funds.

f. *Use of repaid funds.* RISE funds repaid the department for any reason may be used for other projects or carried over to the next programming cycle at the discretion of the commission. RISE funds repaid shall be credited to the share of the fund from which the project was originally funded.

g. *Carryover of funds.* The commission need not commit the spending of all RISE funds available during a programming cycle. Uncommitted funds may be carried over to the next programming cycle or used for immediate opportunity projects. On June 30 of each year, all uncommitted county funds shall be credited to the secondary road fund.

h. *Reserve for future needs and contingencies.* The commission shall hold back from funding commitment an amount of RISE funds sufficient to meet anticipated present and future immediate opportunity project needs and other contingencies.

761—163.5(315) Project financing and funding shares.

163.5(1) *Financing.* Applicants may choose to propose grant financing for any RISE project. Applicants are encouraged but not required to propose below market rate interest loan, no interest loan, or partial principal payback rather than grant financing for RISE projects. The extent to which a project will return moneys to the RISE fund shall be considered in project evaluation processes. Final financial terms for all RISE projects are subject to negotiation between the department and the applicant and approval by the commission.

163.5(2) *Funding shares.* Applicants may propose the proportions and sources of RISE and non-RISE funds to be used for a project. Use of RISE funds is subject to commission approval.

761—163.6(315) Eligibility of applicants and joint applications.

163.6(1) *Applicant eligibility.* All incorporated cities and all counties in the state of Iowa are eligible to apply for and receive funds under the RISE program. The department is also eligible to initiate projects and receive funds under this program, but need not formally apply for funds. Private firms or developers or other agencies may not apply directly for funds, but are encouraged to work with county or city governments in seeking funding for projects.

163.6(2) *Joint applications.* Joint applications from two or more counties or cities are encouraged when mutual action is required to support economic development. Joint applications shall designate a lead county or city to serve as a principal contact point for the department.

761—163.7(315) Project activities eligible and ineligible for RISE funds.

163.7(1) *Eligible activities.* Project activities or costs eligible for RISE funding, and which may be counted as part of the non-RISE participation in immediate opportunity and local development roadway projects, include only the following:

a. Roadway resurfacing, rehabilitation, modernization, upgrading, reconstruction or initial construction, including grading and drainage, paving, erosion control, pavement overlays, and shoulder widening and stabilization.

b. Bridge and culvert repair, modernization, replacement or initial construction.

c. Roadway intersection and interchange improvements including warranted traffic signalization when it is integral to the improvement.

d. Right-of-way purchase.

e. Construction or improvement of motorist rest areas, welcome centers, and information centers.

f. Design engineering costs and construction inspection costs associated with RISE-financed projects.

g. County and city bond principal and interest payments associated with RISE projects. No financing expenses incurred prior to funding commitment shall be eligible.

h. Storm drainage and storm sewer costs to the extent needed for draining the roadway.

163.7(2) *Ineligible activities.* Activities or costs ineligible for RISE funding, and which may not be counted as part of the non-RISE participation in immediate opportunity or local development roadway projects, include but are not limited to the following:

a. Any and all costs incurred prior to a funding commitment by the commission except for advance right-of-way acquisition costs necessary to protect or preserve a project corridor. If there is an extreme urgency involving right-of-way acquisition, a potential applicant may formally request from the department written approval to acquire the right-of-way immediately without jeopardizing the eligibility of the acquisition costs for future RISE funding. Granting of this approval does not imply or guarantee that a subsequent application which includes the acquisition costs will be funded. The request must include justification regarding the urgency of the acquisition, a description of the land to be acquired, and a map showing its location. Approval to acquire right-of-way immediately must be requested from and granted by the department prior to the applicant's acquisition of the land in question. The RISE application which includes the acquisition costs must be received by the department within two years following the granting of this approval, or the approval is not valid.

b. Routine roadway, bridge and culvert maintenance, including pothole filling, crack sealing, seal coating, patching, shoulder maintenance, gravel or earth roadway maintenance, and bridge painting.

c. Winter roadway and bridge maintenance, including snow plowing, sanding, and salting.

d. Overhead and operating costs associated with eligible project activities, including auditing.

e. Expenses associated with the preparation and submission of applications for RISE funding.

f. Predesign engineering expenses.

g. Traffic signalization, except as an integral part of a roadway project.

h. Pavement marking and traffic signs, except as an integral part of a roadway project.

i. Electric, water, natural gas, telephone and other utility construction, reconstruction or adjustment except when utilities located on private property are replaced or relocated for project construction.

j. Safety appurtenances, except as an integral part of a roadway project.

k. Lighting, except as an integral part of a roadway project.

l. Lighting energy and maintenance costs.

m. Sidewalks, bicycle paths, and railroad-highway crossings, except when replacing those facilities in service and affected by the project, or as an integral part of a roadway project.

n. Parking expenditures, including those for structures, lots, meters, and marking.

o. Nonroadway transportation expenditures, including those for railway, aviation, public transportation, and inland waterway facilities and equipment.

p. Purchase of furnishings, construction equipment, and personal property.

q. General government expenses and expenses associated with the provision of any public service which are not eligible for RISE program assistance.

r. Sanitary sewers.

s. Water mains.

t. Donated right-of-way.

761—163.8(315) Immediate opportunity projects.

163.8(1) *General provisions.* The following provisions are applicable to immediate opportunity projects:

a. Immediate opportunity projects may be located on primary roads, secondary roads, city streets, state park roads or county conservation parkways.

b. There is no restriction on the number of applications per county or city that will be considered for RISE funding.

c. Counties and cities may apply for single-year or multiyear funding. Multiyear funding shall be limited to funding commitments from no more than three program years' allocations.

d. Applicants may use staff from other counties or cities, areawide planning organizations, areawide economic development organizations, or other jurisdictions to prepare application materials or administer projects.

e. There must be an adequate transportation justification for the roadway project. The proposed improvement need not be designed prior to project application, but the concept must generally be reasonable from a transportation planning and engineering standpoint and detailed enough to enable project cost estimates to be developed.

163.8(2) *Contents of applications.* Each application for an immediate opportunity project must contain the following:

a. General information, including applicant name, contact person, mailing address, telephone number, and other information of a general nature about the project proposal and the associated economic development activity.

b. Cost information, including the estimated total capital investment involved with the associated economic development activity, the estimated total cost of the roadway project, the amount of RISE funds requested for the roadway project, and the amount of non-RISE funds to be used to match or supplement RISE funding. Itemized breakdowns (showing the item, cost, and funding source) must be included for the total capital investment, the total roadway project cost, the RISE funds requested, and the non-RISE funds to be used to match or supplement RISE funding.

c. Data showing the impact of the associated economic development activity, including the number of direct jobs created or retained. Jobs created as a result of jobs being displaced elsewhere in the state shall not be considered direct jobs created for the purpose of evaluating the application.

(1) To expedite the review, the applicant shall provide the following data for each business included in the project justification: a list of in-state competitors; a list of in-state suppliers; the percentage of out-of-state sales; the effect on import substitution; long-range growth potential; and a list of all current and anticipated employment positions, both full- and part-time, the hourly wage for each, and the turnover rate.

(2) The applicant shall certify that each business will give hiring preference to residents of the state or local area, except for out-of-state employees offered a transfer to Iowa.

d. A preliminary project concept statement for the roadway project, including a location map, a sketch plan and a justification for the transportation improvement. In most cases, a sketch plan should include a simple plan and profile defining the horizontal and vertical geometrics and a typical roadway cross section defining pavement, shoulders, foreslope, and backslope or border treatment.

e. A time schedule for the total development, including the roadway project and the associated economic development activity.

f. For a road or street which is not currently dedicated to public use, written assurance of future dedication from the jurisdiction responsible or to be responsible for the road or street to be constructed or improved.

g. An official endorsement of the project proposal from the jurisdiction responsible or to be responsible for the road or street to be constructed or improved. The jurisdiction must also provide written assurance that it will adequately maintain the new or improved road or street.

h. Documentation showing that the threshold criteria of subrule 163.8(6) have been met.

i. Rescinded IAB 8/8/01, effective 7/20/01.

163.8(3) *Submission of applications.* Application instructions and forms for immediate opportunity projects are available from the office of systems planning or on the Internet at www.dot.state.ia.us/forms. An original and one copy of each completed application shall be submitted to the office of systems planning. Applications may be submitted at any time.

Once an application has been submitted, no further information concerning that application shall be accepted by the department from the applicant unless specifically requested by the department.

Applications may be withdrawn by the applicant and resubmitted at any time. Resubmitted applications shall be dated accordingly.

163.8(4) *Incomplete applications.* An applicant must satisfy the application requirements outlined in this chapter of rules and must fully complete the official application form before its applications will be reviewed. An applicant shall be notified if an application is incomplete. An incomplete application shall be reviewed when it is resubmitted in a complete form by the applicant.

163.8(5) *Verification of application materials.* Complete applications shall be reviewed to verify the figures or statements in the applications. This may include site visits. If inaccuracies, omissions, or errors are found, the commission may rescind the commitment of funds or reevaluate the application based on the correct information. If an applicant loses funding through this process, the commission shall have complete discretion concerning the disposition of those funds, including awarding them to other applicants or carrying them over to the next programming cycle.

163.8(6) *Threshold criteria.* Funding commitment decisions for immediate opportunity projects shall be made on an individual basis. There is no competitive ranking of project applications. In order to gain a funding commitment, an application must meet all of the following threshold criteria:

a. The project must be related to an immediate, nonspeculative opportunity for permanent job creation or retention. The applicant county or city (or its agent) should be in the process of negotiating a location or retention decision with a developer or firm. This criterion may be satisfied by a resolution from the applicant county or city stating that it is involved in negotiations with a developer or firm.

b. The applicant must demonstrate that an immediate funding commitment is essential to influence the job location or retention decision.

c. The applicant must demonstrate that necessary arrangements have been made for nonroadway factors (e.g., labor force training, zoning, sewer, water, police and fire protection, financing, and permits) essential for the proposed job creation or job retention activity.

d. There must be at least 20 percent non-RISE financial participation in the roadway project, except as indicated in subparagraph (2) of this paragraph.

(1) This participation shall include only those items listed as eligible for RISE funding, and may be in the form of cash, the value of design engineering and construction inspection services, or the cost of eligible advance right-of-way acquisitions pursuant to paragraph 163.7(2)*"a."* The applicant shall provide documentation to the department supporting the value of any noncash contribution to the project.

(2) The commission may approve a participation amount that is less than 20 percent if it determines that the applicant city or county is economically distressed.

e. There must be a strong likelihood that the total development, including the roadway project, can be completed in a timely manner. It is up to the applicant to identify a time schedule and maintain it. This time schedule may be adjusted when agreed to by the commission if the project involves unusually complex engineering studies, extensive real estate negotiations, extensive analysis for environmental clearances, or unusually complex planning for associated development. The commission may withdraw funding if time schedules have been misrepresented or have not been maintained.

163.8(7) *Review and funding of applications.*

a. The staff of the department shall review complete immediate opportunity project applications and may consult with other organizations with economic development responsibilities. As part of the review, the staff shall evaluate the effect of the proposed project on the state economy using the following factors: consistency with the state economic development plan; diversification of the state economy; the impact on in-state suppliers, competitors, and import substitution; percentage of out-of-state sales; the quality of employment positions; and the record of law violations. This review shall be performed within a reasonable period of time after receipt of the application. Following this review, complete applications meeting the threshold criteria of subrule 163.8(6) shall be forwarded to the commission for action at their next meeting.

b. The commission may fund all or any part of an application and may make a conditional funding commitment. In making its decision, the commission will consider the amount of total capital investment per RISE dollar requested, and the amount of RISE dollars requested per job created or retained.

c. The commission may deny funding for projects which will not result in net job creation or job retention from a statewide point of view, for instance, projects which simply involve the relocation of jobs or other economic activity within Iowa.

d. Immediate opportunity project applications may, at the discretion of the commission, be considered as applications for local development projects. These applications shall be included in the current round of local development project programming, regardless of the deadlines stated in subrule 163.9(3). However, immediate opportunity project applications submitted solely to circumvent the deadlines for local development project applications shall not be considered in this manner.

761—163.9(315) Local development projects.

163.9(1) *General provisions.* The following provisions are applicable to local development projects:

a. Local development projects may be located on primary roads, secondary roads, city streets, state park roads or county conservation parkways.

b. There is no restriction on the number of applications per county or city that will be considered for RISE funding.

c. Counties and cities may apply for single-year or multiyear funding. Multiyear funding shall be limited to funding commitments from no more than three program years' allocations.

d. Applicants may use staff from other counties or cities, areawide planning organizations, areawide economic development organizations, or other jurisdictions to prepare application materials or administer projects.

e. There must be an adequate transportation justification for the roadway project. The proposed improvement need not be designed prior to project application, but the concept must generally be reasonable from a transportation planning and engineering standpoint and detailed enough to enable project cost estimates to be developed.

163.9(2) *Contents of applications.* Each application for a local development project must contain the following:

a. General information, including applicant name, contact person, mailing address, telephone number, and other information of a general nature about the project proposal and the associated economic development activity.

b. Cost information, including the estimated total capital investment involved with the associated economic development activity, the estimated total cost of the roadway project, the amount of RISE funds requested for the roadway project, and the amount of non-RISE funds to be used to match or supplement RISE funding. Itemized breakdowns (showing the item, cost and funding source) must be included for the total capital investment, the total roadway project cost, the RISE funds requested, and the non-RISE funds to be used to match or supplement RISE funding.

c. Data showing the impact of the associated economic development activity, including the number of direct jobs created or retained. Jobs created as a result of jobs being displaced elsewhere in the state shall not be considered direct jobs created for the purpose of evaluating the application.

(1) To expedite the review, the applicant shall provide the following data for each business included in the project justification: a list of in-state competitors; a list of in-state suppliers; the percentage of out-of-state sales; the effect on import substitution; long-range growth potential; and a list of all current and anticipated employment positions, both full- and part-time, the hourly wage for each, and the turnover rate.

(2) The applicant shall certify that each business will give hiring preference to residents of the state or local area, except for out-of-state employees offered a transfer to Iowa.

d. A preliminary project concept statement for the roadway project, including a location map, a sketch plan and a justification for the transportation improvement. In most cases, a sketch plan should include a simple plan and profile defining the horizontal and vertical geometrics and a typical roadway cross section defining pavement, shoulders, foreslope, and backslope or border treatment.

e. A time schedule for the total development, including the roadway project and the associated economic development activity.

f. For a road or street which is not currently dedicated to public use, written assurance of future dedication from the jurisdiction responsible or to be responsible for the road or street to be constructed or improved.

g. An official endorsement of the project proposal from the jurisdiction responsible or to be responsible for the road or street to be constructed or improved. The jurisdiction must also provide written assurance that it will adequately maintain the new or improved road or street.

h. Rescinded IAB 8/8/01, effective 7/20/01.

163.9(3) *Submission of applications.* Application instructions and forms for local development projects are available from the office of systems planning or on the Internet at www.dot.state.ia.us/forms. An original and one copy of each completed application shall be submitted to the office of systems planning.

a. Applications may be submitted at any time. However, in order to be considered in the current round of programming, complete applications must be received by the department no later than February 1 or September 1.

b. Once an application has been submitted, no further information concerning that application shall be accepted by the department from the applicant unless specifically requested by the department. Applications may be withdrawn by the applicant and resubmitted at any time. Resubmitted applications shall be dated accordingly.

163.9(4) *Incomplete applications.* An applicant must satisfy the application requirements outlined in this chapter of rules and must fully complete the official application form before its application will be reviewed. An applicant shall be notified if an application is incomplete. An incomplete application shall be reviewed when it is resubmitted in a complete form by the applicant.

163.9(5) *Verification of application materials.* Complete applications shall be reviewed to verify the figures or statements in the applications. This may include site visits. If inaccuracies, omissions, or errors are found, the commission may rescind the commitment of funds or reevaluate the application based on the correct information. If an applicant loses funding through this process, the commission shall have complete discretion concerning the disposition of those funds, including awarding them to other applicants or carrying them over to the next programming cycle.

163.9(6) *Rating factors.* The following factors and potential rating points shall be used in assessing applications for local development projects; assessment of these factors shall be the responsibility of the department.

a. *Development potential.* This factor measures the degree of certainty involved in the economic development activity to be supported by the proposed RISE project and the potential for future job growth. Maximum points: 35.

b. *Economic impact.* This factor measures the economic impact of the development activity to be supported by the proposed RISE project, including the number of direct jobs assisted, investment leveraging, the percentage of out-of-state sales and in-state suppliers, the impact on competition and diversification, and the quality of job factors. Maximum points: 20.

c. *Local commitment and initiative.* This factor measures the level of effort being put forth by the applicant to attract economic development and the adequacy of the supporting infrastructure. Maximum points: 35 (includes 5 points for the remediation or redevelopment of a brownfield site).

d. *Transportation need.* This factor measures the condition and quality of existing road or street service. Maximum points: 4.

e. *Area economic need.* This factor measures the economic condition of the area. Maximum points: 6.

163.9(7) *Review and funding of applications.*

a. The staff of the department shall review and rate complete local development project applications and may consult with other organizations with economic development responsibilities. As part of the review, the staff shall evaluate the effect of the proposed project on the state economy using the following factors: consistency with the state economic development plan; diversification of the state economy; the impact on in-state suppliers, competitors, and import substitution; percentage of out-of-state sales; the quality of employment positions; and the record of law violations. Complete

applications shall be forwarded to the commission for a funding commitment action within a reasonable period of time after the application deadline. An application considered but not funded in one programming cycle must be resubmitted by the applicant if it is to be considered in a subsequent cycle.

b. The commission may fund all or any part of an application and may make a funding commitment conditional upon adherence to a specific time schedule, realization of a development prospect, or fulfillment of other agreements.

761—163.10(315) Regional development projects. Rescinded IAB 1/8/03, effective 2/12/03.

761—163.11(315) Project administration.

163.11(1) *Projects located on primary roads or state park roads.* RISE projects located on primary roads or state park roads shall be administered by the department in conformance with the requirements of Iowa Code chapter 315. The department may delegate part or all of this responsibility to another participating jurisdiction.

163.11(2) *Projects located on secondary roads, city streets or county conservation parkways.*

a. *Agreement.* After a funding commitment has been made for a project located on secondary roads, city streets or county conservation parkways, the department shall enter into a project agreement with those local jurisdictions whose roads, streets or parkways are a part of the project. The agreement shall delineate responsibilities for project planning, design, right-of-way, contracting, construction and materials inspection, and documentation. The agreement shall require that a business assisted by the project which acquires or merges with an Iowa corporation within three years following the RISE application shall make a good-faith effort to hire the workers of the merged or acquired company.

b. *Project payments.* Payments from the RISE fund to counties or cities shall be made on a cost reimbursement basis. All known required environmental permits must be granted and regulations met before moneys are released.

c. *Project expenditures incurred prior to agreement.* Project expenditures incurred after the commission has made a funding commitment, but before execution of the agreement, may be eligible for reimbursement if prior written authorization is obtained from the department and an agreement is subsequently executed. However, under no circumstances shall any reimbursement be paid until the agreement has been executed.

d. *Remedies for noncompliance with project agreement.* The commission may revoke funding commitments, require repayment of RISE funds loaned or granted, or take both actions when the county or city has not fulfilled the terms of the project agreement.

163.11(3) *Cost overruns.* RISE funds committed for projects are for a maximum dollar amount. Cost overruns shall be the responsibility of the administering jurisdiction.

These rules are intended to implement Iowa Code section 312.2 and chapter 315.

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CHAPTER 164
TRAFFIC SAFETY IMPROVEMENT PROGRAM

761—164.1(312) Definitions.

"Jurisdiction" means the department, or the county or city having responsibility for and control over a road or street.

"Traffic safety fund" means the fund created for traffic safety improvement projects pursuant to Iowa Code section 312.2.

761—164.2(312) Information and forms. Information, instructions and application forms may be obtained from the Office of Traffic and Safety, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1557.

761—164.3(312) Program administration.

164.3(1) *Purpose.* The traffic safety fund provides supplemental funding for traffic safety improvements or studies on public roads under county, city or state jurisdiction.

164.3(2) *Local participation.* The department shall administer the traffic safety fund as a statewide program and will encourage local participation in the review and evaluation of applications for funding.

164.3(3) *Funding.*

a. The commission shall review all applications and be responsible to program selected projects, subject to the availability of funds. The commission may fund all or part of a project and may make funding dependent upon adherence to a time schedule or fulfillment of specified conditions.

b. The commission need not commit all funds available during a fiscal year. Unexpended funds shall be retained for subsequent programming cycles.

c. The maximum traffic safety funding for a site-specific project shall generally not exceed $500,000. Total funding allotted for the traffic control device materials category shall not exceed $500,000 annually. Total funding allotted for all research, studies and public information initiatives shall not exceed $500,000 annually. All project costs exceeding the commitment of traffic safety funds shall be the responsibility of the applicant.

761—164.4(312) Applicant eligibility. The department, a county or an incorporated city in the state of Iowa is eligible to apply for traffic safety funds. Joint applications are encouraged when applicable, but the applicants shall designate one jurisdiction as the principal contact.

761—164.5(312) Project eligibility.

164.5(1) *Types of projects.* Eligible applications shall address needs in one of three categories: construction or improvement of traffic operations at a specific site; purchase of materials for initial installation or replacement of obsolete traffic control signs; or transportation safety research, studies or public safety information initiatives.

164.5(2) *Public roads.* Only applications involving a primary road, secondary road, or city street presently open to public use shall be considered. A project for a private purpose or road is not eligible.

761—164.6(312) Eligible project costs.

164.6(1) *Site-specific improvements.* The costs of construction or improvements eligible for traffic safety fund reimbursement include, but are not limited to, the following:

a. Road modernization, upgrading or reconstruction.

b. Bridge and culvert modernization, replacement or removal.

c. Road intersection and interchange improvement including channelization, traffic control devices or lighting.

d. Right-of-way required for a traffic safety project.

e. Drainage and erosion measures which are an integral part of the project.

f. Traffic control devices required by the project.

g. Guardrail.

h. Tree removal.

i. Other construction activities directly related to or required by the safety project.

164.6(2) *Traffic control devices.* The cost of materials purchased for initial installation of traffic control devices or replacement of obsolete traffic control devices to comply with the applicable warrants in the Manual on Uniform Traffic Control Devices (MUTCD) adopted in rule 761—130.1(321), Iowa Administrative Code, shall be eligible for funding.

164.6(3) *Research, studies and public information initiatives.* Funding shall be available for research, studies or public information initiatives related to traffic operations safety.

a. Research shall address statewide traffic safety concerns.

b. A study shall address remedies for traffic operations safety at a specific location. Study funds may be used to supplement federal Traffic Engineering Assistance Program (TEAP) funding.

c. A public information initiative shall emphasize traffic safety techniques or policies, and should be of statewide interest. An initiative of local scope may also be considered.

761—164.7(312) Ineligible project costs.

164.7(1) Any and all costs incurred prior to commission approval of funding for a project are ineligible.

164.7(2) Activities and costs not eligible for traffic safety funding as a portion of a site-specific improvement include, but are not limited to:

a. Routine maintenance of a road, street, bridge, culvert or traffic control device.

b. Safety-related activities associated with projects initiated for purposes other than traffic safety.

c. Contract administration costs.

d. Design and construction engineering and inspection.

e. Utility construction, reconstruction or adjustment, except as an integral part of a project.

f. Sidewalks, bicycle paths, or railroad-highway crossings, except as an integral part of a project.

g. Maintenance or energy costs for traffic control devices or lighting.

h. Expenditures for items not related to the roadway.

164.7(3) Activities and costs not eligible for traffic safety funding as a part of an application for traffic control device materials include, but may not be limited to:

a. Maintenance or energy costs for traffic control devices or lighting.

b. Installation costs.

761—164.8(312) Applications. Application procedures for each funding category will be distinct.

164.8(1) An application by a city or county for funding site-specific construction must be submitted on a departmental form specifically used for the traffic safety fund. Comparable information will be provided by the department for state-initiated projects. Required information shall include:

a. The applicant's name, mailing address, telephone number, and a designated contact person for the project.

b. A preliminary project concept statement, including a location map and a sketch plan. The concept must be reasonable from a traffic engineering standpoint and detailed enough to generate project cost estimates.

c. The justification for the proposed construction project. Justification may be based on a location's inclusion in the department's list of high accident locations, a TEAP-type study recommendation or a similar study generating a positive benefit/cost analysis for the proposed improvement.

d. Data showing the anticipated effect of the project on traffic safety. Data shall include accident history from the department's Accident Location Analysis System (ALAS) and the anticipated accident reduction, both in number and type, expected as a result of the project.

e. An itemized cost estimate for the project including a list of the sources and amounts of supplementary funds for the project.

f. A time schedule for the project.

g. The jurisdiction's official endorsement of the project and written assurance that the improved site will be adequately maintained.

164.8(2) An application for funding to pay the cost of materials for traffic control device installation shall be submitted in writing and shall include:

a. The applicant's name, mailing address, telephone number, and a designated contact person.

b. A list of the number and types of devices requested, and whether each is for initial placement or a replacement.

c. An inventory or similar documentation providing justification for the requested device.

d. A cost estimate and time schedule for installation after delivery.

e. The jurisdiction's official endorsement of the traffic control device project and written assurance that the traffic control device will be adequately maintained.

164.8(3) Research, a study or a public information initiative shall be proposed in writing and shall include:

a. The applicant's name, mailing address, telephone number and a designated contact person.

b. A description of the proposed subject matter and the goals or expected results of the effort.

c. A cost estimate.

761—164.9(312) Processing the application.

164.9(1) *Submission.*

a. The jurisdiction shall submit an original and three copies of the complete application to the office of traffic and safety. An application may be submitted at any time and shall be dated when received by the office of traffic and safety.

b. All complete applications received before August 15 of each year shall be evaluated for funding.

c. If an application is incomplete, the department shall return the application to the applicant to be resubmitted when complete. A resubmitted application shall be dated when received by the office of traffic and safety.

d. An unfunded application may be resubmitted for consideration during a subsequent funding period.

e. An application may be withdrawn at any time.

164.9(2) *Approval of projects.* Department staff shall prepare, with input from city and county officials, a proposed program of projects for each funding category and submit the programs to the commission for approval. The criterion for determining funding priorities in each category is the demonstrated relationship of the project to traffic safety.

[**ARC 7618B**, IAB 3/11/09, effective 4/15/09; **ARC 0033C**, IAB 3/7/12, effective 4/11/12]

761—164.10(312) Project agreement.

164.10(1) After the commission has approved funding for a county or city project, a project agreement shall be negotiated and executed between the department and the local jurisdiction. The agreement shall specify the conditions for project funding, which may include such items as the responsibility for planning, design, right-of-way, contracting, construction, materials inspection, documentation and the criteria for each. The agreement shall also specify the funding level for the eligible work items.

164.10(2) The department shall reimburse the county or city for actual eligible project costs not to exceed the amounts authorized by the project agreement.

164.10(3) Rescinded IAB 10/30/02, effective 12/4/02.

These rules are intended to implement Iowa Code section 312.2.

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CHAPTER 165
RECREATIONAL TRAILS PROGRAM

761—165.1(312) Definitions.

"Authority" means a state or local government agency, municipal corporation, county or nonprofit organization having authority and responsibility for a trail.

"Recreational trails fund" means the fund created for the acquisition, construction, and improvement of recreational trails pursuant to Iowa Code section 312.2.

761—165.2(312) Information and forms. Information, instructions and application forms may be obtained from: Office of Project Planning, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1225. All inquiries regarding the recreational trails program should be directed to this office.

761—165.3 and **165.4** Reserved.

761—165.5(312) Program administration.

165.5(1) *Purpose.* The recreational trails program provides funds to establish recreational trails in Iowa for the use, enjoyment and participation of the public. The department shall administer the recreational trails fund as a statewide program.

165.5(2) *Funding.*

a. The transportation commission is solely responsible for all funding commitments and shall determine the projects to be funded, subject to the availability of recreational trails funds. The commission may approve, modify, or deny an application. The commission may fund all or part of a project and may make funding conditional upon adherence to a time schedule or to fulfillment of an agreement.

b. The commission need not commit all funds available during a programming cycle. The commission may reserve unexpended or repaid funds for the next programming cycle or for anticipated present and future project needs and other contingencies.

c. Project costs that exceed the commission's funding commitment shall not be eligible for reimbursement from the recreational trails fund. Reimbursement for project costs shall be limited to the percentage match approved by the commission and actual eligible project costs incurred.

761—165.6 to **165.8** Reserved.

761—165.9(312) Applicant eligibility.

165.9(1) A state or local government agency, a municipal corporation, a county or a nonprofit organization is eligible to apply for and receive funds from the recreational trails program.

165.9(2) A private business or developer is not eligible to apply directly for funds from the recreational trails program.

761—165.10 and **165.11** Reserved.

761—165.12(312) Project eligibility.

165.12(1) *Public use.* The recreational trails program is restricted to the acquisition, construction or improvement of recreational trails open for public use or trails which will be dedicated to public use upon completion. A private trail project or a project for a private purpose is not eligible for funding under this program.

165.12(2) *Criteria.* A proposed recreational trails project shall meet all of the following requirements:

a. The project must be part of a local, areawide, regional or statewide plan.

b. The trail route shall be designed to allow enjoyment of scenic views or points of historical interest and to maximize safety. The route may use existing roads, streets or parkways, if the normal

flow of motor vehicle traffic will not be hindered, abandoned railroad corridors, utility corridors, or new right-of-way as necessary.

c. The project shall include a contribution of at least 25 percent matching funds. Notwithstanding, at the discretion of the department, funds may be granted up to a maximum of 80 percent. Except as provided in subrule 165.22(3), matching funds shall be from sources other than the recreational trails program.

d. Matching funds shall not include other grants from state agencies or the provision of in-kind services. The value of donated land may be an eligible matching contribution if:

(1) The land is donated after the commission's funding commitment, and

(2) The value is based on a real estate appraisal acceptable to the department. The appraisal is subject to review and approval by the department after a funding commitment has been made.

761—165.13 and **165.14** Reserved.

761—165.15(312) Eligible project costs.

165.15(1) *Land.* Land acquisition costs including, but not limited to, appraisal costs, negotiation costs and the required cultural resources survey pursuant to Iowa Code chapter 305A are eligible project costs. Land may be acquired by lease, easement or fee simple. Except for primary road projects, the performance of land negotiation and acquisition activities shall not be the responsibility of the department although the department may provide advisory services.

165.15(2) *Other eligible costs.* Other project costs that are eligible for funding are limited to the following:

a. Trail surfacing, resurfacing, rehabilitation, modernization, upgrading and reconstruction, including pavement repairs and overlays and shoulder widening and stabilization; or initial trail construction including grading, drainage, paving and erosion control.

b. Bridge and culvert repair, modernization, replacement or initial construction.

c. Roadway intersection and interchange improvements, including warranted traffic signalization that is an integral part of the project.

d. Construction or improvement of rest areas, information centers, waysides, permanent interpretive displays, lighting and rest rooms, including the costs of utility connections that are an integral part of the project.

e. Design engineering and construction inspection costs directly associated with the project.

f. Storm drainage and storm sewer costs to the extent needed for draining the trail.

g. Utility relocation costs necessary for trail construction or improvement if the utility is not located on public right-of-way.

h. Trail signs, fencing, landscaping, parking areas, and walkways.

761—165.16 Reserved.

761—165.17(312) Ineligible project costs.

165.17(1) *Before commission approval.* Any and all costs incurred prior to commission approval of funding for a project are ineligible for funding under the recreational trails program.

165.17(2) *Other ineligible costs.* Other project costs that are ineligible for funding include, but are not limited to, the following:

a. Routine maintenance of a trail, bridge, culvert, fence or sign; winter maintenance of a trail or bridge, including snow plowing, sanding, and salting.

b. Overhead and operating costs associated with a project, such as auditing, legal and administrative costs.

c. Expenses associated with the preparation and submission of a project application.

d. Predesign engineering and planning expenses.

e. Utility costs other than those listed in rule 165.15(312).

f. Pavement markings, traffic signs, safety appurtenances or lighting except as an integral part of a trail project.

g. Purchases of office furnishings or equipment, construction equipment, or personal property.

h. Sanitary sewers or water mains except as necessary for rest room construction.

i. General government expenses and expenses associated with the provision of any public service that are not otherwise eligible for project funding.

761—165.18 Reserved.

761—165.19(312) Advance eligibility waivers. A potential applicant for recreational trails funding may request from the department a written waiver of specified costs. If granted, the waiver will permit a specified expenditure by the applicant without jeopardizing the project's eligibility for funding approval. Granting a waiver shall not imply or guarantee that the department will fund a subsequent application. An advance eligibility waiver must be requested and approved prior to the expenditure; any cost incurred before a written waiver is granted shall be ineligible for reimbursement.

165.19(1) *Advance land acquisition.* Notwithstanding subrule 165.17(1), if there is an extreme urgency involving land acquisition, a potential applicant may submit a written request for a waiver to acquire land immediately. The request for the advance eligibility waiver must include justification regarding the urgency of the acquisition, a description of the land to be acquired, and a county map showing its location.

165.19(2) *Advance design costs.* A potential applicant may submit a written request for preconstruction project planning design and development costs. The request for the advance eligibility waiver may be granted if the total design and development expenditure does not exceed 15 percent of the total construction costs for the project. Adequate documentation of eligible costs shall be required before funding reimbursement.

761—165.20 and **165.21** Reserved.

761—165.22(312) Application.

165.22(1) *Submission.* An eligible applicant shall complete and submit an original and four copies of a project application on a form prescribed by the department.

a. An eligible applicant may submit more than one application in a funding cycle.

b. Two or more eligible applicants may submit a joint application and are encouraged to do so when a project requires mutual action. A joint application shall designate a lead applicant to serve as the principal contact with the department.

c. The deadlines are January 2 and July 1 or the first workdays following those dates.

d. Applications shall be submitted to the office of project planning. To be considered in the current funding cycle, an application must be received by project planning by 4:30 p.m. on the day of the deadline.

165.22(2) *Contents of application.* Each application shall contain the following:

a. The applicant's name, mailing address and telephone number, and the contact person who will serve as liaison with the department.

b. A project concept statement including a location map, a cross section and a sketch of the project. The proposed project need not be designed before applying, but the concept must be reasonable from a transportation engineering standpoint and detailed enough to generate project cost estimates.

c. An itemized cost estimate for the total project showing for each item the cost and funding source.

d. A time schedule for the total trail project with the applicant's written assurance of project completion as scheduled. A time schedule adjustment may be approved by the department if the project involves unusually complex studies, extensive real estate negotiations, extensive analyses for environmental clearances, complex planning for associated developments, or another compelling reason.

e. An adequate justification for the recreational trails project based on the project eligibility criteria in subrule 165.12(2) and the evaluation criteria in subrule 165.26(2).

f. An official endorsement of the application from the responsible authority and written assurance from that authority that the total trail used to justify the project will be adequately maintained and made available for the intended public use for a minimum of 20 years after completion of the project except as approved by the commission.

165.22(3) *Funding requests.*

a. An applicant shall specify in the application the amount of the funding grant requested from the recreational trails fund and may offer a matching fund contribution larger than is required.

b. In lieu of a grant request, an applicant may request alternative funding, such as a loan at below market interest rate, a no-interest loan, or a partial repayment of principal.

c. If recreational trails funds are loaned as matching funds, the value of the loan repayments for matching fund purposes shall be based on net present value.

761—165.23(312) Application procedure.

165.23(1) An application may be submitted at any time and shall be dated when received in the office of project planning. Once an application has been submitted, no further information shall be accepted from the applicant unless specifically requested by the department.

165.23(2) If an application is incomplete, the department shall return the application to the applicant to be resubmitted when complete. A resubmitted application shall be dated when it is received in the office of project planning.

165.23(3) An application that is considered but not funded in one funding cycle may be resubmitted for consideration in the next cycle.

165.23(4) An applicant may withdraw an application at any time.

761—165.24 and **165.25** Reserved.

761—165.26(312) Evaluation and approval.

165.26(1) The department shall review each application, may verify the contents and may visit the trail site.

165.26(2) The department shall evaluate each complete application primarily on the basis of whether the predicted use of the trail justifies the construction and maintenance costs including, but not limited to, the following criteria:

a. Need, in terms of the population to be served and existing trails in the area (25 points).

b. Compatibility with local, areawide, regional or statewide plans (15 points).

c. Benefits of multiple uses and recreational opportunities (20 points).

d. Quality of the site (25 points).

e. Economic benefits to the local area (10 points).

f. Special facilities for the handicapped (5 points).

165.26(3) Completed applications shall be reviewed by a committee composed of one representative from each of these departments: natural resources, economic development, cultural affairs, and transportation. The committee shall recommend applications to the department by ranking them in order of funding priority.

165.26(4) The department shall prepare a list of applications and funding recommendations and present it to the commission for final approval and funding.

761—165.27 to **165.29** Reserved.

761—165.30(312) Project agreement.

165.30(1) After the commission has approved funding for a recreational trails project, the department and the applicant shall execute a project agreement.

a. The department shall administer a project located on a primary road; however, the department by agreement may delegate part or all of this responsibility.

b. For all other projects, the agreement shall specify the responsibilities for project planning, design, land acquisition, contracting, construction and materials inspection, and documentation and the criteria for each. The agreement shall also specify the overall funding level approved and contain an estimated budget for eligible work items.

165.30(2) The department shall reimburse the authority for actual eligible project costs incurred as specified in the agreement, not to exceed the amounts authorized by the project agreement.

165.30(3) Project expenditures incurred after the commission has made a funding commitment, but before execution of the agreement, may be eligible for reimbursement if prior written authorization is obtained from the department and a project agreement is subsequently executed. However, under no circumstances shall any reimbursement be paid until the project agreement has been executed.

165.30(4) The department may audit all project costs incurred for compliance with the agreement, including costs that are part of the matching contribution. All force account work performed by a county or city on the project shall be audited.

761—165.31 and **165.32** Reserved.

761—165.33(312) Noncompliance. The commission may revoke funding commitments, seek repayment of funds loaned or granted, or take both actions if:

165.33(1) The terms of the project agreement have not been fulfilled.

165.33(2) An agreement has not been signed within six months after the project sponsor receives the signature copy.

165.33(3) The department finds that the application contained inaccuracies, omissions, errors or misrepresentations.

165.33(4) The time schedule for project completion was misrepresented or has not been maintained.

165.33(5) The authority fails to comply with subrule 165.22(2), paragraph *"f."*

These rules are intended to implement Iowa Code chapter 312.

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CHAPTERS 166 to 169
Reserved

LOCAL SYSTEMS

CHAPTER 170
ALLOCATION OF FARM-TO-MARKET ROAD FUNDS

[Prior to 6/3/87, Transportation Department[820]—(06,Q) Ch 16]

761—170.1(310) Temporary allocation. Temporary, advance allocation of farm-to-market road funds to counties is permitted under this rule up to an amount equal to the current fiscal year's anticipated receipts plus the four succeeding fiscal years' anticipated receipts to the requesting county's farm-to-market road fund.

170.1(1) *Requesting an advance allocation.* A county wishing to receive a temporary, advance allocation shall include its request as part of the secondary road budget and program documents.

170.1(2) *Limitations on advancements.* In making the determination to advance allocations to any requesting county, and in determining the priority that each county shall have in the request for funds, the department shall consider the following factors:

a. The availability of funds.

b. Counties farthest advanced in obligation of farm-to-market road funds in terms of time shall have the lowest priority for additional advancements.

c. One-year advance allocation requests shall have priority over multiple-year requests.

d. The county must have met the local effort requirements of funds raised under Iowa Code subsection 312.2(8).

e. The county must not have recently transferred farm-to-market road funds into its secondary road fund nor may these advanced funds be used for that purpose.

f. Projects must be programmed in a county's accomplishment list or be moved up from its priority list.

g. All projects normally considered as "construction" shall qualify for use of advance farm-to-market road fund allocations.

h. The critical nature of the project.

170.1(3) *Contact information.* Questions regarding this rule may be directed to the Office of Local Systems, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

This rule is intended to implement Iowa Code section 310.27.

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CHAPTER 171
Reserved

CHAPTER 172
AVAILABILITY OF INSTRUCTIONAL MEMORANDUMS TO COUNTY ENGINEERS

[Prior to 6/3/87, Transportation Department[820]—(06,Q) Ch 1]

761—172.1(307A) Instructional memorandums to county engineers. The department shall produce a manual of instructional memorandums to county engineers regarding secondary and farm-to-market roads. The manual shall communicate instructions, requirements and guidance information to the counties.

172.1(1) The manual of instructional memorandums and updates shall be available to all county engineers free of charge from the Office of Local Systems, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

172.1(2) Reserved.

This rule is intended to implement Iowa Code section 307A.2.

[Filed 7/1/75]

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CHAPTER 173
PREPARATION OF SECONDARY ROAD CONSTRUCTION PROGRAMS, BUDGETS, AND COUNTY ENGINEERS' ANNUAL REPORTS

[Prior to 6/3/87, Transportation Department[820]—(06,Q) Ch 2]

761—173.1(309) County construction program. Each year the department shall distribute to the counties a set of detailed instructions for the preparation of the county construction program required by Iowa Code section 309.22. The instructions shall constitute the form, content and method of preparation acceptable to the department.

This rule is intended to implement Iowa Code section 309.22.

761—173.2(309) County secondary road budget. Each year the department shall distribute to the counties a set of detailed instructions for the preparation of the county secondary road budget required by Iowa Code section 309.93. The instructions shall constitute the form, content and method of preparation acceptable to the department.

This rule is intended to implement Iowa Code section 309.93.

761—173.3(309) County engineer's annual report. Each year the department shall distribute to the counties a set of detailed instructions for the preparation of the county engineer's annual report required by Iowa Code section 309.22. The instructions shall constitute the standard requirements which must be followed and the forms to be completed.

This rule is intended to implement Iowa Code section 309.22.

761—173.4(309) Contact information. Questions regarding this chapter may be directed to the Office of Local Systems, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

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[Filed 8/7/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

CHAPTER 174
REIMBURSABLE SERVICES AND SUPPLIES

[Prior to 6/3/87, Transportation Department[820]—(06,Q) Ch 9]

761—174.1(307) Contact information. Questions regarding this chapter may be directed to the Office of Local Systems, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

761—174.2(307) Reimbursable services and supplies.

174.2(1) The purpose of this rule is to list highway-related services and supplies that counties and cities may typically request from the department. The list is not exhaustive. The department may require reimbursement for the services and supplies furnished. If an item to be reimbursed is for a farm-to-market project, the cost of the item will be charged to the county's farm-to-market road fund.

a. Structural analysis: A detailed field or office study of an existing or proposed structure to determine condition or load-carrying capacity.

b. Hydraulic analysis: An in-depth field or office review of hydraulic functioning and adequacy of a proposed or existing drainage complex.

c. Shop inspection: Inspection of steel fabrication at the assembly point to determine compliance with plans, specifications and approved shop drawings.

d. Physical testing: Inspection, laboratory or field testing, and documentation of results to a county or city on any material samples for any purpose obtained by the department, county, city or consultant.

e. Inspection supplies and equipment repairs. All inspection equipment furnished by the laboratory will be on loan to a county or city and shall be returned upon completion of the project or the season. All inspection supplies furnished from warehouse stock shall be paid for by the receiving county or city and shall not be returned for credit. The cost of all equipment repairs performed for a county or city shall be charged to that county or city.

f. Manuals and publications. The department will provide each county with a single copy of each publication required to be used by the county (e.g., standard specifications). Any additional copies requested by a county will require reimbursement from the county. All other publications requested by a county or city will be at the county's or city's expense.

g. Office supplies.

h. Printing services: Preparation and printing of plans, offset prints, photo processes, and other printing performed for a county or city.

i. Schools: Extended instruction on various road subjects, attended by county or city personnel on an application basis.

j. Pile bearing tests: Test loading of piles to determine pile load-bearing capacity.

k. Tabulation of bids: All lettings; by subscription.

l. Lease of department equipment to a county or city. See paragraph *"e"* of this subrule for inspection equipment.

m. Special traffic counts requested by a county or city.

174.2(2) Reserved.

These rules are intended to implement Iowa Code chapter 307 and section 17A.3.

[Filed 7/1/75]

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CHAPTERS 175 to 177
Reserved

CHAPTER 178
PROJECT COST REPORTING REQUIREMENTS FOR CITIES AND COUNTIES

761—178.1(314) Purpose. The purpose of these rules is to establish requirements for the reporting by cities and counties of project cost information to the department, in accordance with 2001 Iowa Acts, chapter 32, sections 4 and 5.

761—178.2(314) Contact information. Questions regarding this chapter may be directed to the Office of Local Systems, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

761—178.3(314) Definitions.

"City" means a municipal corporation as defined in Iowa Code section 362.2.

"Construction" means the building or development of a road, street, bridge or culvert in a new location when:

1. The new location deviates substantially from the existing alignment, and
2. The result is an entirely new road or street for the greater part of the length of the project.

"Day labor" means road, street, bridge or culvert work performed by permanent or temporary city or county employees.

"Improvement" means a betterment to a road, street, bridge or culvert. The work increases the value of the facility and enhances the facility, its traffic operations or its safety beyond the original design. The work would not be so extensive as to be classified as construction or reconstruction, but it could involve rehabilitation, restoration or resurfacing (3R) work.

"Reconstruction" means a significant change to the existing type of road, street, bridge or culvert or its geometric or structural features. Some realignment and the use of current design criteria may be involved.

"Repair or maintenance" means the preservation of a road, street, bridge or culvert so that it is in sound or proper condition. The work may include minor replacements and additions necessary to restore the road, street, bridge or culvert to its originally built condition with essentially the same design.

761—178.4(314) Detailed instructions furnished to cities and counties.

178.4(1) Each year the department shall distribute to cities and counties a set of detailed instructions for reporting the following information:

a. The cost of day labor and contracts for construction, reconstruction, and improvement projects on the farm-to-market, secondary road and municipal street systems.

b. The cost of purchasing, leasing, and renting construction and maintenance equipment.

c. The use of this equipment for construction, reconstruction, and improvement projects on the farm-to-market, secondary road and municipal street systems.

178.4(2) These instructions constitute the form, content and method of preparation acceptable to the department. Cities and counties shall include this information in the annual reports they submit to the department under Iowa Code sections 309.22 and 312.14.

761—178.5(314) Project reporting. Reporting under 2001 Iowa Acts, chapter 32, sections 4 and 5, of projects accomplished by day labor or contract is required for any construction, reconstruction or improvement project that has a total cost of 90 percent or more of the applicable bid threshold (see 2001 Iowa Acts, chapter 32, sections 7 and 9, for an explanation of bid thresholds). Other reporting requirements set out in the Iowa Code still apply.

178.5(1) *Types of projects.* Project type shall be identified. The project types are:

a. *Bridge.* The definition of "bridge" in Iowa Code section 309.75 applies. This project type includes removal of existing structures and all new construction, reconstruction and improvement of bridges.

b. Culvert. The definition of "culvert" in Iowa Code section 309.75 applies. This project type includes new construction or installation of an individual box or pipe culvert with a span or diameter that is greater than four feet but no greater than 20 feet.

c. Roadway construction. This project type includes, but is not limited to, all types of excavation, overhaul, clearing and grubbing, removal of pavement, and culverts included with grading.

d. Surfaces. This type includes, but is not limited to:

(1) Hot mix asphalt and Portland cement concrete pavements and overlays on roads, streets and shoulders.

(2) Stabilized bases and granular surfacing on new grades.

e. Roadside construction. This project type includes, but is not limited to:

(1) Erosion control structures such as check dams and letdown structures.

(2) Landscape treatments such as seedbed preparation, seeding, sodding, mulching, fertilizing, and planting of shrubs and trees on newly graded roads.

(3) Construction of shoulders on paved roads and rebuilding or raising entrances due to shoulder construction.

f. Traffic control. This project type includes, but is not limited to, installation of major signs, traffic signals, railroad crossing signals, guardrail, highway lighting, construction signing, and pavement markings on newly paved roads and streets.

g. Miscellaneous. This project type includes, but is not limited to, construction, reconstruction, or installation of storm sewers, subdrains, retaining walls, noise barriers, and sidewalks.

178.5(2) *Contract work.* The cost of contract work on a project is the contract price plus additions and deductions.

178.5(3) *Day labor.* The cost of day labor on a project shall include the following expenditures:

a. Labor. Labor cost includes the wages of city or county employees for their time devoted to the project, plus corresponding fringe benefits such as, but not limited to, IPERS, FICA and insurance.

b. Equipment. Equipment cost is calculated based on the equipment used on the project and the time the equipment is used. If an item of equipment is rented or leased, its rental or lease rate may be used to calculate cost. If an item of equipment is not leased, its cost shall be calculated using the standard rate established by the department for that type of equipment. The department shall establish equipment rates each year based on the latest "Rental Rate Blue Book for Construction Equipment."

c. Materials. Materials cost is the cost of materials and supplies consumed or expended on the project. The materials and supplies may be procured directly for the project or charged to the project from stock on hand. The cost of used material is its salvage value.

d. Overhead. Overhead cost is the pro-rata share of indirect costs to be allocated to day labor projects. Indirect costs are the city's or county's road- or street-related costs that cannot be charged directly to any project. The city or county may use its records to calculate the cost of overhead, or it may use a standard overhead rate of 10 percent of the labor cost excluding fringe benefits.

These rules are intended to implement Iowa Code sections 309.22, 309.93, 312.14, and 314.1 and 2001 Iowa Acts, chapter 32, sections 4, 5, 7, 8, 9, and 12.

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CHAPTER 179
Reserved

CHAPTER 180
PUBLIC IMPROVEMENT QUOTATION PROCESS FOR GOVERNMENTAL ENTITIES

761—180.1(314) Purpose. The purpose of these rules is to prescribe the manner by which governmental entities shall administer competitive quotations for public improvement contracts, in accordance with Iowa Code section 26.14.

761—180.2(314) Contact information. Questions regarding this chapter may be directed to the Office of Facilities Support, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

761—180.3(314) Definitions.

"Estimated total cost of a public improvement" means the estimated total cost to the governmental entity to construct a public improvement, including the cost of labor, materials, equipment, and supplies, but excluding the cost of architectural or engineering design services and inspection.

"Governmental entity" means the state, political subdivisions of the state, public school corporations, and all officers, boards, or commissions empowered by law to enter into contracts for the construction of public improvements, excluding the state board of regents and the state department of transportation.

"Public improvement" means a building or construction work which is constructed under the control of a governmental entity and is paid for in whole or in part with funds of the governmental entity, including a building or improvement constructed or operated jointly with any other public or private agency, but excluding urban renewal demolition and low-rent housing projects, industrial aid projects authorized under Iowa Code chapter 419, emergency work or repair or maintenance work performed by employees of a governmental entity, and excluding a highway, bridge, or culvert project, and excluding construction or repair or maintenance work performed for a city utility under Iowa Code chapter 388 by its employees or performed for a rural water district under Iowa Code chapter 357A by its employees.

"Repair or maintenance work" means the preservation of a road, street, bridge, culvert, storm sewer, sanitary sewer, or other public facility (vertical infrastructure) so that it remains in sound or proper condition, including minor replacements and additions as necessary to restore the public facility to its original condition with the same design.

"Responsible quotation" means a quotation submitted by a contractor who is capable of performing the work. To be considered responsible, the contractor must possess the necessary financial and technical capability to perform the work, as well as the ability to complete the work as demonstrated by past performance or other appropriate considerations.

"Responsive quotation" means a quotation in which the contractor agrees to do everything required by the governmental entity's solicitation of quotations and by the plans and specifications and other related documents, without any conditions, qualifications or exclusions.

"Vertical infrastructure" means buildings, all appurtenant structures, utilities, incidental street improvements including sidewalks, site development features, recreational trails, and parking facilities. Vertical infrastructure does not include any work constructed in conjunction with or ancillary to highway, street, bridge or culvert projects, including but not limited to utilities and sidewalks.

761—180.4(314) Types of projects.

180.4(1) *Public improvement.* A public improvement involves new construction, reconstruction, or an improvement that results in betterment to a facility by improving either the original design of the facility or the function of the facility.

180.4(2) *Repair or maintenance work.* Repair or maintenance work involves work that is needed to keep or restore a facility so that it may continue to operate according to its original function or design. Repair or maintenance work may be performed by employees of a governmental entity regardless of the estimated total cost of the repair or maintenance work. If a governmental entity is unable to perform the work using its own employees, the governmental entity must follow the appropriate public improvement process set out in Iowa Code section 26.3 or 26.14, based on the estimated total cost of the work.

761—180.5(314) Solicitation of quotations.

180.5(1) A governmental entity shall solicit competitive quotations for a public improvement when the estimated total cost of the public improvement exceeds the competitive quotation threshold established in Iowa Code section 26.14, as adjusted pursuant to Iowa Code section 314.1B, but is less than the competitive bid threshold established in Iowa Code section 26.3, as adjusted pursuant to Iowa Code section 314.1B. The adjusted thresholds are published on the following Web site: http://www.iowadot.gov/local_systems/publications/bid_limits.htm.

180.5(2) The governmental entity shall make a good-faith effort to obtain quotations for the work from at least two contractors regularly engaged in such work prior to letting a contract. Quotations shall be obtained by means of either an oral or a written solicitation directed to not less than two contractors.

180.5(3) Each solicitation shall include a description of the work to be performed, and plans and specifications for the work prepared by an architect or engineer if required by Iowa Code chapter 542B or 544A. (See 193B—Chapter 5 or rule 193C—1.5(542B) for additional guidelines.) In its solicitation, the governmental entity shall advise each contractor that it has an opportunity to inspect the work site. Each contractor requesting to inspect the work site shall be provided an equal and adequate opportunity to do so.

180.5(4) Additional information deemed pertinent by the governmental entity, or requested by a contractor, may be provided by the governmental entity if the same information is provided to all contractors from which quotations are solicited. If the information is provided in written form to a contractor, it shall be provided in the same form to all contractors from which quotations are solicited.

180.5(5) In its solicitation, the governmental entity shall:

a. Specify the required form and content of quotations. (See rule 761—180.7(314).)

b. Require that quotations be filed by a particular time, at a particular location and with a particular office or representative of the governmental entity.

c. Establish the acceptable method(s) for delivery of quotations. The governmental entity may specify any or all of the following methods of delivery: mail, facsimile, electronic mail, or delivery in-hand.

180.5(6) As required by Iowa Code section 573.2, the governmental entity shall in its solicitation inform quoting contractors of the obligation of the contractor awarded the contract to provide a performance and payment bond to secure the performance and timely completion of the work and to secure the payment of subcontractors and suppliers.

180.5(7) In its solicitation, the governmental entity may require each quoting contractor to:

a. Provide along with its quotation a quotation bond, or other quotation security or evidence of its responsibility, to assure that it will enter into a contract to perform the work and that it will provide the required performance and payment bond.

b. Commit to the execution of a contract for the work in a form required by the governmental entity.

c. Commit to commencement and completion dates for the work as directed by the governmental entity.

d. File evidence of insurance, as specified by the governmental entity, with its quotation, or commit to filing such evidence of insurance upon award of the contract to perform the work.

180.5(8) In its solicitation, the governmental entity may provide that it will issue special sales tax exemption certificates to contractors and subcontractors, pursuant to Iowa Code section 423.3, subsection 80.

761—180.6(314) Submission of competitive quotation by governmental entity. The governmental entity may itself file a competitive quotation to perform the work. The governmental entity's quotation shall be filed in the same manner as it requires quotations to be filed by contractors except as provided in subrule 180.7(3).

761—180.7(314) Form and content of competitive quotations.

180.7(1) A competitive quotation filed by a contractor or by the governmental entity shall be in writing and shall include the total price for labor, equipment, materials and supplies required to perform the work. A contractor shall not be required to include in its quotation or in individual quotation items a breakdown of costs for labor, materials, equipment and supplies. Competitive quotations filed by contractors shall include all other information, documentation or commitments required by the governmental entity in its solicitation of quotations.

180.7(2) If the governmental entity in its solicitation indicates its intention to file a competing quotation, contractors shall also separately identify in their quotations the premium cost for the required performance and payment bond and an estimate of the sales and fuel taxes they will incur in performing the work. However, if in its solicitation the governmental entity provides for the issuance of sales tax exemption certificates to the contractor and subcontractors performing the work, quoting contractors shall not include or separately identify estimated sales tax in their quotations.

180.7(3) A quotation submitted by a governmental entity need not include the information, documents or commitments required of quoting contractors in subrule 180.5(7). A governmental entity is not required to submit a performance and payment bond.

180.7(4) The governmental entity may require that quotations from contractors be submitted on a form prescribed by the governmental entity, provided the form complies with the requirements of these rules.

761—180.8(314) Evaluation of competitive quotations.

180.8(1) If a quoting contractor does not file a quotation in the form required by the governmental entity, or does not provide all information or documentation or make all commitments required by the governmental entity, or does not sign the quotation if required by the governmental entity, the quotation shall be determined to be nonresponsive and shall be rejected by the governmental entity.

180.8(2) If the governmental entity submits a quotation to perform the work, paragraphs *"a"* to *"c"* of this subrule are applicable. If the governmental entity does not submit a quotation, these paragraphs do not apply.

a. Because the governmental entity is not required to pay sales tax or fuel tax or to submit a performance and payment bond in connection with work performed by governmental employees using governmental equipment, each contractor's total quotation shall be adjusted to deduct the amounts identified in the quotation for estimated sales and fuel taxes and the bond premium. The amount of each contractor's adjusted quotation shall then be compared to the amount of the quotation submitted by the governmental entity for the purpose of determining if the governmental entity's quotation is the lowest responsive, responsible quotation.

b. If in its solicitation the governmental entity provides for the issuance of sales tax exemption certificates to the contractor and subcontractors performing the work, quoting contractors shall not include or separately identify estimated sales tax in their quotations, and the governmental entity shall not deduct estimated sales tax from the contractors' quotations for the purpose of determining if the governmental entity's quotation is the lowest responsive, responsible quotation.

c. The governmental entity may require the contractor to which the work is awarded to provide documentation of the premium cost incurred by it for the performance and payment bond and of all sales and fuel taxes paid by it and its subcontractors in connection with the work. The governmental entity may decline to pay the amounts identified by the contractor in its quotation for the bond premium and estimated sales and fuel taxes if these amounts are not properly documented as having been paid.

761—180.9(314) Award of contract and subsequent procedures.

180.9(1) Except as provided in subrule 180.9(3), the governmental entity shall award the contract for the work to the contractor submitting the lowest responsive, responsible quotation, subject to Iowa Code section 26.9, or the governmental entity may reject all of the quotations. A contract shall be considered awarded when the governmental entity unconditionally accepts and approves the lowest

responsive, responsible quotation. The governing body of the governmental entity shall record the approved quotation in its meeting minutes.

180.9(2) The governing body of a governmental entity may delegate the authority to award and execute contracts, or to award contracts and authorize the work to proceed, to an officer or employee of the governmental entity, provided that an award approved outside a meeting of the governing body shall be reported in the meeting minutes of the next regular meeting of the governing body.

180.9(3) If no quotations are received from contractors to perform the work or if the governmental entity's estimated cost to do the work with its employees, as reflected in its quotation, is less than the lowest responsive, responsible quotation received from a contractor, the governmental entity may authorize its employees to perform the work.

180.9(4) Upon the submission of the required performance and payment bond by the contractor to which the contract has been awarded and upon approval of the bond by the governmental entity, the governmental entity shall execute a contract to perform the work or shall authorize the contractor to proceed with the work.

180.9(5) Upon execution of the contract by the contractor and the governmental entity or upon authorization to proceed by the governmental entity and acknowledgment thereof by the contractor, the governmental entity shall release the quotation bonds or other quotation security submitted with the quotations received.

180.9(6) If the governmental entity is a city and the cost of the work will exceed the amount provided for in Iowa Code section 380.4, the governing body is required to pass a resolution approving the expenditure.

761—180.10(314) Retained funds. In addition to requiring the contractor to submit a performance and payment bond, the governmental entity is required to retain funds from each payment to the contractor for the benefit of subcontractors and suppliers, as provided in Iowa Code chapter 573, and is required to release retained funds upon substantial completion of the work, as provided in Iowa Code section 26.13.

These rules are intended to implement Iowa Code sections 26.2, 26.13, 26.14, 314.1A, 314.1B, and 573.2.

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CHAPTER 181
STATEWIDE STANDARD FOR PERMITTING CERTAIN IMPLEMENTS OF HUSBANDRY

761—181.1(321) Statewide standard.

181.1(1) A local authority may issue a special permit, based on this rule, allowing the operation over a bridge within its jurisdiction of a fence-line feeder, grain cart, tank wagon or tracked implement of husbandry with a weight in excess of the weights allowed under Iowa Code chapter 321.

181.1(2) A local authority shall evaluate a bridge according to section 6 of the American Association of State and Highway Transportation Officials (AASHTO) Manual for Condition Evaluation of Bridges, Second Edition (2000), as revised by the 2001 Interim Revisions. The operating level shall be used for the evaluation of the bridge with only one fence-line feeder, grain cart, tank wagon or tracked implement of husbandry on the bridge at a time. The live load to be used in the analysis for permit decisions should be the actual vehicle crossing the bridge, together with an impact factor in accordance with section 3 of the AASHTO Standard Specifications for Highway Bridges, Sixteenth Edition (1996), as revised by the 1997, 1998, 1999 and 2000 Interim Revisions.

181.1(3) A local authority is not liable for damage to any vehicle operating within the terms of a permit the local authority issues under this rule, or to the vehicle's cargo, if the local authority imposes weight limits on a bridge specified in the permit subsequent to the issuance of the permit. The weight limits are effective when signs giving notice of the limits are erected.

181.1(4) The AASHTO publications may be ordered from the Web site www.transportation.org. They may be inspected at the department's office of bridges and structures.

This rule is intended to implement Iowa Code sections 321.1, 321.463(4) and 321.471.

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CHAPTERS 182 to 200
Reserved

INTERMODAL

CHAPTER 201
INTERMODAL PILOT PROJECT PROGRAM

761—201.1(473) General information.

201.1(1) *Scope of chapter.* This chapter establishes procedures for an intermodal pilot project program using funds transferred to the department by 1987 Iowa Acts, chapter 230, section 1, and 1998 Iowa Acts, chapter 1211, section 1, for grants and loans for one or more pilot projects of intermodal transportation facilities.

201.1(2) *Information.* Information about the program, project guidelines, requests for assistance, and answers to questions about the preparation and submission of project applications may be obtained by contacting the department at the following address: Office of Rail Transportation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1140. Submissions to the department under this chapter shall be sent or delivered to this address.

761—201.2(473) Definitions. The following terms when used in this chapter shall have the following meanings:

"Demonstration project." A pilot project that demonstrates a commercially available energy conservation technique or technology to a target audience.

"Iowa shipper." A freight originator or receiver located within Iowa. This term does not include a shipper whose freight passes through Iowa without originating or terminating in Iowa.

"Present value." The current worth of a future cash flow, determined by discounting the future cash flow by an assumed percentage per year factor.

"Target audience." The audience which a demonstration project is intended to reach. A target audience may be an industry, a public agency, a legislative body, or other group which may use or benefit from the concepts or technologies demonstrated by the pilot project or influence the spread of the concept or technology.

761—201.3(473) Eligibility.

201.3(1) *Applicant.* An applicant is an individual, partnership, firm, company, cooperative, corporation, association or governmental entity and is the proposed recipient of financial assistance. The applicant shall have, where applicable, authority from its board of directors or other governing body to seek financial assistance for the proposed pilot project, to enter into a commitment to repay any loan awarded, to pledge any security offered for the loan, and to proceed with the pilot project if the requested financial assistance is granted.

201.3(2) *Pilot project.* A pilot project is eligible for financial assistance if it meets all of the following conditions:

a. It is a specific plan for a new intermodal transportation facility or for the improvement, restoration, conservation, repair, rehabilitation or expansion of an existing intermodal transportation facility.

b. It is a site, a structure, or equipment that accomplishes or aids in the transfer of freight from one mode of transportation to another, including but not limited to ports, terminals, freight distribution centers, intermodal rolling stock, bulk-breaking facilities, and loading facilities.

c. It is located within Iowa. An eligible pilot project may involve freight and equipment which travels beyond Iowa, provided that any permanently located facility is located within Iowa.

d. It complies with Iowa Code section 473.11 and with 10 CFR section 420.12.

201.3(3) *Costs.*

a. *All projects.* All costs of the pilot project are eligible except the following:

(1) Preparation of the application.

(2) Acquisition of land, a building or structure or any interest therein.

(3) Conducting or purchasing equipment to conduct research, development or demonstration of conservation techniques or technologies not commercially available.

b. *Nondemonstration projects.* The following are additional prohibited costs for a pilot project which is not a demonstration project:

(1) Construction.

(2) Construction or repair of buildings or structures.

(3) Purchase or installation of equipment or materials for energy conservation building retrofits or weatherization.

(4) Purchase of office supplies, library materials, or equipment in excess of 20 percent of project costs.

c. *Demonstration projects.* A demonstration project is not subject to the additional cost prohibitions in paragraph 201.3(3)*"b."* For example, demonstration projects may include costs for construction and equipment purchases.

761—201.4(473) Financial assistance.

201.4(1) *Grants.* The department may award to an applicant a grant for up to 80 percent of the eligible costs of the pilot project.

201.4(2) *Loans.* The department may loan money to an applicant for up to 90 percent of the eligible costs of the pilot project. The department shall determine all loan terms based upon an evaluation of the application.

201.4(3) *Combination of grants and loans.* The department may award a combination of a grant and a loan to an applicant. The total of all grants and loans awarded for one pilot project shall not exceed 90 percent of the eligible costs of the pilot project.

761—201.5(473) Application procedure.

201.5(1) *Request.* Rescinded IAB 8/6/03, effective 9/10/03.

201.5(2) *Application.* The applicant shall submit an original and four copies of an application for financial assistance to the department at the address given in subrule 201.1(2). The application shall include, but not be limited to, the following information:

a. A complete description of the applicant, including (where applicable) the officers, directors, major stockholders or partners (those holding more than 4 percent of the equity), the chief executive and financial managers of the applicant, the applicant's articles of incorporation and bylaws, and a description of all subsidiaries or parent companies. The description of the applicant shall include the applicant's current (not more than three months old) balance sheet, and the applicant's balance sheets, income statements, statements of changes in financial position, and cash flow statements for each of the three fiscal years preceding the application or for all years since incorporation or formation if the applicant has not been in existence for three years.

b. A description of the proposed pilot project and its purpose, including all of the following:

(1) A complete physical description of the project.

(2) Cost estimates for all material components of the project.

(3) A description or map of all real property, if any, upon which the project facilities will be located, the name and address of the owner or lessor of the real property, and a copy of all lease agreements, encumbrances and interests in or affecting the real property.

(4) An operating plan including employee and equipment utilization.

(5) A marketing and traffic plan projecting the quantities and major origins, destinations or overhead transfer points of potential and committed freight traffic that will use the project. The plan shall distinguish between potential freight and committed freight.

c. If financial assistance is sought for a demonstration project, a detailed description of the target audience for the project and the applicant's plans to inform the target audience about the project, to make the project accessible for the target audience to visit, to provide technical assistance to the target audience to help implement the techniques demonstrated by the project, and to determine if the concepts and practices in the project are being used by the target audience.

d. A cash flow projection for the project including operating revenues and costs, capital costs, debt repayments of principal and interest, and profit distributions. The cash flow projection shall cover at least the number of years requested by the applicant to repay any loan.

e. A projection of total annual dollar savings of freight transportation, handling, and other costs to Iowa shippers from use of the project.

f. A projection of total annual ton-miles of freight in Iowa to be diverted from highway to nonhighway modes as a result of the project.

g. A projection of annual energy savings from the project. The projection shall show methods of calculation and show how the projected energy savings are consistent with the projected operating plan and the marketing and traffic plan.

h. A description of agreements to permit transportation companies to have reasonable competitive access to the project to maximize the use of, and the energy savings from, the proposed project.

i. A written statement by the applicant acknowledging that all of the information in the application is public information, and a release of the department from liability for its disclosure.

j. A detailed request for financial assistance, including the dollar amount of any proposed grant and the dollar amount, loan term, interest rate and proposed amortization schedule of any proposed loan. If a loan is requested, a description of the security (including an appraisal of any real estate) to be offered to the department shall be included.

k. A certification by the applicant under penalty of perjury, that any award of financial assistance, any subsequent letting of contracts for project costs, or the furnishing of materials therefor, shall not involve direct or indirect interest, prohibited by Iowa Code section 314.2, 362.5, or 331.342, of any state, county, or city official, elective or appointive. The certification shall also state that any award of financial assistance or any letting of any contract in violation of the foregoing provisions shall invalidate the award of financial assistance and authorize a complete recovery of any funds previously disbursed.

201.5(3) *Review and acceptance of application.*

a. The department shall determine and notify the applicant of the completeness of the application.

b. If the application is incomplete, the department shall specify the additional information needed.

(1) The department shall establish a deadline for submission of the additional information.

(2) The department may grant an extension for good cause if requested by the applicant.

(3) If all the requested information is not received by the deadline, the department shall return the incomplete application to the applicant, who may resubmit it as a new application.

c. If the department determines that the application is complete, the department shall notify the applicant within ten working days that the application is complete and shall be processed.

d. An applicant may withdraw an application at any time.

201.5(4) *Public announcement.* Rescinded IAB 8/6/03, effective 9/10/03.

761—201.6(473) Staff analysis.

201.6(1) Department staff shall prepare an analysis of each complete application.

201.6(2) The analysis shall include but not be limited to:

a. An evaluation of the projected energy savings from the project.

b. If the project is a demonstration project, an evaluation of the project's target audience and the applicant's proposed efforts to reach the target audience.

c. An economic analysis of the public benefits versus the public costs of the project. All benefits and costs shall be calculated for a period reflecting a reasonable life expectancy of the project, discounted to present value, using the following formula and terms:

$$\frac{\text{Public benefits}}{\text{Public costs}} = \frac{\text{Shipper benefits} + \text{highway authority benefits}}{\text{Public financial assistance}}$$

(1) Shipper benefits are the dollar savings of freight transportation, handling and other costs to Iowa shippers from use of the proposed project.

(2) Highway authority benefits are road and street maintenance, construction, and reconstruction costs projected to be avoided as a result of diversion of freight traffic from Iowa roads and streets because of the proposed project.

(3) Public financial assistance is the dollar amount of any grant, plus the present value of an interest subsidy for any loan provided by the department to the project.

d. A financial analysis of the project to determine whether it can reasonably be expected to succeed financially. The analysis shall include:

(1) An evaluation of whether the project will be able to repay a commercial interest rate loan, in which case department financial assistance may be unnecessary;

(2) An evaluation of what combination and type of loan or grant may be needed to provide the project with a likelihood of financial viability, if this is possible; and

(3) An evaluation of whether the project is so financially insecure that it cannot be expected to succeed even with department financial assistance.

761—201.7(473) Staff recommendation.

201.7(1) Department staff shall prepare a recommendation for each complete application.

201.7(2) The staff shall not recommend approval of the application unless all of the following conditions, where applicable, are satisfied:

a. The project shall have projected energy savings.

b. If the project is a demonstration project, it shall have a specific target audience, the applicant's proposed efforts to reach the target audience shall be reasonable and adequate, the project shall be convenient for the target audience to visit, and there shall be a method to determine if the project is being accepted and used by the target audience.

c. The present value of the public benefits from the project shall equal or exceed the present value of the public costs, or the energy savings shall be substantial enough to be judged by staff to outweigh an unfavorable economic analysis.

d. The financial analysis shall show that the applicant is financially responsible and able to undertake the pilot project with the recommended financial assistance, so that the projected energy savings and public benefits can reasonably be expected to be achieved.

201.7(3) A staff recommendation for approval shall include the type and amount of assistance recommended.

761—201.8(473) Commission action.

201.8(1) The staff shall present the application and the staff recommendation to the commission for approval.

201.8(2) The commission may approve, reject, or modify the staff recommendation.

201.8(3) If financial assistance is approved by the commission, the department shall submit the project to the department of natural resources for approval. If the project is approved by the department of natural resources, the department shall submit the project to the U.S. Department of Energy for approval.

201.8(4) If the commission denies financial assistance, the application may be submitted as a new application.

761—201.9(473) Contract preparation and execution.

201.9(1) After the commission and other necessary authorities have approved financial assistance, the department and the applicant shall negotiate and enter into a contract that complies with all the approval terms and requirements specified. The contract shall require the applicant to indemnify the state and its officers and employees to the full extent permitted by law.

201.9(2) Prior to execution of the contract, the department may require a preaudit evaluation of the applicant. The preaudit evaluation may include, but shall not be limited to, the following:

a. An examination of the applicant's accounting methods and procedures to determine the applicant's ability to segregate and accumulate costs to be charged against the project.

b. An examination of the applicant's cost factors to assure their propriety and allowability.

c. An examination of any other information which may be pertinent or necessary to determine the applicant's auditability.

201.9(3) If the preaudit evaluation shows that revisions to the applicant's accounting procedures are necessary to assure that applicant's auditability, the revisions shall be made by the applicant prior to execution of the contract.

201.9(4) Rescinded IAB 8/6/03, effective 9/10/03.

201.9(5) If contract negotiations are not successfully completed within a reasonable period, the commission may withdraw its approval of financial assistance.

761—201.10(473) Monitoring. The department shall monitor all contract provisions for compliance.

These rules are intended to implement Iowa Code section 473.11, 1987 Iowa Acts, chapter 230, sections 1 and 4, and 1998 Iowa Acts, chapter 1211, section 1.

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CHAPTERS 202 to 399
Reserved

VEHICLES

CHAPTER 400
VEHICLE REGISTRATION AND CERTIFICATE OF TITLE

[Prior to 6/3/87, Transportation Department[820]—(07,D)Ch 11]

761—400.1(321) Definitions. The definitions in Iowa Code section 321.1 are hereby made part of this chapter. In addition, the following words and phrases, when used in Iowa Code chapter 321 or this chapter, shall have the meanings respectively ascribed to them, except when the context otherwise requires.

"Certificate of title" means a document issued by the appropriate official which contains a statement of the owner's title, the name and address of the owner, a description of the vehicle, a statement of all security interests and additional information required under the laws or rules of the jurisdiction in which the document was issued, and which is recognized as a matter of law as a document evidencing ownership of the vehicle described. The terms "title certificate," "title only," and "title" shall be synonymous with the term "Certificate of title."

"Dealer's or manufacturer's stock or inventory" means a vehicle owned by a dealer which is being held for sale or trade and for which the dealer has a duly assigned ownership document as required by Iowa Code section 321.45.

"Farm trailer" means a trailer used exclusively by a farmer in the conduct of the farmer's agricultural operation. The term shall not include a "semitrailer."

"Half-year fee" means the first semiannual installment of an annual registration fee. The term "half-year registration" shall be synonymous with the term "half-year fee."

"Hearse" means a motor vehicle used exclusively to transport a deceased person.

"Lien" means an interest in a vehicle which secures payment or performance of an obligation. The term "security interest" shall be synonymous with the term "lien."

"Manufacturer's certificate of origin" means a certification signed by the manufacturer, distributor or importer that the vehicle described has been transferred to the person or dealer named and that the transfer is the first transfer of the vehicle in ordinary trade and commerce.

1. The terms "manufacturer's statement," "importer's statement or certificate," "MSO" and "MCO" shall be synonymous with the term "manufacturer's certificate of origin."

2. In addition to the requirements of Iowa Code subsection 321.45(1), the certificate shall contain a description of the vehicle which includes the make, model, style and vehicle identification number. The description of a motorized bicycle shall also specify the maximum speed.

3. For 1992 and subsequent model year vehicles, the form used for manufacturers' certificates of origin shall be the universal form adopted in 1990 by the American Association of Motor Vehicle Administrators (AAMVA). This requirement does not apply to trailer-type vehicles. A copy of this universal form is on file in the office of vehicle services at the address in subrule 400.6(1).

"Model year," except where otherwise specified, means the year of original manufacture or the year certified by the manufacturer. For purposes of titling and registration, the model year shall advance one year each January 1.

"Registered" means that the appropriate registration fee has been paid for a vehicle and a registration card evidencing payment has been issued to the owner.

"Registration card" means a document issued to the owner of a vehicle by the appropriate agency whose duty it is to register vehicles, which contains the name and address of the owner and a description of the vehicle, and which is issued to the owner when the vehicle has been registered. The terms "registration certificate," "registration receipt" and "registration renewal receipt" are synonymous with the term "registration card."

"Security interest" means an interest in a vehicle which secures payment or performance of an obligation. The term "lien" shall be synonymous with the term "security interest."

"Social security number" means a social security number issued by the United States government.

This rule is intended to implement Iowa Code sections 321.1, 321.8, 321.20, 321.23, 321.24, 321.40, 321.45, 321.50, 321.117, 321.123, 321.134 and 321.157.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—400.2(321) Vehicle registration and certificate of title—general provisions.

400.2(1) *Vehicles subject to registration.* A vehicle subject to registration under the laws of Iowa shall be required to be registered at the time the vehicle is first operated or moved upon a highway in this state.

400.2(2) *Vehicles exempt from titling or registration.* A certificate of title shall not be issued for a vehicle which is exempt from the titling or registration provisions of Iowa Code chapter 321, unless issuance of a certificate of title is specifically authorized in chapter 321.

400.2(3) *Issuance of a certificate of title upon payment of registration fees.* Except as otherwise provided in Iowa Code chapter 321 or this chapter of rules, the current year registration fee and any delinquent registration fees and penalties, if any, shall be paid prior to issuance of a certificate of title.

400.2(4) *Trailers with an empty weight of 2000 pounds or less.* Certificates of title shall not be issued for trailers with an empty weight of 2000 pounds or less. However, these trailers shall be subject to the registration fees provided in Iowa Code section 321.123.

400.2(5) *Vehicles owned by the government.* A certificate of title shall be issued for a vehicle owned by the government when the vehicle is first registered. However, vehicles owned by the government shall be exempted from registration and titling fees. Also, a certificate of title shall not be issued for a government-owned vehicle if a certificate of title would not be issued if the vehicle were owned by someone other than the government.

400.2(6) *Vehicles leased by the government.* Vehicles leased by the government for a period of 60 days or more are exempted from payment of registration fees. A copy of the lease agreement, certificate of lease, or other evidence that the vehicle is being leased by the government shall be required in order to obtain this exemption. However, the lessor is not exempted from the requirements for obtaining a certificate of title as set out in Iowa Code chapter 321 and these rules, including payment of the appropriate certificate of title fee.

400.2(7) *Special mobile equipment.* Rescinded IAB 3/7/90, effective 4/11/90.

400.2(8) *Private school buses, fire trucks, authorized emergency vehicles, and transit buses.* In accordance with Iowa Code sections 321.18, 321.19 and 321.22, private school buses, fire trucks not owned or operated for a pecuniary profit, certain authorized emergency vehicles owned and operated by nonprofit organizations, and urban and regional transit system buses are exempt from the payment of registration fees. However, these vehicles are not exempt from the requirements for obtaining a certificate of title as set out in Iowa Code chapter 321, including payment of the appropriate certificate of title fee.

This rule is intended to implement Iowa Code sections 321.18 to 321.22, 321.24 and 321.123.

761—400.3(321) Application for certificate of title or registration for a vehicle.

400.3(1) *Application form.* To apply for a certificate of title or registration for a vehicle, the owner of the vehicle shall complete an application form prescribed by the department. Application shall be made in accordance with Iowa Code chapter 321, these rules, and other applicable provisions of law.

400.3(2) *Full legal name.* Full legal names shall be given on the application. Civilian or military titles and nicknames shall not be used.

400.3(3) *Information about owner, lessee and primary user.*

a. Iowa Code sections 321.20 and 321.109 list the information that must be disclosed by the owner, lessee and primary user on the application.

b. A firm, association, corporation, or trust that is not required to have a federal employer identification number shall disclose the social security number, Iowa driver's license number or Iowa nonoperator's identification card number of an authorized representative of the firm, association,

corporation, or trust. The authorized representative of a trust is the trustee unless otherwise specified in the trust agreement or the certification of trust as defined in Iowa Code section 633A.4604.

400.3(4) *Plate number and validation number.* If the owner has registration plates that have been assigned to the owner and affixed to the vehicle, the owner shall list the plate number on the application form. The validation number from the validation sticker shall also be listed.

400.3(5) *Birth or registration month.* If the vehicle is owned by one individual, the individual's month of birth shall be listed on the application form and shall determine the registration year. If the vehicle is owned by two or three individuals, the month of birth of one of the individuals shall be listed and shall determine the registration year. If the vehicle is owned by a partnership, corporation, association, or governmental subdivision, the birth or registration month shall be left blank on the application; the county treasurer shall determine the month of registration.

400.3(6) *Model year.* The application shall include the model year of the vehicle.

400.3(7) *Purchase information.* The application shall include the date of purchase or acquisition and, if the vehicle was not purchased from a dealer, the purchase price.

400.3(8) *Vehicle color.* The application shall include the vehicle color.

400.3(9) *Foreign registered vehicle.* If the vehicle is registered in a foreign jurisdiction, the application shall include the date the vehicle was brought into Iowa.

400.3(10) *Signature of applicant.* The owner shall sign the application form in ink.

400.3(11) *Dealer certification.*

a. If the vehicle is a new vehicle which has been sold to the owner by a dealer, as defined in Iowa Code section 321.1, the dealer shall certify the following on the application form: sale price of the vehicle, the amounts allowed for property traded-in, nontaxable charges and rebates, the tax price of the vehicle, the date that a "Registration Applied For" card was issued, and the registration fee collected.

b. The certification shall include the dealer's number and name and shall be signed by the dealer or an authorized representative of the dealer.

400.3(12) *Weigh ticket.* If application is being made to lower the tonnage on any motor truck, bus or truck tractor, the county treasurer may require a copy of a stamped weigh ticket issued by any public scale.

400.3(13) *Credits.* See rule 761—400.60(321) for:

Credit for unexpired registration fee.

Credit for transfer to spouse, parent or child.

Credit from/to proportional registration.

Assignment of credit and registration plates from lessor to lessee.

400.3(14) *Leased vehicle.* As required by Iowa Code section 423.7A, the lessor shall list the lease price of the vehicle on the application form.

400.3(15) *Affidavit of correction.* As provided in Iowa Code section 321.23A, the county treasurer or the department may accept an affidavit of correction on a form prescribed by the department.

a. The affidavit may be used only to correct those errors, erasures or alterations listed on the affidavit.

b. The affidavit must contain the signatures of all parties to the original error, erasure or alteration.

c. Only an original, notarized affidavit shall be accepted.

d. The affidavit must be surrendered with the document that contains the error, erasure or alteration to be corrected.

e. The affidavit may be accepted to correct errors, erasures or alterations on either an Iowa title or a foreign title.

This rule is intended to implement Iowa Code sections 321.1, 321.8, 321.20, 321.23 to 321.26, 321.31, 321.34, 321.46, 321.109, 321.122 and 423.7A.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—400.4(321) Supporting documents required. This rule describes the basic supporting documents to be submitted by an applicant for a certificate of title or registration.

400.4(1) *New vehicle.* If application is made for a new vehicle, a manufacturer's certificate of origin, properly assigned to the applicant, shall be submitted. A manufacturer's certificate of origin shall not be accepted if the assignment to the applicant is made by any person other than the manufacturer, importer, distributor or a licensed motor vehicle dealer franchised to sell that line make of vehicle.

a. The first person, including a dealer not franchised to sell that line make of vehicle, who is assigned the manufacturer's certificate of origin shall obtain a certificate of title and register the vehicle.

b. An uncanceled security interest noted on the reverse side of a manufacturer's certificate of origin (MCO) shall be noted as a separate security interest on the certificate of title, in addition to any security interest acknowledged by the applicant, unless the applicant indicates in the security interest area on the title application that the security interest is the same as the one noted on the reverse side of the MCO.

c. If a 1980 or subsequent model year vehicle is manufactured by a person other than the original manufacturer, both the original manufacturer's certificate of origin and the final manufacturer's certificate of origin shall be submitted. All assignments or reassignments of ownership of the vehicle shall be made on the final manufacturer's certificate of origin. The face of the original manufacturer's certificate of origin shall be stamped in bold type with the statement: "Final manufacturer's MCO has been issued on this vehicle." The original manufacturer's vehicle identification number shall be listed on the final manufacturer's certificate of origin.

400.4(2) *Used vehicle registered or titled in this state.* The last issued certificate of title, properly assigned to the applicant, shall be submitted. An uncanceled security interest noted on the face of the certificate of title shall be noted on the face of the certificate of title issued to the applicant, in addition to any security interest acknowledged by the applicant. If the vehicle is not subject to titling provisions, the last issued registration receipt or bill of sale, properly assigned to the applicant, shall be submitted.

400.4(3) *Used vehicle from a foreign jurisdiction.* If the vehicle was subject to the issuance of a certificate of title in the foreign jurisdiction, the certificate of title issued by the foreign jurisdiction to the applicant or properly assigned to the applicant shall be submitted.

a. A security interest, noted on the face of the foreign certificate of title, which has not been canceled, shall be noted on the face of the certificate of title issued to the applicant, in addition to any security interest acknowledged by the applicant.

b. A certificate of title issued in a foreign jurisdiction may be assigned to a motor vehicle dealer in another jurisdiction, and the dealer may reassign the certificate of title to the applicant. An assignment or reassignment form issued by a foreign jurisdiction may be used with a foreign title to complete an assignment or reassignment of ownership from a foreign motor vehicle dealer to the applicant, provided the ownership chain is complete.

c. An Iowa licensed motor vehicle dealer who acquires a vehicle registered in another state or country may reassign the foreign certificate of title to the applicant, as provided in Iowa Code subsection 321.48(2) and rule 761—400.27(321,322).

d. A person who registers a foreign vehicle under Iowa Code subsection 321.23(3) shall be issued a nontransferable-nonnegotiable registration. To transfer ownership of the vehicle, the owner must first obtain an Iowa certificate of title except as follows: If ownership is transferred to an Iowa licensed motor vehicle dealer as provided in Iowa Code subsection 321.23(3), the foreign certificate of title may be assigned to the dealer; the owner is not required to obtain an Iowa title. The dealer may then reassign the foreign title, as provided in Iowa Code subsection 321.48(2) and rule 761—400.27(321,322).

e. If the vehicle was not subject to the issuance of a certificate of title in the foreign jurisdiction, the registration document issued by the foreign jurisdiction to the applicant or properly assigned to the applicant shall be submitted.

(1) If the foreign registration document is not issued in the applicant's name and does not contain an assignment of ownership form, a bill of sale conveying ownership from the owner as listed on the foreign registration document to the applicant shall be submitted with the foreign registration document.

(2) Upon receipt of the foreign registration document, the county treasurer shall issue a nontransferable—nonnegotiable registration unless the foreign registration document has been approved by the department.

(3) Acceptance of the foreign registration document shall be determined by the department on an individual basis, if the county treasurer of the county where the certificate of title is to be issued cannot determine whether the document is acceptable.

f. If a trailer weighing 2000 lbs. or less is exempt from the issuance of a certificate of title and registration in the foreign jurisdiction, a bill of sale conveying ownership to the applicant, if acquired by a resident from a nonresident, or an affidavit of ownership signed by the applicant, if the applicant is establishing residence in this state, shall be submitted.

g. If a motor vehicle is exempt from the issuance of a certificate of title and registration in the foreign jurisdiction, the bonding procedures as provided in Iowa Code section 321.24 shall be followed.

400.4(4) *Used vehicle acquired by a resident of this state from a government agency.* If the vehicle was acquired from an agency of the federal government, the applicant shall surrender the government bill of sale, Form 97 or 97A, properly assigned to the applicant. If the vehicle was acquired from the state of Iowa or a subdivision of government the applicant shall surrender the Iowa certificate of title issued in the name of the agency, properly assigned to the applicant.

400.4(5) *Manufactured or mobile home.* If the vehicle described on the application is a manufactured or mobile home with an Iowa title, the applicant shall submit a tax clearance form to show that no taxes are owing, unless the title has been issued to a manufactured or mobile home retailer licensed under Iowa Code chapter 103A. The form may be obtained by any owner of record of the manufactured or mobile home from the county treasurer.

400.4(6) *Vehicle acquired by a resident of this state by operation of law.* If the vehicle was acquired by the applicant by operation of law as specified in Iowa Code section 321.47, the last issued certificate of title shall be submitted by the applicant, or when that is not possible, presentation of satisfactory proof of the applicant's ownership and right of possession to the vehicle shall be submitted by the applicant. Proof of ownership may consist of a foreclosure sale affidavit, artisan's or storage lien affidavit, affidavit of death intestate, abandoned vehicle sales receipt, peace officers bill of sale or court order. See also subrules 400.14(4) and 400.14(5).

400.4(7) *Foreign ownership document issued in a language other than English.* A foreign ownership document issued in a language other than English may be required to be reproduced in writing in English and certified to be a correct translation by a person qualified to translate that particular language. The English translation and certification shall be submitted with the foreign ownership document.

400.4(8) *Titles from foreign jurisdictions.*

a. Except as provided in paragraph *"b"* of this subrule, a certificate of title issued by a foreign jurisdiction shall not be accepted if the title contains an alteration or erasure.

b. An affidavit of correction form issued by a foreign jurisdiction that corrects the certificate of title issued by the foreign jurisdiction shall be accepted only for the reason listed on the affidavit of correction form. However, acceptance of an affidavit of correction form that corrects an odometer statement or a designation shall be determined by the department on an individual basis.

400.4(9) *Applications in the name of trusts.* An application in the name of a trust shall be accompanied by a copy of all documents creating or otherwise affecting the trust or the certification of trust as defined in Iowa Code section 633A.4604. The application shall be signed by each trustee unless otherwise specified in the trust agreement or the certification of trust. The signature shall be followed by the words "as trustee."

400.4(10) *Supporting document retained by county treasurer.* All supporting documents shall be retained by the county treasurer.

This rule is intended to implement Iowa Code sections 321.20, 321.23, 321.24, 321.30, 321.31, 321.45 to 321.50, and 321.67.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—400.5(321) Where to apply for registration or certificate of title.

400.5(1) Except as otherwise provided, application for the registration of a vehicle or a certificate of title for a vehicle, or transfers thereof, shall be made to the county treasurer as described in Iowa Code

chapter 321. When none of the primary users of a non-resident-owned vehicle are located in Iowa, the vehicle may be registered by the county treasurer of any county.

400.5(2) Application shall be made to the department's office of vehicle services for the following:

a. Titling and registration of vehicles owned by the government. This requirement does not apply to manufactured or mobile homes subject to a public bidder sale as explained in Iowa Code subsection 321.46(2).

b. Registration of vehicles leased by the government for a period of 60 days or more.

c. Registration of urban and regional transit system buses.

d. Registration of fire trucks not owned and operated for a pecuniary profit.

e. Registration of certain authorized emergency vehicles owned and operated by nonprofit organizations.

f. Registration of private school buses.

g. Registration of vehicles under the provisions of Iowa Code subsection 321.23(4), relating to restricted-use vehicles.

400.5(3) Application for a certificate of title for a vehicle subject to proportional registration under Iowa Code chapter 326 may be made to either the county treasurer or to the department's office of motor carrier services. The office of motor carrier services may be contacted at the addresses listed in subrule 400.6(2) or by telephone at (515)237-3264.

400.5(4) Application for proportional registration shall be made to the department's office of motor carrier services. See 761—Chapter 500.

This rule is intended to implement Iowa Code sections 321.18 to 321.23, 321.46(2), and 321.170.

761—400.6(17A) Addresses, information and forms. Information and forms for vehicle registration, certificate of title, or other procedures covered under Iowa Code sections 321.18 to 321.173 may be obtained from the county treasurer or from:

400.6(1) Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278.

400.6(2) Office of Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382.

400.6(3) The Internet at the following address: http://www.iowadot.gov/mvd.

This rule is intended to implement Iowa Code section 17A.3.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—400.7(321) Information appearing on title or registration. In addition to the requirements of Iowa Code sections 321.24, 321.52, 321.69, 321.71 and 322G.12, a certificate of title or registration receipt or both shall contain the following information when applicable:

400.7(1) Registration expiration date.

400.7(2) Registration month, as explained in rule 761—400.3(321).

400.7(3) Name and address of last titled owner.

400.7(4) Description of the vehicle, including the following items. These items may be represented on the title and registration by code letters or numbers.

a. Vehicle identification number.

b. Type, such as automobile, trailer, truck, etc.

c. Style.

d. Make, model, and model year.

e. Number of engine cylinders.

f. Color.

g. Weight and registered gross weight.

h. The square footage of floor space of a manufactured or mobile home or travel trailer, as determined by measuring the exterior.

i. The odometer mileage and whether the mileage is "actual," "not actual," or "exceeds mechanical limits."

400.7(5) Previous Iowa title number or the name of the foreign jurisdiction if the previous title is a foreign title.

400.7(6) Plate number and previous registration number.

400.7(7) List price or value.

400.7(8) Penalties and title, registration and security interest receipt numbers.

400.7(9) The following phrase stamped on the reassignment portion of a manufactured or mobile home title: "Dealer reassignment not authorized on this certificate of title."

400.7(10) The designation required by 761—Chapter 405. A vehicle may have no more than one designation. The referenced rules explain which designation takes precedence when more than one designation could apply.

400.7(11) Full legal name of owner.

a. When the name of an owner changes from that which is printed on the title or registration issued to the owner, the owner shall submit to the county treasurer on a form prescribed by the department an application for a certificate of title or registration for a vehicle. The application must be accompanied by one of the following documents:

(1) Court order for a name change. The court order must contain the full name, date of birth, and court seal.

(2) Divorce decree.

(3) Marriage certificate.

b. Paragraph *"a"* of this subrule does not apply to owners that are firms, associations, corporations, or trusts.

This rule is intended to implement Iowa Code sections 321.24, 321.31, 321.40, 321.45, 321.52, 321.69, 321.71, 321.124 and 322G.12.

[**ARC 0136C**, IAB 5/30/12, effective 7/4/12]

761—400.8(321) Release form for cancellation of security interest.

400.8(1) A secured party may use a form prescribed by the department to note the cancellation of a security interest.

400.8(2) The secured party may also note the cancellation in a statement written on the secured party's letterhead if the statement contains the following information: county that issued the title; title number; security interest number; vehicle identification number; vehicle owner's name; secured party's name, street address, city, state and ZIP code; date the security interest was canceled; and signature of an authorized representative of the secured party.

400.8(3) The secured party shall forward the original cancellation form or statement to the department or to the county treasurer of the county where the title was issued. Facsimiles and photocopies are not acceptable.

400.8(4) The secured party shall note the cancellation on the face of the title, attach a copy of the release form to the title as evidence of cancellation, and forward the title to the next secured party or, if there is no other secured party, to the person designated by the owner or, if there is no person designated, to the owner.

This rule is intended to implement Iowa Code section 321.50.

761—400.9(321) Security interest notation, 30-day limit. Rescinded IAB 11/23/05, effective 12/28/05.

761—400.10(321) Assignment of security interest. A security interest noted on a certificate of title may be assigned to another secured party without losing the seniority of the security interest by complying with the procedure in Iowa Code section 321.50 or with the following procedure:

400.10(1) *Notice of assignment.* The secured party listed on the title certificate shall make the following notation in the cancellation portion of the certificate of title where security interest is noted "Assigned to (name of assignee)." The date, name of secured party and signature of the person noting the assignment shall be completed in the cancellation portion pertaining to the security interest.

400.10(2) *Application for notation of security interest.* The assignee shall complete an application for notation of a security interest on the form provided by the department. The application form shall be signed by the assignee in the space where the signature of the owner is ordinarily required. The signature of the owner shall not be required on an assignment of a security interest.

400.10(3) *Submission of documents to county treasurer.* The certificate of title, application for notation of security interest and appropriate notation fee shall be submitted to the county treasurer of the county where the certificate of title was issued or will be issued.

a. If there are additional security interests noted on the certificate of title, the seniority of the assignee's security interest may be preserved by issuance of a certificate of title in lieu of the original, on which the assignee's security interest shall be noted in the same seniority as the assignor's.

b. A receipt for notation of security interest form shall be processed and the new receipt number shall be listed in the appropriate space provided. The original notation date shall also be listed and the words "by assignment" shall be listed following the name of the assignee.

This rule is intended to implement Iowa Code section 321.50.

761—400.11(321) Sheriff's levy, restitution lien, and forfeiture lien noted as security interests.

400.11(1) A sheriff's levy may be noted as a security interest on a certificate of title if the sheriff so desires. To apply for a notation of a security interest, the sheriff or the sheriff's deputy shall complete an application form prescribed by the department. The sheriff or sheriff's deputy shall sign the application in the space where the signature of the owner is ordinarily required. The signature of the owner is not required. The appropriate notation fee shall be submitted with the application form to the county treasurer of the county where the certificate of title was issued. If the certificate of title is not surrendered with the application, the county treasurer shall notify the holder of the certificate of title in the manner prescribed in Iowa Code section 321.50.

400.11(2) A restitution or forfeiture lien may be noted as a security interest on a certificate of title if the county attorney so desires. To apply for a notation of a security interest, the county attorney or designee shall complete an application form prescribed by the department. The county attorney or designee shall sign the application in the space where the signature of the owner is ordinarily required. The signature of the owner is not required. A lien notation fee is not required. If the certificate of title is not surrendered with the application, the county treasurer shall notify the holder of the certificate of title in the manner prescribed in Iowa Code section 321.50.

This rule is intended to implement Iowa Code section 321.50 and chapter 809A.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—400.12(321) Replacement certificate of title.

400.12(1) When a certificate of title is lost, destroyed or altered, the owner or lienholder shall apply for a replacement certificate of title. If a security interest noted on the certificate of title was released by the secured party on a separate form, but the secured party has not delivered the original certificate of title to the appropriate party, the owner may apply for a replacement certificate of title as provided in Iowa Code section 321.42.

400.12(2) Application for a replacement certificate of title shall be made on a form prescribed by the department. All owners of the vehicle as listed on the certificate of title shall sign the application form. If an owner is deceased, the signatures and documents specified in subrules 400.14(4) and 400.14(5) shall be required in lieu of the deceased owner's signature. A person entitled to vehicle ownership under the laws of descent and distribution shall sign the required forms and shall insert the words "heir at law" following the signature.

This rule is intended to implement Iowa Code section 321.42.

761—400.13(321) Bond required before title issued. An applicant for a certificate of title who cannot provide the supporting documents required in rule 761—400.4(321) shall be required to file a bond as a condition to obtaining a title and registration plates.

400.13(1) *Procedures.* This subrule describes the procedures to be followed to obtain a "bonded" certificate of title. The procedures described are in addition to the regular procedures for titling and registering a vehicle.

a. The applicant shall submit a bond application to the office of vehicle services on a form prescribed by the department. The application shall be accompanied by evidence of ownership of the vehicle.

b. The department shall search the state files to determine if there is an owner of record for the vehicle and if the vehicle has been reported stolen or embezzled.

(1) If a record is found, the applicant shall complete a request for release of personal information form explaining that the applicant is the current owner and is requesting a duplicate title. The department shall mail the release by first-class mail to the owner of record, at the owner's last-known address.

(2) If the department receives no response from the owner of record within ten days after the date of mailing or the owner of record does not want the owner's personal information released, the department will continue processing the bond application.

c. If the department determines that the applicant has complied with this rule, that there is sufficient evidence to indicate that the applicant is the rightful owner, and that there is no known unsatisfied security interest, the department shall determine the current value of the vehicle and notify the applicant to deposit cash or file a surety bond with the department in an amount equal to one and one-half times the current value of the vehicle.

d. After the cash deposit or surety bond has been deposited, a motor vehicle investigator of the department may examine the vehicle to verify the information submitted on the application is correct. The owner of the vehicle may drive or tow the vehicle to and from the examination location by completing an affidavit to drive on a form provided by the department. The form shall state that the vehicle is reasonably safe for operation and must be signed by the owner. After verifying the information, the investigator shall give to the applicant a document authorizing the county treasurer to issue a title for and register the vehicle. Should the vehicle not meet the equipment requirements of Iowa Code chapter 321, the investigator shall authorize the county treasurer to issue a title and registration but instruct the county treasurer to immediately suspend the registration until such time as the vehicle meets these equipment requirements. If applicable, the investigator shall also affix an assigned identification number to the vehicle and give to the applicant an assigned vehicle identification number (VIN) form.

e. The applicant shall then submit the authorization document and, if applicable, the VIN form to the county treasurer and make application for a certificate of title and registration.

400.13(2) *Disapproval.* If the department determines that the applicant has not complied with this rule, that there is sufficient evidence to indicate that the applicant may not be the rightful owner, or that there is an unsatisfied security interest, then the department shall not authorize issuance of a certificate of title or registration receipt and shall notify the applicant in writing of the reason(s).

400.13(3) *Junked vehicle.* A certificate of title shall not be reinstated for a vehicle that has been issued a junking certificate unless the junking certificate was issued in error, as explained in rule 761—400.23(321), or the vehicle qualifies as an antique vehicle under Iowa Code subsection 321.115(1).

This rule is intended to implement Iowa Code sections 321.24 and 321.52.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10; **ARC 0136C**, IAB 5/30/12, effective 7/4/12]

761—400.14(321) Transfer of ownership. The following procedures shall apply for all titling and registration purposes:

400.14(1) *Transfer of vehicle owned by two or three persons.*

a. If the names of the owners of a vehicle on the certificate of title or on the manufacturer's certificate of origin are joined by the word "or," as in "John Doe, Jane Doe or Mary Doe," then the signature of any of these owners is sufficient to transfer title or to junk the vehicle.

b. If ownership of a vehicle is stated as a name or names followed by the words "Doing Business As" or the initials "DBA" and another name, only the name of an owner followed by the signature of an authorized representative of an owner is required to transfer title or to junk the vehicle.

EXAMPLE: Ownership is stated as "John Smith and Mary Smith DBA Smith Repair." Jane Doe is an authorized representative of John Smith and Mary Smith. To transfer ownership, Jane Doe may sign as "John Smith and Mary Smith DBA Smith Repair, by Jane Doe," "John Smith and Mary Smith by Jane Doe," or Smith Repair by Jane Doe."

c. In all other cases the signature of each named owner is required.

400.14(2) *Assignment of title to two or three persons.* If a certificate of title or a manufacturer's certificate of origin is assigned to two or three persons with their names joined by the word "or," as in "John Doe, Jane Doe or Mary Doe," then a certificate of title may be issued to any one of these persons, or to any two or all three of these persons with their names joined by the word "or." However, a certificate of title shall only be issued to persons who have signed the application for title.

400.14(3) *Organizational ownership.*

a. When a vehicle is owned by a partnership, corporation, association, governmental unit, or private organization, the signature of its authorized representative is required.

b. When a vehicle is owned by a trust, the signature of each trustee is required, unless otherwise specified in the trust agreement or the certification of trust as defined in Iowa Code section 633A.4604. The signature shall be followed by the words "as trustee." In addition, the title shall be accompanied by a copy of all documents creating or otherwise affecting the trust or the certification of trust.

400.14(4) *Death with a will.* When ownership is transferred according to a decedent's will, a certified copy of the court order or the letter of appointment appointing the person assigning the title as executor of the will shall be required.

400.14(5) *Death without a will.* When ownership is transferred from a decedent without a will and there is no administration of the estate, an affidavit of death intestate form signed by the clerk of court shall be required. When ownership is transferred from a decedent without a will but there is an administration of the estate, a copy of the court order or the letter of appointment appointing the person assigning the title as administrator shall be required.

400.14(6) *Power of attorney.* An attorney in fact may act for the owner(s) if the appointment is shown on a power of attorney form. Power of attorney forms are available from the department but other forms may be accepted if they contain all necessary information. The power of attorney form or a certified true copy shall be kept by the county treasurer and attached to the document to which it applies.

This rule is intended to implement Iowa Code sections 321.20, 321.24, 321.45, 321.47, 321.49, and 321.67.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—400.15(321) Cancellation of a certificate of title.

400.15(1) The department shall cancel a certificate of title when authorized by any provision of law or when it has reasonable grounds to believe that the title has not been surrendered to the county treasurer as provided in Iowa Code section 321.52 or when the vehicle has been stolen or embezzled from the rightful owner or seized under the provisions of Iowa Code section 321.84, and the person holding the certificate of title, purportedly issued for the vehicle, has no immediate right to possession of the vehicle.

400.15(2) The decision to issue a new certificate of title or to allow the previous title to be reinstated through a replacement title application process or to take any other action regarding ownership of the vehicle for which the current title has been canceled shall be determined after an investigation and recommendation by a motor vehicle investigator of the department.

This rule is intended to implement Iowa Code section 321.101.

761—400.16(321) Application for certificate of title or original registration for a specially constructed, reconstructed, street rod or replica motor vehicle.

400.16(1) *Definitions applicable to this rule.*

a. *"Ownership document for the vehicle"* means the certificate of title, the manufacturer's certificate of origin, the junking certificate, or other evidence of ownership acceptable to the department.

b. *"Ownership documents for essential parts"* means bills of sale for all essential parts used to construct or reconstruct the vehicle. Each bill of sale shall contain a description of the part, the

manufacturer's identification number of the part, if any, and the name, address, and telephone number of the seller.

400.16(2) *Procedures.* This subrule describes the procedures for obtaining department approval to title and register a specially constructed, reconstructed, street rod or replica motor vehicle. The procedures described are in addition to the regular procedures for titling and registering a vehicle.

a. The applicant shall apply to the county treasurer for a certificate of title and registration. The county treasurer, upon receiving an application that indicates the vehicle is a specially constructed, reconstructed, street rod or replica motor vehicle, shall forward the application to a motor vehicle investigator of the department.

b. The investigator shall contact the applicant and schedule a time and place for an examination of the vehicle and the ownership documents. The owner of the vehicle may drive or tow the vehicle to and from the examination location by completing an affidavit to drive on a form provided by the department. The form shall state that the vehicle is reasonably safe for operation and must be signed by the owner. The applicant, when appearing with the vehicle for the examination, shall submit to the investigator the ownership document for the vehicle, the ownership documents for essential parts, and a weigh ticket indicating the weight of the vehicle. However, a weigh ticket is not required for motorcycles, trucks, truck tractors, road tractors or trailer-type vehicles.

c. If the investigator determines that the vehicle complies with 761—Chapter 450, that the integral parts and components have been identified as to ownership, and that the application has been completed properly:

(1) The investigator shall approve the application, affix to the vehicle an assigned vehicle identification number, and return the application and ownership documents to the applicant. The investigator shall also give to the applicant an assigned vehicle identification number (VIN) form that the applicant shall submit with the application to the county treasurer.

(2) If the vehicle is a passenger-type motor vehicle, the department shall determine its weight and value. The vehicle weight shall be fixed at the next even 100 pounds above the actual weight of the vehicle fully equipped, as provided in Iowa Code section 321.162. The weight and value shall constitute the basis for determining the annual registration fee under Iowa Code section 321.109, except as provided in Iowa Code section 321.113.

(3) The applicant shall then submit the approved application, ownership document for the vehicle, and VIN form to the county treasurer and continue with the regular title and registration process.

400.16(3) *Disapproval.* If the department determines that the vehicle does not comply with 761—Chapter 450, that the integral parts or components have not been identified as to ownership, or that the application has not been completed properly, then the department shall not approve the vehicle for titling and registration.

400.16(4) *Model year.* The model year of a specially constructed or reconstructed motor vehicle is the year the vehicle is approved by the department as a specially constructed or reconstructed motor vehicle.

This rule is intended to implement Iowa Code sections 321.20, 321.23, 321.24, 321.52, 321.109 and 321.162.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10; **ARC 0136C**, IAB 5/30/12, effective 7/4/12]

761—400.17(321) Remanufactured vehicle. Rescinded IAB 11/23/05, effective 12/28/05.

761—400.18(321) Rescinded IAB 3/26/97, effective 4/30/97.

761—400.19(321) Temporary use of vehicle without plates or registration card.

400.19(1) *Temporary use of vehicle without plates.* A person who acquires a vehicle which is currently registered or in a dealer's inventory at the time of sale and who does not possess registration plates which may be assigned to and displayed on the vehicle may operate or permit the operation of the vehicle not to exceed 30 days from the date of purchase or transfer without registration plates displayed thereon, if ownership evidence is carried in the vehicle.

400.19(2) *Temporary use of vehicle without registration card.* A person who acquires a vehicle which is currently registered or in a dealer's inventory at the time of sale and who has possession of plates which may be attached to the vehicle acquired may operate or permit the operation of the vehicle not to exceed 45 days from the date of purchase or transfer without a registration card, if ownership evidence is carried in the vehicle.

400.19(3) *Ownership evidence.* Ownership evidence under this rule shall consist of the certificate of title or registration receipt, or a photocopy thereof, properly assigned to the person who has acquired the vehicle, or a bill of sale conveying ownership of the vehicle to the person who has acquired the vehicle. The ownership evidence shall be shown to any peace officer upon request.

This rule is intended to implement Iowa Code sections 321.25, 321.33 and 321.46.

761—400.20(321) Registration of motor vehicle weighing 55,000 pounds or more. When applying for registration or renewal of registration for a motor vehicle weighing 55,000 pounds or more, the owner shall present to the department or to the county treasurer proof of compliance with the federal heavy vehicle use tax required by 26 U.S.C. Section 4481 and 26 CFR Part 41.

400.20(1) If the motor vehicle is used exclusively in the transportation of harvested forest products, the owner may present a written statement certifying that usage and the usage will be recorded.

400.20(2) If the motor vehicle is used primarily for farming purposes, the owner may present a written statement certifying that usage and the usage will be recorded.

This rule is intended to implement Iowa Code sections 307.30 and 321.20.

761—400.21(321) Registration of vehicles on a restricted basis. The department may register a vehicle which does not meet the equipment requirements of Iowa Code chapter 321, due to the particular use for which it is designed or intended. Registration may be accomplished upon payment of the appropriate fees and after inspection and certification by the department that the vehicle is not in an unsafe condition.

400.21(1) Operation of the vehicle may be restricted to a roadway to which a specific lawful speed limit applies, as specified in Iowa Code section 321.285, if the maximum speed of the vehicle is such that the operation of the vehicle would impede or block the normal and reasonable movement of traffic.

400.21(2) The department may also restrict the operation of the vehicle to daylight hours if operation of the vehicle during hours other than daylight would create a hazard.

400.21(3) A certificate of restriction shall be issued in conjunction with registration of the vehicle, listing the restrictions that apply to the operation of the vehicle.

a. Registration laws applicable to motor vehicles in general shall also apply to vehicles registered under a restricted registration.

b. The department may approve exceptions to those equipment requirements of Iowa Code chapter 321 which cannot be met due to the particular use for which the vehicle is designed or intended.

400.21(4) The department shall not register an all-terrain vehicle. The department shall not register a vehicle built on or after January 1, 1968, unless it was manufactured primarily for use on public streets, roads and highways except a vehicle operated exclusively by a person with a disability, which may be registered if the department, in its discretion, determines that the vehicle is not in an unsafe condition. This subrule does not apply to a specially constructed, reconstructed, street rod or replica motor vehicle as defined in Iowa Code section 321.1.

This rule is intended to implement Iowa Code sections 321.1 and 321.234A and subsections 321.23(4), 321.30(2), and 321.101(1).

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—400.22(321) Transfers of ownership by operation of law. When ownership of a vehicle is transferred by operation of law under Iowa Code section 321.47, the following, in addition to rule 761—400.4(321), shall apply:

400.22(1) The new certificate of title and registration shall be issued, upon receipt of the proper documentation, by the county treasurer of the county where the transferee resides.

400.22(2) If the vehicle is not currently registered in this state, the registration fee and penalties due shall be computed in accordance with the following:

a. If the vehicle is ordered confiscated or forfeited by a court under a judgment or forfeiture, the fee shall be computed on the remaining unexpired months in the registration year from the date of the court order.

b. If the vehicle is sold on a peace officer's bill of sale as an unclaimed, stolen, embezzled or abandoned vehicle, or as a vehicle seized under Iowa Code section 321.84, the fee shall be computed on the remaining unexpired months in the registration year from the date of the sale.

c. If the vehicle is sold or transferred under a judgment or order entered by a court in a civil action or proceeding, or is transferred under any provision of Iowa Code section 321.47 which is not covered in this subrule, the fee shall include any delinquent fees which have accrued during previous registration periods and accrued penalties. Penalties shall continue to accrue until paid.

d. If the vehicle was last titled or registered in a foreign state, the fee shall be based on the month the vehicle becomes subject to registration in this state, except as provided in paragraphs 400.22(2)*"a"* and *"b"* above.

This rule is intended to implement Iowa Code sections 321.47, 321.105, 321.106, 321.134, and 321.135.

761—400.23(321) Junked vehicle.

400.23(1) *Junking certificate.* The owner of a vehicle that is to be junked or dismantled shall obtain a junking certificate in accordance with Iowa Code subsection 321.52(3).

400.23(2) *Retitling a junked vehicle.* The department may authorize issuance of a new certificate of title to the vehicle owner named on the junking certificate only if the department determines that the junking certificate was issued in error.

a. The reasons a junking certificate was issued in error include but are not limited to the following:

(1) The owner inadvertently surrendered the wrong certificate of title. The owner shall submit to the department a photocopy of the ownership document for each vehicle and a signed statement explaining the circumstances that resulted in the error.

(2) A junking certificate was obtained in error and the vehicle continues to be registered. The owner shall submit to the department a photocopy of the current registration and a signed statement explaining the circumstances that resulted in the error.

(3) The owner intended to apply for a salvage title under Iowa Code subsection 321.52(4) but inadvertently submitted an application for a junking certificate. The owner shall submit to the department a bill of sale or other documentation from the previous owner stating that the vehicle was rebuildable when purchased and a signed statement explaining the owner's original intention to obtain a salvage title. The department shall inspect the vehicle to verify the rebuildable condition.

b. If the department determines that the junking certificate was issued in error, the department shall authorize the proper county treasurer to issue a certificate of title for the vehicle after payment by the owner of appropriate fees and taxes, including the return of any credit or refund for registration fees paid to the owner because of the error.

c. If the department determines that the junking certificate was not issued in error and denies the application for reinstatement of the certificate of title for the vehicle, the owner may apply for a certificate of title under the bonding procedure in rule 761—400.13(321) if the vehicle qualifies as an antique vehicle under Iowa Code subsection 321.115(1).

This rule is intended to implement Iowa Code subsection 321.52(3).

761—400.24(321) New vehicle registration fee. The registration fee shall be computed on the month of purchase of a new vehicle, except that the registration fee on a new vehicle acquired outside of this state shall be based on the month that the vehicle was brought into Iowa.

This rule is intended to implement Iowa Code sections 321.105 and 321.135.

761—400.25(321) Fees established by the department. If the department cannot obtain the retail list price and weight for a particular motor vehicle model registered under Iowa Code subsection 321.109(1), the department shall determine a list price and weight.

This rule is intended to implement Iowa Code sections 321.109, 321.157 and 321.159.

761—400.26(321) Anatomical gift. Voluntary contributions collected by the county treasurer or the department to the anatomical gift public awareness and transplantation fund shall be in whole dollar amounts. The county treasurer and the department shall remit contributions collected to the department of public health quarterly.

This rule is intended to implement Iowa Code section 321.44A.

761—400.27(321,322) Vehicles held for resale or trade by dealers. A motor vehicle dealer, as defined in Iowa Code section 321.1, is authorized to hold a motor vehicle for resale or trade under the following conditions.

400.27(1) *Assignment to dealer.* The certificate of title or manufacturer's certificate of origin for the vehicle shall be assigned to the dealer by the seller. The seller shall complete the assignment portion of the form, including the date of sale or trade and the name and address of the dealer, and shall sign the form. The date of the sale or trade shown in the assignment portion of the form shall be the date the dealer acquired the vehicle.

400.27(2) *New certificate of title and registration not required.*

a. A motor vehicle currently registered in Iowa may be held by a dealer without obtaining a new certificate of title or a new registration if the dealer holds for that vehicle a certificate of title or a manufacturer's certificate of origin properly assigned to the dealer.

b. A motor vehicle may also be held by a dealer without obtaining a new certificate of title or a new registration if the dealer has a title from a state that permits its titles to be reassigned by Iowa dealers and if a vacant reassignment space is available on the title.

400.27(3) *New certificate of title required.* A dealer shall obtain a new certificate of title, but is not required to pay registration fees for a vehicle if:

a. The vehicle has been registered in a foreign state or country that does not permit its titles to be reassigned by Iowa dealers.

b. The vehicle was assigned to the dealer using an affidavit of foreclosure form prescribed by the department or issued by a foreign jurisdiction.

c. The reassignment area of the certificate of title has been used.

d. Reserved.

e. The vehicle registration fee was delinquent in Iowa at the time the vehicle was acquired by the dealer. The delinquent fees and penalty shall be paid by the dealer from the first day the registration was due to the month the application for title is submitted.

f. In accordance with 761—Chapter 405, the dealer is required to obtain a salvage certificate of title.

400.27(4) *New certificate of title and registration fee required.* A dealer shall obtain both a new certificate of title and pay a registration fee for a vehicle if:

a. The vehicle has a foreign certificate of title but has never been registered and the dealer is not licensed under Iowa Code chapter 322 to sell that line make of vehicle. The registration fee due shall be prorated for the remaining unexpired months of the dealer's registration year.

b. The vehicle was placed in storage by the previous owner. The registration fee due shall be a full registration year fee.

c. The vehicle has been registered in a foreign state or country that does not permit its titles to be reassigned by Iowa dealers or all reassignment spaces on the title are full and the application for a new certificate of title is submitted more than 30 days after the date the vehicle entered Iowa. The registration fee due shall be prorated for the remaining unexpired months of the dealer's registration year.

d. The vehicle was in the dealer's inventory and the dealer's license was revoked as provided in Iowa Code chapter 322 or 322C or surrendered in lieu of revocation. The dealer shall obtain title and

registration within 30 days from the date of revocation or surrender of the license. The registration fee due shall be prorated for the remaining unexpired months of the registration year.

400.27(5) *Registration fee required.* A vehicle owned by a dealer and used as a work or service vehicle, or offered for lease, rent or hire, shall become subject to a registration fee in the month that the vehicle is first used for that purpose. The registration fee shall be due annually unless the vehicle is transferred to the dealer's inventory. To transfer the vehicle, the dealer shall surrender the registration plates that were issued for the vehicle.

400.27(6) *Violations.*

a. Failure to comply with this rule is a violation of Iowa Code subsection 321.104(2).

b. Failure to obtain a certificate of title when required shall result in a title penalty of $10, as specified in Iowa Code subsection 321.49(1).

This rule is intended to implement Iowa Code sections 321.45, 321.46, 321.48, 321.49, 321.67, 321.70, 321.104 and chapter 322.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—400.28(321) Special trucks. The owner of a truck tractor registered as a special truck shall certify to the owner's county treasurer annually at the time of renewal that the truck tractor is not operated more than 15,000 miles annually.

This rule is intended to implement Iowa Code subsection 321.1(76) and section 321.121.

761—400.29(321) Vehicles previously registered under Iowa Code chapter 326. Rescinded IAB 11/23/05, effective 12/28/05.

761—400.30(321) Registration of vehicles registered in another state or country.

400.30(1) The registration fee for a vehicle from another state or country shall be due in the month that the vehicle becomes subject to registration in Iowa.

400.30(2) A vehicle registered in another state or country shall become subject to registration in Iowa and payment of the Iowa registration fee in:

a. The month of sale or transfer to an Iowa resident, or

b. The month that a nonresident owner establishes Iowa residency or accepts employment in Iowa of 90 days duration or longer. The county treasurer or the department may require from the applicant a written statement giving the date that the applicant established residency in Iowa.

400.30(3) Rescinded IAB 2/6/02, effective 3/13/02.

This rule is intended to implement Iowa Code sections 321.18, 321.20, 321.53 to 321.55, 321.101 and 321.135.

761—400.31 Rescinded, effective 12/1/83.

761—400.32(321) Vehicles owned by nonresident members of the armed services.

400.32(1) A vehicle owner who is a nonresident and a member of the armed services shall not be required to register the vehicle in Iowa if it is properly registered in the person's state of residence.

400.32(2) A vehicle owner who is a nonresident and a member of the armed services may register the vehicle in Iowa under the following conditions:

a. The vehicle is owned entirely by nonresidents.

b. The fee for a passenger-type vehicle registered under Iowa Code section 321.109 shall be based only on the weight of the vehicle; the part of the fee based on value shall be excluded. The fees for all other vehicles shall be determined as specified in Iowa Code chapter 321.

c. The application for vehicle registration shall include a certification by the person's commanding officer of the person's state of residence and assignment to Iowa.

400.32(3) If ownership of a passenger-type vehicle is transferred to another person, the vehicle shall be subject to registration in Iowa.

This rule is intended to implement Iowa Code sections 321.53 to 321.55 and 321.109.

761—400.33(321) Disabled veterans exemption from payment of registration fees. Rescinded IAB 11/23/05, effective 12/28/05.

761—400.34(321) Multipurpose vehicle registration fee. Rescinded IAB 11/7/07, effective 12/12/07.

761—400.35(321) Registration of vehicles equipped for persons with disabilities. The registration fee shall be reduced for an automobile, multipurpose vehicle, or motor truck with an unladen weight of 10,000 pounds or less with permanent equipment for assisting a person with a disability or for an automobile, multipurpose vehicle, or motor truck with an unladen weight of 10,000 pounds or less used by a person who uses a wheelchair as the person's only means of mobility. To qualify for the reduction, the owner of the vehicle must provide a written self-certification at the first registration and at each renewal:

400.35(1) That the automobile, multipurpose vehicle, or motor truck with an unladen weight of 10,000 pounds or less has permanently installed equipment manufactured for and necessary to assist a person with a disability, as defined in Iowa Code section 321L.1, to enter or exit the vehicle, or

400.35(2) That the owner or a member of the owner's household uses a wheelchair as the person's only means of mobility.

This rule is intended to implement Iowa Code sections 321.109, 321.124 and 321L.1.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—400.36(321) Land and water-type travel trailers registration fee. The registration fee for trailer-type vehicles designed to be used as a travel trailer and for use upon water shall be registered as a travel trailer. The exterior measurements used to determine the registration fee shall not include any pen deck area or area occupied by a trailer hitch.

This rule is intended to implement Iowa Code sections 321.1 and 321.123.

761—400.37(321) Motorcycle primarily designed or converted to transport property. A motorcycle primarily designed or converted to transport less than 1000 pounds of property shall be registered as a motorcycle. A motorcycle primarily designed or converted to transport 1000 pounds of property or more shall be registered as a motor truck.

This rule is intended to implement Iowa Code sections 321.1 and 321.117.

761—400.38(321) Rescinded IAB 3/26/97, effective 4/30/97.

761—400.39(321) Conversion of motor vehicles.

400.39(1) An automobile converted to a truck with a carrying capacity of 1000 pounds or more shall be registered as a reconstructed motor vehicle.

400.39(2) A vehicle manufactured as a truck tractor or motor truck shall not be registered as a motor home unless the vehicle has been substantially altered to change its type and mode of operation so that it is a reconstructed vehicle as defined in Iowa Code section 321.1.

This rule is intended to implement Iowa Code sections 321.23, 321.124 and 321.111.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10; **ARC 0136C**, IAB 5/30/12, effective 7/4/12]

761—400.40(321) Manufactured or mobile home converted to or from real property.

400.40(1) *Conversion to real property.* When a manufactured or mobile home is converted to real property under Iowa Code section 435.26, the assessor shall collect its vehicle certificate of title. The assessor shall note the conversion on the face of the certificate of title above the assessor's signature, date the notation and deliver the title to the county treasurer. The county treasurer shall note the conversion on the vehicle record in the county treasurer's office, cancel the record, keep the certificate of title and notify the department of the cancellation. The department shall cancel its record for that manufactured or mobile home.

400.40(2) *Reconversion from real property.*

a. When a manufactured or mobile home is reconverted from real property by adding a vehicular frame, the owner may apply to the county treasurer for a certificate of title.

b. The owner shall submit a record of existing liens obtained from a local abstracter. The record shall identify the owner of the property, list all liens and encumbrances against the property, and shall be signed by the abstracter.

c. The owner shall also submit written consent to the reconversion from any person holding a mortgage on the real property (mortgagee). An existing mortgage shall be noted as a security interest on the certificate of title.

d. The county treasurer shall submit written notice of the reconversion to the county assessor's office.

This rule is intended to implement Iowa Code sections 321.1, 435.1, 435.26, 435.26A and 435.27.

761—400.41(321) Special registration plates. Rescinded IAB 3/1/95, effective 4/5/95.

761—400.42(321) Church bus registration fee. The church bus registration fee shall not apply if the bus is used in a manner other than provided by law or if ownership of the bus is transferred to a person who is not entitled to register the vehicle as a church bus.

400.42(1) When the church bus registration fee does not apply, the bus shall be registered under the provisions of Iowa Code section 321.122.

400.42(2) When Iowa Code section 321.122 applies and the bus is currently registered as a church bus, the registration fee shall be prorated for the remaining unexpired months of the registration year.

This rule is intended to implement Iowa Code sections 321.119 and 321.122.

761—400.43(321) Storage of vehicles.

400.43(1) The owner of a vehicle upon which the registration fee is not delinquent may surrender all registration plates for the vehicle to the county treasurer where the vehicle is registered and shall have the right to register the vehicle later upon payment of the annual registration fee due at the time of removal of the vehicle from storage. Payment of a registration fee shall not be required when the vehicle is removed from storage within the current registration year provided that registration fees have not been refunded. Plates that have been surrendered shall be destroyed. When a vehicle is removed from storage, the fee is $5 for a set of replacement plates.

400.43(2) The owner of a motor vehicle which is placed in storage when the owner enters the military service of the United States shall comply with Iowa Code subsection 321.126(3), and subrule 400.43(1) does not apply.

This rule is intended to implement Iowa Code sections 321.126 and 321.134.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—400.44(321) Penalty on registration fees.

400.44(1) *Monthly basis.* The penalty on the delinquent payment of a registration fee shall be computed on a monthly basis, rounded to the nearest whole dollar.

400.44(2) *Vehicle purchased.* The penalty on the registration fee shall accrue from the first day of the month following the date of purchase, unless the application for a certificate of title is submitted within 30 days after the date of purchase.

400.44(3) *Vehicle moved into Iowa.* The penalty on the registration fee shall accrue on the first day of the month following 30 days from the date a vehicle is moved into Iowa.

400.44(4) *When delinquency extends beyond the current year.* When the penalty on a delinquent registration fee extends beyond the current year, the penalty shall continue to accrue until paid. Penalty shall only accrue on the fee applicable at the time the delinquency accrued and shall not be applicable to subsequent registration fees which have not been paid.

400.44(5) *Statement of nonuse.* If the owner of a vehicle, on which the registration fees have not been paid for more than three complete registration years, certifies to the county treasurer of the owner's residence that the vehicle has not been moved or operated upon the highway since the year it was last

registered, the county treasurer may register the vehicle upon payment of the current year's registration fee.

400.44(6) *Waiver of penalties for military members.* Registration penalties shall be waived as provided in Iowa Code section 321.134, subsection 5, if the owner provides a copy of an official government document verifying that the applicant is in the military service of the United States and has been relocated as a result of being placed on active duty on or after September 11, 2001.

This rule is intended to implement Iowa Code sections 321.39, 321.46, 321.47, 321.49, 321.134 and 321.135.

761—400.45(321) Suspension, revocation or denial of registration.

400.45(1) The department shall suspend or revoke registration and plates under Iowa Code section 321.101 when a written request is received from a peace officer or the county treasurer's office that issued the registration and plates.

a. A request from a peace officer shall be submitted on a form prescribed by the department.

b. A request from a county treasurer's office shall be signed by the county treasurer or designee.

400.45(2) When the registration of a vehicle has been revoked as provided in Iowa Code sections 321.101 and 321.101A, the registration fee and penalty shall accrue as if the plates had never been issued, unless waiver of registration fees and penalties is specifically provided for in Iowa Code chapter 321.

400.45(3) In accordance with Iowa Code sections 252J.8 and 261.126, the department shall suspend or deny the issuance or renewal of registration and plates upon receipt of a certificate of noncompliance from the child support recovery unit or the college student aid commission.

a. The suspension or denial shall become effective 30 days after notice to the vehicle owner and continue until the department receives a withdrawal of the certificate of noncompliance from the child support recovery unit or the college student aid commission.

b. If a person who is the named individual on a certificate of noncompliance subsequently purchases a vehicle, the vehicle shall be titled and registered, but the registration shall be immediately suspended.

This rule is intended to implement Iowa Code sections 252J.1, 252J.8, 252J.9, 261.126, 321.127, 321.101 and 321.101A.

761—400.46(321) Termination of suspension of registration. Upon termination of the suspension of registration of a vehicle, the county treasurer shall issue new plates for the vehicle. If the new plates replace a current series of plates, there shall be a replacement fee as provided in Iowa Code section 321.42. If the vehicle is not currently registered at the time the suspension is lifted, the registration fee and penalties due shall be determined as follows:

400.46(1) If the registration fee was delinquent at the time that the suspension became effective, the penalty shall continue to accrue on the registration fee until the suspension became lifted and the registration fee is paid. In addition, if the suspension was for failure to pay an additional registration fee, the additional registration fee shall be paid before the suspension is lifted.

400.46(2) If the registration fee was not delinquent when the suspension became effective and the suspension is lifted after the beginning of another registration year, the annual registration fee for that year shall be due in the month the suspension is lifted. The penalty shall accrue on the registration fee the first day of the month following the month that the suspension was lifted. The annual registration fee on a recovered stolen vehicle for which the registration has been suspended shall be prorated for the remaining unexpired months of the registration year.

400.46(3) If the registration fee was not delinquent at the time that the suspension became effective and the suspension is lifted during the same registration period, no additional registration fees shall be due unless the suspension was for failure to pay an additional registration fee, in which event the additional registration fee shall be paid before the suspension is lifted.

This rule is intended to implement Iowa Code sections 321.42, 321.105 and 321.134.

761—400.47(321) Raw farm products. A vehicle may be operated with a gross weight of 25 percent in excess of the gross weight for which it is registered when transporting a load of raw farm products or soil fertilizers under Iowa Code section 321.466. In addition, the following products shall be considered raw farm products. This list shall not be deemed conclusive and shall not exclude other commodities which might be considered raw farm products:

Animals which are dead	Hides
Berries, fresh	Honey, comb or extracted
Blood	Melons
Corn, ear corn including hybrids	Milk, raw
Corn, shelled	Nursery stock
Corn, cobs	Potatoes
Cream, separated	Peat
Eggs, fresh or frozen in shell	Poultry, live
Flax	Saw logs
Flaxseed	Sod
Fodder	Soybeans
Fruit, fresh	Straw, baled or loose
Grain, threshed or unthreshed	Vegetables, fresh
Hair	Wood, cord or stove wood
Hay, baled or loose	Wool

This rule is intended to implement Iowa Code section 321.466, subsections (5)and (6).

761—400.48(321) Special mobile equipment. Rescinded IAB 3/7/90, effective 4/11/90.

761—400.49(321) Special mobile equipment transported on a registered vehicle. Rescinded IAB 3/7/90, effective 4/11/90.

761—400.50(321,326) Refund of registration fees.

400.50(1) *Vehicles registered by county treasurer.*

a. The department shall refund fees for vehicles registered by the county treasurer pursuant to Iowa Code section 321.126.

b. A claim for refund shall be made on a form prescribed by the department. Except as provided in Iowa Code section 321.126, the claim may be submitted to the county treasurer's office in any county.

c. Registration plates shall be submitted with the claim if the vehicle is placed in storage or registered for proportional registration, if the owner of the vehicle moves out of state, or if the plates have not been assigned to a replacement vehicle. If one or both plates have been lost or stolen, the claimant shall certify this fact in writing.

d. For a vehicle that was junked, the date on the junking certificate shall determine the date the vehicle was junked.

e. If the claim for refund is for excess credit or no replacement vehicle:

(1) The county treasurer shall enter into the state motor vehicle computer system the information required to process the refund. The information shall be entered within three days of receipt of the claim for refund.

(2) The claim for refund shall be approved or denied by the office of vehicle services.

f. All other claims for refund shall be forwarded to the office of vehicle services for processing.

400.50(2) *Vehicles registered by department.* Forms and instructions for claiming a refund on apportioned registration fees under Iowa Code section 326.15 may be obtained from the office of motor carrier services at the address in subrule 400.6(2). The claim for refund shall be filed at the same address.

400.50(3) *Disapproved claim.* Rescinded IAB 11/23/05, effective 12/28/05.

This rule is intended to implement Iowa Code sections 25.1, 321.126 to 321.128 and 326.15.

761—400.51(321) Assigned identification numbers. The department is authorized to issue to the owner an assigned vehicle identification number for a vehicle, an assigned component part number for a component part, and an assigned product identification number for a fence-line feeder, grain cart, or tank wagon. An identification number shall be assigned only if the department is satisfied as to the true identity and ownership of the vehicle, component part, fence-line feeder, grain cart or tank wagon. When an assigned vehicle identification number has been issued for a vehicle, the vehicle shall be registered and titled under that number. An assigned component part number or an assigned product identification number shall be used only for identification purposes.

400.51(1) *Issuance of an identification number.* The department shall issue an assigned vehicle identification number, assigned component part number or assigned product identification number, as applicable, only if:

a. The original number has been destroyed, removed or obliterated.

b. The vehicle has had a cab, body, or frame change and the replacement cab, body, or frame is within the manufacturer's interchangeability parts specifications catalog and is compatible with the make, model, and year of the vehicle. If the replacement cab, body, or frame change is not within the manufacturer's interchangeability parts specifications catalog or is not compatible with the make, year, and model of the vehicle, the vehicle shall be considered reconstructed and subject to rule 761—400.16(321).

c. The vehicle is a specially constructed, reconstructed, street rod or replica motor vehicle. See rule 761—400.16(321) for the requirements and procedures applicable to specially constructed, reconstructed, street rod or replica motor vehicles.

400.51(2) *Procedures.*

a. *Request.* Whenever an assigned identification number is required under subrule 400.51(1) and the request does not apply to a specially constructed, reconstructed, street rod or replica motor vehicle, the owner of the vehicle, component part, fence-line feeder, grain cart or tank wagon, or the person holding lawful custody, shall contact the department's office of motor vehicle enforcement and request the assignment of a number.

b. *Examination.* A motor vehicle investigator shall contact the owner and schedule a time and place for examination of the vehicle, component part, fence-line feeder, grain cart or tank wagon and ownership documents. The owner of the vehicle may drive or tow the vehicle to and from the examination location by completing the affidavit to drive section on the certification of compliance form. The affidavit shall state that the vehicle is reasonably safe for operation and must be signed by the owner.

If the vehicle has had a cab, body, or frame change, the owner shall have, for evidence of ownership for the replacement cab, body, or frame, a bill of sale with a description of the part, complete with the manufacturer's identification number, if any, and the name, address, and telephone number of the seller. The bill of sale, the vehicle, and the cab, body, or frame that has been replaced shall be made available for examination at the time and place scheduled.

c. *Assigned vehicle identification number.*

(1) The investigator upon approval of the request shall affix to the vehicle an assigned vehicle identification number and give to the owner an assigned vehicle identification number (VIN) form.

(2) The owner shall submit the VIN form, the certificate of title, and the registration receipt issued for the vehicle to the county treasurer. If the certificate of title is in the possession of a secured party, the county treasurer shall notify the secured party to return the certificate of title to the county treasurer for the purpose of issuing a corrected title. Upon receipt of the notification, the secured party shall submit the certificate of title within ten days. The county treasurer, upon receipt of the certificate of title, the registration receipt and the VIN form, shall issue a corrected title and registration receipt listing as the vehicle identification number the assigned vehicle identification number.

d. *Assigned component part number.* The investigator upon approval of the request shall affix to the component part an assigned component part number and give to the owner a component part form.

The owner shall retain the form as a record of issuance and attachment. The form shall be made available on demand by any peace officer for examination.

e. Assigned product identification number. The investigator upon approval of the request shall affix an assigned product identification number to the fence-line feeder, grain cart or tank wagon and give to the owner an assigned product identification number form. The owner shall retain the form as a record of issuance and attachment. The form shall be made available on demand by any peace officer for examination.

400.51(3) *Fees.* A certificate of title fee and a fee for a notation of a security interest, if applicable, shall be collected by the county treasurer upon issuance of a corrected certificate of title.

This rule is intended to implement Iowa Code sections 321.1, 321.43 and 321.92.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10; **ARC 0136C**, IAB 5/30/12, effective 7/4/12]

761—400.52(321) Odometer statement.

400.52(1) Pursuant to Iowa Code section 321.71 and 49 U.S.C. Section 32705, an odometer disclosure statement shall be submitted with an application for certificate of title for a motor vehicle. The statement shall provide a current odometer reading and reflect whether the mileage is "actual," "not actual" or "exceeds mechanical limits."

400.52(2) If the transferor failed to provide an odometer disclosure statement or if the transferee lost the statement, and the transferee has attempted in good faith to contact the transferor to obtain a statement, the transferee may file a sworn statement of these facts on a form prescribed by the department. The sworn statement shall be accepted by the county treasurer or the department in lieu of the required odometer disclosure statement. The subsequent title issued from the sworn statement will record "not actual" mileage.

400.52(3) A model year formula for odometer statements shall be the current year minus ten. The resulting number represents the first model year for which a motor vehicle is exempt from the odometer statement requirements incident to a transfer.

This rule is intended to implement Iowa Code section 321.71.

761—400.53(321) Stickers.

400.53(1) *Placement of validation sticker.* The validation sticker shall be affixed to the lower left corner of the rear registration plate. EXCEPTIONS: For motorcycle and small trailer plates, the validation sticker shall be affixed to the upper left corner of the plate. For natural resources plates, the sticker may be affixed to the lower right corner of the rear plate.

400.53(2) *Special fuel user identification sticker.* If the vehicle uses a special fuel as defined in Iowa Code section 452A.2, a special fuel user identification sticker shall be issued. This sticker shall be displayed on the cover of the fuel inlet of the motor vehicle or on the outside panel of the motor vehicle within 3 inches of the fuel inlet so as to be in view when fuel is delivered into the motor vehicle.

400.53(3) *Persons with disabilities parking sticker.* A persons with disabilities special registration plate parking sticker shall be affixed to the lower right corner of the rear registration plate.

400.53(4) *Special truck sticker.* An owner of a special truck, registered pursuant to Iowa Code section 321.121, who has been issued either regular registration plates or special registration plates other than special truck registration plates must obtain from the county treasurer a sticker which distinguishes the vehicle as a special truck. The sticker shall be affixed to the lower right corner of the rear registration plate. EXCEPTION: If the vehicle displays front and rear plates, two stickers shall be issued with one sticker affixed to the lower right corner of the front plate and rear plate. For natural resources plates, the stickers must be affixed to the lower left corner of the front and rear plates.

This rule is intended to implement Iowa Code sections 321.34, 321.40, 321.41, 321.121 as amended by 2011 Iowa Acts, Senate File 312, section 3, and 321.166.

[**ARC 9833B**, IAB 11/2/11, effective 12/7/11]

761—400.54(321) Registration card issued for trailer-type vehicles. The registration card issued for trailer-type vehicles shall be carried in the vehicle which is described on the card or the registration card may be carried in the driver's compartment of the towing vehicle. If the registration card is carried in

the vehicle which is described on such card, the registration card shall be enclosed in a registration card holder and the holder shall be attached to the vehicle so that the registration card may be viewed by any peace officer upon request.

This rule is intended to implement Iowa Code section 321.32.

761—400.55(321) Damage disclosure statement.

400.55(1) If the transferor failed to provide a damage disclosure statement or if the transferee lost the statement, and the transferee has attempted in good faith to contact the transferor to obtain a statement, the transferee may file a sworn statement of these facts. The transferee shall also complete section 2 of a separate damage disclosure statement and sign on the buyer's line. The sworn statement and damage disclosure statement completed by the transferee shall be accepted by the county treasurer or the department in lieu of the damage disclosure statement required from the transferor.

400.55(2) A model year formula for damage disclosure statements shall be the current year minus eight. The resulting number represents the first model year for which a motor vehicle is exempt from the damage disclosure statement requirements incident to a transfer.

This rule is intended to implement Iowa Code section 321.69.

761—400.56(321) Hearings. The department shall send notice by certified mail to a person whose certificate of title, vehicle registration, license, or permit is to be revoked, suspended, canceled, or denied. The notice shall be mailed to the person's mailing address as shown on departmental records and shall become effective 20 days from the date mailed. A person who is aggrieved by a decision of the department and who is entitled to a hearing may contest the decision in accordance with 761—Chapter 13. The request shall be submitted in writing to the director of the office of vehicle services at the address in subrule 400.6(1). The request for a contested case shall be deemed timely submitted if it is delivered or postmarked on or before the effective date specified in the notice of revocation, suspension, cancellation, or denial.

This rule is intended to implement Iowa Code sections 17A.10 to 17A.19, 321.101 and 321.102.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—400.57(321) Non-resident-owned vehicles. Rescinded IAB 2/6/02, effective 3/13/02.

761—400.58(321) Motorized bicycles. The following rules shall apply to motorized bicycles.

400.58(1) *Maximum speed.* If the department has reasonable cause to believe that a particular vehicle or model is capable of speeds exceeding 30 miles per hour, the department may conduct independent tests to determine the maximum speed of the vehicle or model. If the department determines that the maximum speed of the particular vehicle or model exceeds 30 miles per hour, the vehicle or model shall not be registered as a motorized bicycle.

400.58(2) *Identification of a vehicle as a motorized bicycle.* Registration plates issued for motorcycles shall also be issued for motorized bicycles.

This rule is intended to implement Iowa Code sections 321.1 and 321.166.

761—400.59(321) Registration documents lost or damaged in transit through the United States postal service. To obtain without cost the reissuance of registration documents that were sent by the county treasurer to the owner through the United States postal service and which were lost or damaged in transit, the owner of the vehicle shall file application for reissuance within 60 days of the date the documents were issued by the county treasurer.

This rule is intended to implement Iowa Code section 321.42.

761—400.60(321) Credit of registration fees.

400.60(1) *Credit for unexpired registration fee.* The applicant may claim credit, as specified in Iowa Code subsection 321.46(3), toward the registration fee for one newly acquired replacement vehicle.

a. The credit may be claimed only when the owner of the newly acquired vehicle is applying for a certificate of title and registration (or just registration if the vehicle is not subject to titling provisions) for the newly acquired vehicle.

b. For a junked vehicle, the date on the junking certificate shall determine the date the vehicle was junked.

c. Excess credit shall not be applied toward the registration fee for a second vehicle.

d. Credit shall be allowed for one or two vehicles which have been sold, traded or junked toward one replacement vehicle. Credit shall be based on the remaining unexpired months of the registration year(s) of the vehicle(s) sold, traded or junked.

400.60(2) *Credit for transfer to spouse, parent or child.* Credit shall be allowed toward a new registration for a vehicle being transferred to the applicant from the applicant's spouse, parent or child, or from a former spouse pursuant to a dissolution of marriage decree, if application for the certificate of title and registration (or just registration if the vehicle is not subject to titling provisions) is made within 30 days after the date of transfer. If the owner is deceased, credit may be transferred under rule 761—400.14(321) of this chapter.

400.60(3) *Credit from/to proportional registration.*

a. Pursuant to Iowa Code section 321.46A, an owner may claim credit toward the registration fees due when changing a vehicle's registration from proportional registration under Iowa Code chapter 326 to registration under Iowa Code chapter 321. The owner shall surrender proof of proportional registration to the county treasurer. Credit shall be allowed for the unexpired complete calendar months remaining in the registration year from the date the application is filed with the county treasurer.

b. Pursuant to Iowa Code sections 321.126 and 321.127, the owner or lessee of a motor vehicle may claim credit for the proportional registration fees due when changing the vehicle's registration from registration by the county treasurer to proportional registration. Application for proportional registration shall be submitted to the department's office of motor carrier services; see 761—Chapter 500.

400.60(4) *Assignment of credit and registration plates from lessor to lessee.* When a lessee purchases the leased vehicle and within 30 days requests the assignment of the vehicle's fee credit and registration plates, the lessor shall assign the registration fee credit and registration plates for the purchased vehicle to the lessee.

This rule is intended to implement Iowa Code sections 321.46, 321.46A, 321.48, 321.126 and 321.127.

761—400.61(321) Reassignment of registration plates.

400.61(1) Registration plates may be reassigned if one of the owners listed on the registration receipt before the transfer is also a listed owner following the transfer.

400.61(2) Registration plates may be reassigned when credit is allowed toward a new registration for a vehicle being transferred to the owner's spouse, parent, or child, or to a former spouse pursuant to a dissolution of marriage decree. If the owner is deceased, plates may be transferred under rule 761—400.14(321).

400.61(3) Registration plates shall not be reassigned between a natural person or persons and a corporation, association, copartnership, company, or firm.

400.61(4) Registration plates may be reassigned and credit allowed if two or more corporations, associations, partnerships, or firms merge into one corporation, association, partnership or firm.

400.61(5) Registration plates may be assigned and credit allowed if an owner listed on the certificate of title and registration transfers ownership of the vehicle to a trust created by that owner.

This rule is intended to implement Iowa Code sections 321.34 and 321.46.

761—400.62(321) Storage of registration plates, certificate of title forms and registration forms. Registration plates, certificate of title forms and registration forms which are consigned to county treasurers by the department shall be stored in a secure location. The location may be within the office of the county treasurer which is accessible only to authorized persons or in a storage area located outside the general office area assigned to the county treasurer. Any storage area located outside the

general office area assigned to the county treasurer shall be of the construction that it is accessible only to authorized persons, as designated by the county treasurer or department.

This rule is intended to implement Iowa Code sections 321.5, 321.8, and 321.167.

761—400.63(321) Disposal of surrendered registration plates. The county treasurer shall either destroy plates that have been surrendered to the county treasurer or return the surrendered plates to Iowa state industries for recycling.

This rule is intended to implement Iowa Code sections 321.5 and 321.171.

761—400.64(321) County treasurer's report of motor vehicle collections and funds. The county treasurer shall file the report provided for in Iowa Code section 321.153 in a manner prescribed by the department.

This rule is intended to implement Iowa Code section 321.153.

761—400.65 to **400.69** Reserved.

761—400.70(321) Removal of registration and plates by peace officer under financial liability coverage law. This rule applies to instances when a peace officer issues a citation and removes the registration receipt and registration plates of a motor vehicle registered in this state when the driver of the motor vehicle is unable to provide proof of financial liability coverage. This rule applies regardless of whether the vehicle was also impounded.

400.70(1) The peace officer shall forward the registration receipt and evidence of the violation to the county treasurer of the county in which the motor vehicle is registered. Evidence of the violation is one of the following:

a. A copy of the citation. The citation must either reference Iowa Code subparagraph 321.20B(4)*"a"*(3) or 321.20B(4)*"a"*(4), as applicable, or reference Iowa Code section 321.20B and indicate whether or not the vehicle was impounded.

b. A written statement from the peace officer listing the plate number of the registration plate removed from the vehicle and the vehicle owner's name. The statement must either reference Iowa Code subparagraph 321.20B(4)*"a"*(3) or 321.20B(4)*"a"*(4), as applicable, or reference Iowa Code section 321.20B and indicate whether or not the vehicle was impounded. The statement must be signed by the peace officer or an employee of the law enforcement agency.

400.70(2) The peace officer may either destroy removed plates or deliver the removed plates to the county treasurer for destruction.

This rule is intended to implement Iowa Code section 321.20B.

761—400.71(321) Lemon law designation. Rescinded IAB 11/7/07, effective 12/12/07.

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◊ Two or more ARCs

CHAPTER 401
SPECIAL REGISTRATION PLATES

761—401.1(321) Definition. "Special registration plates" means those registration plates issued under Iowa Code sections 321.34 and 321.105 other than regular or sample plates. Special registration plates shall be issued in accordance with Iowa Code sections 321.34 and 321.105, this chapter of rules, and other applicable provisions of law.

761—401.2(321) Application, issuance and renewal.

401.2(1) *Original application.*

a. Except for collegiate plates, application for letter-number designated special registration plates that do not have eligibility requirements shall be made directly to the county treasurer's office; no application form is required for these plates.

b. Collegiate plates, personalized plates, and special registration plates that have eligibility requirements must be requested using an application form prescribed by the department. Unless otherwise specified, completed application forms for these plates shall be submitted to the department at the following address: Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278. Application forms may be obtained from the office of vehicle services or from any county treasurer's office. Application forms are also available on the department's Web site at http://www.iowadot.gov/mvd.

c. The issuance fee, if any, shall be submitted with the application.

401.2(2) *Issuance.*

a. Special registration plates shall be issued only to a person who is an owner or lessee of the vehicle and is entitled to the special registration plates.

b. Special registration plates shall not be issued unless the vehicle is currently registered and the registration plates previously issued are surrendered to the county treasurer. Special registration plates are void if they are not assigned to a vehicle within 90 days after the date the department orders them. A new application and a new issuance fee are required if the plates are reordered after the 90-day period.

c. and *d.* Rescinded IAB 11/7/07, effective 12/12/07.

401.2(3) *Renewal.* Special registration plates are renewed at the office of the county treasurer of the county of residence of the applicant. The renewal fee, if any, is termed a "validation" fee. The validation fee shall be paid when the regular annual registration fee is due and is in addition to the regular annual registration fee. If renewal is delinquent for more than one month:

a. A new application and a new issuance fee are required.

b. The department may issue the combination of characters on personalized plates to another applicant.

401.2(4) *Fees.* The issuance and validation fees for the various types of special registration plates that are available are set out in Iowa Code section 321.34.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—401.3 Reserved.

761—401.4(321) Gift certificates. Gift certificates for collegiate plates, personalized plates, and special registration plates that have eligibility requirements may be purchased using the prescribed plate application form. Gift certificates for special registration plates that counties have in their inventories may be purchased from county treasurers' offices.

761—401.5(321) Amateur radio call letter plates. Application for amateur radio call letter plates shall be made to the county treasurer on a form prescribed by the department. The number of the amateur radio license issued by the Federal Communications Commission shall be listed on the application.

761—401.6(321) Personalized plates.

401.6(1) *Application.* Application for personalized plates shall be submitted to the department on a form prescribed by the department.

401.6(2) *Characters.* The personalized plates shall consist of no less than two nor more than seven characters except that personalized plates for motorcycles and small trailers shall consist of no less than two nor more than six characters.

a. The characters "A" to "Z" and "1" to "9" may be used. Zeros shall not be used.

b. The personalized plates shall not duplicate combinations of characters reserved or issued for any other vehicle plate series under Iowa Code chapter 321.

c. No combination of characters denoting a governmental agency shall be issued.

d. The department shall not issue any combination of characters it determines is:

(1) Sexual in connotation;

(2) A term of vulgarity, contempt, prejudice, hostility, insult, or racial or ethnic degradation;

(3) Recognized as a swear word;

(4) A reference to an illegal substance;

(5) A reference to a criminal act;

(6) Offensive; or

(7) A foreign word falling into any of these categories.

401.6(3) *Renewal.* Rescinded IAB 11/23/05, effective 12/28/05.

401.6(4) *Reassignment.* Rescinded IAB 11/23/05, effective 12/28/05.

401.6(5) *Gift certificate.* Rescinded IAB 11/23/05, effective 12/28/05.

761—401.7(321) Collegiate plates.

401.7(1) *Application.* Application for collegiate plates shall be submitted to the department on a form prescribed by the department. The applicant may request letter-number designated collegiate plates or personalized collegiate plates. Collegiate plates for motorcycles and small trailers are not available.

401.7(2) *Characters.* Personalized collegiate plates shall be issued in accordance with subrule 401.6(2) except that personalized collegiate plates are not available for motorcycles and small trailers.

401.7(3) *Renewal.* Rescinded IAB 11/23/05, effective 12/28/05.

401.7(4) *Reassignment.* Rescinded IAB 11/23/05, effective 12/28/05.

401.7(5) *Gift certificate.* Rescinded IAB 11/23/05, effective 12/28/05.

761—401.8(321) Medal of Honor plates.

401.8(1) Application for Medal of Honor plates shall be submitted to the department on a form prescribed by the department. The applicant shall attach a copy of the official government document verifying receipt of the medal of honor.

401.8(2) Medal of Honor plates are limited to five characters. Personalized plates are not available.

761—401.9(321) Firefighter plates.

401.9(1) *Initial application for firefighter plates.* Application for firefighter plates shall be submitted to the department on a form prescribed by the department. Both the fire chief and another fire officer of the paid or volunteer fire department shall sign the application form, certifying that the applicant is a current or retired member of the fire department. The signatures must be original and notarized. If the fire chief and fire officer deny an application, the department may conduct an investigation and make a determination to approve or deny the application.

401.9(2) *Renewal of firefighter plates for a current member.* A new application is required in order to renew firefighter plates issued to a current member. The application shall be submitted to the county treasurer's office.

401.9(3) *Renewal of firefighter plates for a retired member.*

a. A new application is not required in order to renew firefighter plates issued to a retired member if the initial application for firefighter plates is made after January 1, 2005.

b. For firefighter plates issued to a retired member prior to January 1, 2005, a new application is required in order to renew firefighter plates until the plates have been renewed once after January 1, 2005. The application shall be submitted to the county treasurer's office.

401.9(4) *Plates.* Firefighter plates are limited to five characters. Personalized plates are not available.

401.9(5) *Definitions.* The following definitions apply to this rule:

"Current" means a member who has at least one year of service and is in good standing, as determined by the fire chief.

"Fire officer" means a member of the same fire department as the applicant and who is second in command to the fire chief.

"Retired" or *"officially retired"* means a former member who has a minimum of ten years' total service in good standing, as determined by the fire chief.

761—401.10(321) Emergency medical services plates.

401.10(1) Application for emergency medical services (EMS) plates shall be submitted to the department on a form prescribed by the department. The applicant and the applicant's service director shall sign the application form certifying that the applicant is a current member of a paid or volunteer emergency medical services agency. The signatures must be original and notarized. For purposes of this subrule, "service director" means a service director as defined in Iowa department of public health rule 641—132.1(147A).

401.10(2) A vehicle owner whose membership in a paid or volunteer emergency medical services agency is terminated shall within 30 days after termination surrender the EMS plates to the county treasurer in exchange for regular registration plates.

401.10(3) EMS plates are limited to five characters. Personalized plates are not available.

[**ARC 0136C**, IAB 5/30/12, effective 7/4/12]

761—401.11(321) Natural resources plates. Letter-number designated natural resources plates are limited to five characters. Personalized natural resources plates shall consist of no less than two nor more than five characters and shall be issued in accordance with subrule 401.6(2), paragraphs *"a"* to *"d."*

761—401.12(321) Natural resources plates—personalized. Rescinded IAB 11/23/05, effective 12/28/05.

761—401.13(321) Disabled veteran plates.

401.13(1) Disabled veteran plates are issued in accordance with Iowa Code sections 321.34, 321.105 and 321.166.

401.13(2) To apply for disabled veteran plates for a motor vehicle, the disabled veteran shall submit to the county treasurer a certification from the U.S. Department of Veterans Affairs that the United States government has provided or has assisted in providing the motor vehicle to the disabled veteran. The certification is required when the motor vehicle is first registered. Another certification may be required for the first registration of a newly acquired vehicle or when the veteran moves to another county.

401.13(3) The disabled veteran plates shall be surrendered to the county treasurer in exchange for regular registration plates within 30 days after the death of the disabled veteran. The motor vehicle to which the plates are assigned shall become subject to the payment of regular registration fees on the first day of the month following the death of the disabled veteran. The registration fees shall be prorated for the remaining unexpired months of the registration year.

761—401.14 Reserved.

761—401.15(321) Processed emblem application and approval process. Following is the application and approval process for special plate requests under Iowa Code subsection 321.34(13).

401.15(1) Application to request a new special registration plate with a processed emblem shall be submitted to the department on a form prescribed by the department.

401.15(2) The application shall contain:

a. The applicant's name, address, and telephone number.

b. The name of the processed emblem.

c. A clear and concise explanation of the purpose of the special plate and all eligibility requirements.

d. The total number of the special plates the applicant anticipates being purchased.

401.15(3) The application shall be accompanied by:

a. A color copy of the processed emblem.

(1) The processed emblem shall be limited to 3″ × 3½″ on the registration plate, but the emblem submitted may be of a larger size.

(2) The processed emblem shall not have any sexual connotation, nor shall it be vulgar, prejudiced, hostile, insulting, or racially or ethnically degrading.

b. A certification by the person who has legal rights to the emblem allowing use of the emblem. This certification shall also include a statement holding the department harmless for using the processed emblem on a registration plate.

401.15(4) The office of vehicle services may consult with other organizations, law enforcement authorities, and the general public concerning the processed emblem.

401.15(5) Within 60 days after receiving the application, the office of vehicle services shall advise the applicant of the department's approval or denial of the application. The department reserves the right to approve or disapprove any processed emblem.

401.15(6) If the department approves the application, the applicant shall be advised that 500 paid special plate applications must be submitted to the department before the new plate will be manufactured and issued. If 500 paid applications are not submitted within one year after the date the department approved the plate, the department may cancel its approval or grant an extension.

401.15(7) If the special plate is approved and at a later date it is determined that a false application was submitted, the department shall revoke the special plates. No refunds shall be paid.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—401.16(321) Special plates with processed emblems—general. Special registration plates with processed emblems are limited to five characters. Personalized special registration plates with processed emblems shall consist of no less than two nor more than five characters and shall be issued in accordance with subrule 401.6(2), paragraphs *"a"* to *"d."*

761—401.17(321) State agency-sponsored processed emblem plates.

401.17(1) *Application and approval process for a new plate.* A state agency recommending a new special registration plate with a processed emblem shall submit its request to the department on a form prescribed by the department. The application and approval process is set out in rule 761—401.15(321). The application shall include clear and concise eligibility requirements for plate applicants.

401.17(2) *Plate application.* Once new state agency-sponsored processed emblem plates have been approved, manufactured and issued, the plates may be ordered as described below.

a. When the plates have no eligibility requirements:

(1) Application for letter-number designated plates shall be submitted to the county treasurer.

(2) Application for personalized plates shall be submitted to the department on a form prescribed by the department.

b. When the plates have eligibility requirements, application for either letter-number designated or personalized plates shall be submitted to the sponsoring state agency for approval on a form prescribed by the department. The sponsoring state agency shall forward approved applications to the department.

401.17(3) *Characters.* State agency-sponsored processed emblem plates are limited to five characters. Personalized state agency-sponsored processed emblem plates shall consist of no less than

two nor more than five characters and shall be issued in accordance with subrule 401.6(2), paragraphs *"a"* to *"d."*

401.17(4) *Renewal.* Rescinded IAB 11/23/05, effective 12/28/05.

401.17(5) *Reassignment.* Rescinded IAB 11/23/05, effective 12/28/05.

401.17(6) *Gift certificate.* Rescinded IAB 11/23/05, effective 12/28/05.

761—401.18(321) Combat infantryman badge, combat action badge, combat action ribbon, air force combat action medal, combat medical badge, fallen peace officers and civil war sesquicentennial plates. Following is the application and approval process for special plate requests under Iowa Code section 321.34 as amended by 2011 Iowa Acts, House File 651, section 2.

401.18(1) *Design.*

a. The plates shall be a standard background plate with a distinguishing processed emblem specific to each plate type, consistent with processed emblems approved pursuant to rule 761—401.15(321).

b. The distinguishing processed emblem shall be limited to 3″ × 3½″ on the registration plate.

c. A distinguishing processed emblem owned or subject to legal rights of another person will not be used unless the department receives certification from the person that allows use of the emblem. The certification must include a statement holding the department harmless for using the emblem on a registration plate.

d. The office of vehicle services may consult with other organizations, law enforcement authorities, and the general public concerning distinguishing processed emblems.

401.18(2) *Production.* None of the special registration plates subject to this rule will be manufactured or issued until 250 paid applications are submitted to the department. This minimum order requirement applies to each of the special registration plates subject to this rule. Each application must be accompanied by a statutory start-up fee.

401.18(3) *Discontinuance.* If 250 paid applications for any special registration plate subject to this rule are not submitted within one year after the date the department makes the plate available for application, the department shall report that fact to the legislature at the next regular session of the general assembly and request authority to discontinue the special registration plate.

401.18(4) *Application process.*

a. Applications for either letter-number designated or personalized combat infantryman badge, combat action badge, combat action ribbon, air force combat action medal, or combat medical badge special registration plates shall be submitted to the department on a form prescribed by the department. The applicant shall attach to the application a copy of an official government document verifying award of the combat infantryman badge, combat action badge, combat action ribbon, air force combat action medal or combat medical badge to the applicant.

b. Applications for letter-number designated civil war sesquicentennial or fallen peace officers special registration plates shall be submitted to the county treasurer.

c. Applications for personalized civil war sesquicentennial or fallen peace officers special registration plates shall be submitted to the department on a form prescribed by the department.

401.18(5) *Characters.* Plates are limited to five characters. Personalized plates shall consist of no less than two nor more than five characters and shall be issued in accordance with subrule 401.6(2), paragraphs *"a"* to *"d."*

401.18(6) *Right of approval.* The department reserves the right to approve or disapprove any application.

[**ARC 9833B**, IAB 11/2/11, effective 12/7/11]

761—401.19(321) Legion of Merit plates. Application for special plates with a Legion of Merit processed emblem shall be submitted to the department on a form prescribed by the department. The applicant shall attach a copy of the official government document verifying receipt of the Legion of Merit. Personalized plates with a Legion of Merit processed emblem are not available. Pursuant to Iowa Code section 321.34, an applicant is eligible for one set of Legion of Merit plates at a reduced

annual registration fee of $15 for one vehicle owned. However, an applicant may obtain additional Legion of Merit plates upon payment of the regular annual registration fee.
[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—401.20(321) Persons with disabilities plates.

401.20(1) *Application.* Application for special plates with a persons with disabilities processed emblem shall be submitted to the county treasurer on a form prescribed by the department.

a. The application shall include a signed statement written on the physician's, chiropractor's, physician assistant's or advanced registered nurse practitioner's letterhead. The statement shall certify that the owner or the owner's child is a person with a disability, as defined in Iowa Code section 321L.1, and that the disability is permanent.

b. If the person with a disability is a child, the parent or guardian shall complete the proof of residency certification on the application or complete and submit a separate proof of residency Form 411120, certifying that the child resides with the owner.

c. A new application form is not required when an individual's application for issuance of persons with disabilities plates, disabled veteran plates, nonexpiring removable windshield placards or parking stickers has previously been approved.

d. In lieu of submitting the signed medical statement required under paragraph 401.20(1)*"a,"* an individual who is eligible for disabled veteran plates but has not been issued them may submit certification from the U.S. Department of Veterans Affairs that the United States government has provided or assisted in providing a motor vehicle to the individual.

401.20(2) *Definition.*

"Child" includes, but is not limited to, stepchild, foster child, or legally adopted child who is younger than 18 years of age, or a dependent person 18 years of age or older who is unable to maintain the person's self.

401.20(3) *Renewal.* The owner shall, at renewal time, provide a self-certification stating that the owner or the owner's child is still a person with a disability and, if the person with a disability is the owner's child, that the child still resides with the owner.
[**ARC 0136C**, IAB 5/30/12, effective 7/4/12]

761—401.21(321) Ex-prisoner of war plates.

401.21(1) Application for special plates with an ex-prisoner of war processed emblem shall be submitted to the department on a form prescribed by the department. The applicant shall attach a copy of an official government document verifying that the applicant was a prisoner of war. If the document is not available, a person who has knowledge that the applicant was a prisoner of war shall sign a statement to that effect on the application form.

401.21(2) The surviving spouse of a person who was issued ex-prisoner of war plates may continue to use or apply for the plates. If the surviving spouse remarries, the surviving spouse shall surrender the plates to the county treasurer in exchange for regular registration plates within 30 days after the date on the marriage certificate. Ex-prisoner of war plates may not be reissued once this event occurs.

401.21(3) Personalized plates with an ex-prisoner of war processed emblem are not available.

761—401.22(321) National guard plates. Application for special plates with a national guard processed emblem shall be submitted to the department on a form prescribed by the department. The unit commander of the applicant shall sign the application form confirming that the applicant is a member of the Iowa national guard.

761—401.23(321) Pearl Harbor plates. Application for special plates with a Pearl Harbor processed emblem shall be submitted to the department on a form prescribed by the department. The applicant shall attach a copy of an official government document verifying that the applicant was stationed at Pearl Harbor, Hawaii, as a member of the armed forces on December 7, 1941.

761—401.24(321) Purple Heart, Silver Star and Bronze Star plates. Application for special plates with a Purple Heart, Silver Star, or Bronze Star processed emblem shall be submitted to the department on a form prescribed by the department. To verify receipt of the medal, the applicant shall attach a copy of one of the following:

1. The official military order confirming the medal.
2. The report of discharge or federal Form DD214.
3. Other documentation approved by the Iowa office of the adjutant general.

761—401.25(321) U.S. armed forces retired plates. Application for special plates with a United States armed forces retired processed emblem shall be submitted to the department on a form prescribed by the department. A person is considered to be retired if the person is recognized by the United States armed forces as retired from the United States armed forces. To verify retirement from the United States armed forces, the applicant shall attach a copy of one of the following:

1. The official military order confirming retirement from the armed forces.
2. The report of discharge or federal Form DD214.
3. Other documentation approved by the Iowa office of the adjutant general.

761—401.26 Reserved.

761—401.27(321) Iowa heritage plates. Rescinded IAB 11/23/05, effective 12/28/05.

761—401.28(321) Education plates. Rescinded IAB 11/23/05, effective 12/28/05.

761—401.29(321) Love our kids plates. Rescinded IAB 11/23/05, effective 12/28/05.

761—401.30(321) Motorcycle rider education plates. Rescinded IAB 11/23/05, effective 12/28/05.

761—401.31(321) Veteran plates. Application for special plates with a veteran processed emblem shall be submitted to the commission of veterans affairs on a form prescribed by the department of transportation. The commission of veterans affairs shall determine whether the applicant is a veteran and, if so, certify this fact on the application form.

761—401.32(321) Surrender of plates. Special registration plates issued to a person who is no longer eligible for the plates shall be surrendered to the county treasurer in exchange for regular registration plates within 30 days after the date of the event that made the person ineligible. If the vehicle was exempt from the payment of regular registration fees due to the type of special registration plates issued, the vehicle shall become subject to the payment of regular registration fees on the first day of the month following the date of the event that made the person ineligible. The regular registration fees shall be prorated for the remaining unexpired months of the registration year.

761—401.33(321) Validation fees. Validation fees shall not be prorated. The annual validation fee is due when there is a change in registration month.

761—401.34(321) Reassignment of plates.

401.34(1) A vehicle owner or lessee who has special registration plates assigned to a currently registered vehicle may request that the plates be reassigned to another currently registered vehicle owned or leased by that person or owned or leased by another person. However, special registration plates that have eligibility requirements may not be reassigned to a vehicle owned or leased by another person.

401.34(2) To reassign plates to a vehicle owned or leased by another person, a written request for reassignment signed by both the assignor and assignee shall be submitted to the county treasurer of the assignee's county of residence. The special registration plates shall be issued to the assignee by the

county treasurer of the assignee's county of residence in exchange for the registration plates previously issued.

401.34(3) When ownership of a vehicle is transferred to another person, the owner shall, within 30 days after the transfer, either surrender the special registration plates to the county treasurer or request reassignment of the plates, as explained in subrules 401.34(1) and 401.34(2).

401.34(4) When the lease for a vehicle is terminated, the lessee shall, within 30 days after the termination, either surrender the special registration plates to the county treasurer or request reassignment of the plates, as explained in subrules 401.34(1) and 401.34(2).

761—401.35(321) Revocation of special registration plates. Special registration plates shall be revoked if they have been issued in conflict with the statutes or rules governing the plates' issuance. Revoked plates shall be surrendered to the department within 30 days of the date of revocation.

761—401.36(321) Refund of fees. No refund of fees for special registration plates shall be allowed unless the special plates were issued in conflict with the statutes or rules governing their issuance.

These rules are intended to implement Iowa Code sections 35A.11 as amended by 2011 Iowa Acts, House File 651, section 1, 321.34 as amended by 2011 Iowa Acts, House File 651, section 2, 321.105, 321.166 and 321L.1.

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CHAPTERS 402 to 404
Reserved

CHAPTER 405
SALVAGE

761—405.1(321) Applicability. This chapter supplements 761—Chapter 400. It applies to salvage motor vehicles and foreign motor vehicles brought into Iowa that are or were salvage, rebuilt or junked. This chapter applies only to motor vehicles subject to registration except that owners of vehicles with a gross vehicle weight rating of 30,000 pounds or more are not required to submit a salvage theft examination certificate to convert a salvage title to a regular title.

761—405.2(321) Definitions.

"Authorized vehicle recycler" means a person licensed under Iowa Code chapter 321H.

"Iowa salvage title" means an Iowa salvage certificate of title.

"Junking certificate" means an Iowa junking certificate.

"New motor vehicle dealer" means a dealer licensed under Iowa Code chapter 322 to sell new motor vehicles.

"Previous owner" as used in Iowa Code section 321.24 means the last titled owner.

"Regular foreign title" means a certificate of title issued by a foreign jurisdiction that allows the vehicle to be driven or moved upon a highway.

"Regular Iowa title" means an Iowa certificate of title that is not a salvage title.

761—405.3(321) Salvage title.

405.3(1) *Face of title.* Except for vehicles with a gross vehicle weight rating of 30,000 pounds or more, the following shall be stamped in red ink on the face of an Iowa salvage title: SALVAGE—CANNOT BE REGISTERED WITHOUT A SALVAGE THEFT EXAMINATION CERTIFICATE OR AN INSURER'S CERTIFICATION.

405.3(2) *Assignment.* An Iowa or a foreign salvage title may be assigned only as provided in Iowa Code subsection 321.52(4). Except as provided in subrule 405.3(3), the transferee to whom an Iowa or a foreign salvage title is assigned shall apply for a new Iowa salvage title within 30 days after the date of assignment unless, within this time period, application for a regular title is made or a junking certificate is obtained.

405.3(3) *Reassignment.* Reassignment of an Iowa or a foreign salvage title by a licensed new motor vehicle dealer or by an authorized vehicle recycler is allowed, and the dealer or recycler is not required to obtain a new Iowa salvage title upon assignment of an Iowa or a foreign salvage title to the dealer or recycler, provided a vacant reassignment space is available on the title. If all reassignment spaces on an Iowa or a foreign salvage title assigned to the dealer or recycler have been used, the dealer or recycler shall obtain a new Iowa salvage title in accordance with subrule 405.3(2). The following shall be stamped on the dealer reassignment portion of Iowa salvage titles: ONLY NEW MOTOR VEHICLE DEALERS OR RECYCLERS MAY REASSIGN THIS TITLE.

405.3(4) *Registration fees.*

a. An Iowa salvage title may be obtained without payment of the current registration fees or any delinquent registration fees or registration penalties. If the registration fees are delinquent at the time of issuance of an Iowa salvage title, no additional penalty shall accrue after issuance.

b. Any registration fees or registration penalties due at the time of issuance of an Iowa salvage title, together with the current registration fees if not already paid, shall be paid upon issuance of a regular title. However, a dealer is not required to pay current registration fees to obtain a regular title for a vehicle held for resale or trade. See rule 761—400.27(321,322) for any exceptions.

405.3(5) *Plates.* Registration plates shall not be assigned when an Iowa salvage title is issued.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—405.4 and **405.5** Reserved.

761—405.6(321) Iowa salvage title required.

405.6(1) *Wrecked or salvage vehicle.* A vehicle rebuilder or a person engaged in the business of buying, selling, or exchanging vehicles of a type required to be registered in this state upon acquisition of a wrecked or salvage vehicle shall obtain an Iowa salvage title or a junking certificate for the vehicle except as provided in subrule 405.3(3).

a. A wrecked or salvage vehicle is a damaged motor vehicle that:

(1) Has repair costs exceeding 50 percent of its fair market value before it became damaged, and

(2) Had a fair market value of $500 or more before it became damaged.

b. Fair market value is the average retail value found in the National Automobile Dealers Association (NADA) Official Used Car Guide. If there is no value available, the office of vehicle services shall determine the fair market value upon request. The address is: Office of Vehicle Services, Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278.

405.6(2) *Insurer.* An insurer upon acquisition of a motor vehicle as a result of a settlement with the motor vehicle owner arising out of damage to or unrecovered theft of the motor vehicle shall obtain an Iowa salvage title for the motor vehicle.

405.6(3) *Application.* Application for an Iowa salvage title shall be made within 30 days after the date of assignment to the transferee.

761—405.7(321) Converting salvage title to regular title.

405.7(1) *General application procedure.*

a. To obtain a regular title, the owner in whose name the salvage title is issued or assigned shall pay the appropriate fees and surrender the following when applying for the regular title:

(1) The salvage title.

(2) The salvage theft examination certificate issued in the applicant's name. However, a salvage theft examination certificate is not required if the vehicle has a gross vehicle weight rating of 30,000 pounds or more. See rule 761—405.15(321) for salvage theft examination.

b. A regular title and registration receipt issued pursuant to this subrule shall bear the designation "prior salvage."

405.7(2) *Insurer's certification.* An insurer who has title pursuant to Iowa Code subsection 321.52(4) may submit an insurer's certification in lieu of a salvage theft examination certificate.

a. The insurer's certification shall:

(1) Include the name and address of the insurance company and the VIN, year and make of the salvage titled vehicle.

(2) Include a statement by the insurer certifying that the retail cost of repairs for all damages to the vehicle is less than $3000.

(3) Be dated and signed by an authorized representative of the insurer.

b. The insurer's certification is not transferable if the insurer assigns the salvage title to another person.

c. A regular title and registration receipt issued pursuant to this subrule is not required to have a designation of "prior salvage." However, the title and registration receipt shall bear any designation to be carried forward, as explained in rule 761—405.10(321).

761—405.8(321) Foreign vehicles.

405.8(1) *Definitions.* The following definitions apply to foreign titles and the designations shown on them.

"Junked" means the vehicle is damaged or dismantled and is prohibited from ever again being driven upon a highway.

"Rebuilt" means the vehicle had been designated as salvage but had the designation removed, and the vehicle is permitted to be driven and moved upon a highway. Also, a designation of "salvage" on a regular foreign title means that the vehicle is rebuilt.

"Salvage" means the vehicle is damaged and shall not be registered to be driven or moved upon a highway until it is no longer designated as salvage.

405.8(2) *Foreign title with rebuilt designation.* If the prior title for a vehicle is a foreign title indicating that the vehicle was rebuilt, the Iowa title and registration receipt issued from the foreign title shall contain the designation of "rebuilt" together with the two-letter abbreviation of the name of the jurisdiction that issued the foreign title.

EXCEPTION: If a records check indicates that the vehicle was previously titled in Iowa with a designation of "prior salvage," the prior salvage designation takes precedence and shall be carried forward to the Iowa title and registration receipt.

405.8(3) *Converting foreign salvage title to Iowa title.* If the prior title for a vehicle is a foreign title indicating that the vehicle is salvage, a regular Iowa title shall not be issued for the vehicle unless an Iowa salvage title is first issued. After an Iowa salvage title is issued for the vehicle, a regular Iowa title may be obtained pursuant to rule 761—405.7(321).

EXCEPTION: As provided in subrule 405.3(3), a licensed new motor vehicle dealer or an authorized vehicle recycler is not required to obtain an Iowa salvage title upon assignment of a foreign salvage title to the dealer or recycler, provided a vacant reassignment space is available on the title.

405.8(4) *Salvage titled vehicle leaving and reentering Iowa.* If a vehicle leaves Iowa with an Iowa salvage title and reenters Iowa with a regular foreign title, a regular Iowa title may be issued without a salvage theft examination. The regular Iowa title and registration receipt issued from the foreign title will be designated:

a. "Prior salvage" if the foreign title does not indicate that the vehicle was rebuilt.

b. As specified in subrule 405.8(2) if the foreign title indicates that the vehicle was rebuilt.

405.8(5) *Designation carried forward.* If a vehicle leaves Iowa with a regular Iowa title and reenters Iowa with a regular foreign title, the foreign title does not indicate that the vehicle was rebuilt and a records check indicates that the vehicle had a designation listed in paragraphs 405.10(1)*"a"* to *"e,"* that designation shall be carried forward to the Iowa title and registration receipt issued from the foreign title.

405.8(6) *Foreign title with flood, fire, vandalism or theft designation.* If the prior title for a vehicle is a foreign title indicating that the vehicle was damaged by flood, fire or vandalism or is a recovered stolen vehicle and another designation is not required under this rule or rule 761—405.10(321), the Iowa title and registration receipt issued from the foreign title shall contain, as applicable, the designation of "flood," "fire," "vandalism" or "theft."

405.8(7) *Foreign title with a lemon buy-back designation.* See rule 761—405.10(321).

405.8(8) *Junking certificate.*

a. An Iowa junking certificate shall be issued if:

(1) The prior title for a vehicle is a foreign title indicating that the vehicle was junked, regardless of any other designation on the title.

(2) A records check for a vehicle with a foreign title indicates that the vehicle had previously been issued an Iowa junking certificate.

b. This subrule applies to all vehicles subject to Iowa titling laws.

761—405.9(321) Records check. Before a title is issued in Iowa, a computer records check may be made. The purpose of the records check is to:

405.9(1) Determine if the vehicle ever had or should have had a "prior salvage," "rebuilt," "damage over 50 percent," "flood," "fire," "vandalism," "theft," "lemon buy-back," or equivalent designation(s) on a previous title. If such a designation is or should have been on a previous title, the Iowa title to be issued shall contain the designation required by this chapter.

405.9(2) Determine if the vehicle is or was ever a wrecked or salvage vehicle as defined in Iowa Code section 321.52. If a vehicle is a wrecked or salvage vehicle, an Iowa salvage title shall be issued. If the vehicle was a wrecked or salvage vehicle, the Iowa title to be issued shall contain the appropriate designation required by this chapter.

405.9(3) Determine if the vehicle should have been or was ever junked as defined in subrule 405.8(1). If the vehicle should have been or was ever junked, an Iowa junking certificate shall be issued.

761—405.10(321) Designations.

405.10(1) The following designations for a vehicle shall be used on Iowa titles and registrations receipts and shall be carried forward to all subsequent Iowa titles and registration receipts issued for the vehicle, unless otherwise specified:

a. Prior salvage. This designation supersedes other designations. When a designation of "prior salvage" is required pursuant to rule 761—405.7(321), it replaces any other designation.

b. Rebuilt together with a two-letter abbreviation of the name of a foreign jurisdiction. When this designation is required pursuant to subrule 405.8(2), it replaces any other designation except a "prior salvage" designation.

c. Damage over 50 percent. As required by Iowa Code section 321.69, a designation of "damage over 50 percent" shall be used when the seller or the buyer indicates on the damage disclosure statement that the person has knowledge that the motor vehicle sustained damage for which the cost of the repair exceeded 50 percent of the fair market value before the motor vehicle became damaged. This designation replaces any other designation except "prior salvage" or "rebuilt."

d. Flood, fire, vandalism or theft. The most recent designation applies. Unless superseded by a "prior salvage," "rebuilt," or "damage over 50 percent" designation, a designation of "flood," "fire," "vandalism" or "theft" shall be used as specified in subrule 405.8(6) and supersedes a "lemon buy-back" designation.

e. Lemon buy-back. Unless superseded by a "prior salvage," "rebuilt," "damage over 50 percent," "flood," "fire," "vandalism" or "theft" designation, a designation of "lemon buy-back" shall be used:

(1) When a certificate of title is issued to a manufacturer of a motor vehicle pursuant to Iowa Code section 322G.12.

(2) When the prior certificate of title for a motor vehicle is a foreign title indicating that the vehicle was returned to the manufacturer pursuant to Iowa Code chapter 322G or a law of another state similar to Iowa Code chapter 322G.

405.10(2) An Iowa salvage title will be issued with a designation of "salvage" unless a designation listed in subrule 405.10(1) is required.

761—405.11 to **405.14** Reserved.

761—405.15(321) Salvage theft examination. Except for foreign salvage titles assigned to licensed new motor vehicle dealers or authorized vehicle recyclers, a salvage theft examination may only be conducted on a vehicle with an Iowa salvage title. The vehicle shall not be examined until it has been completely repaired, except for minor body parts such as trim, body marking or paint.

405.15(1) *General procedure.*

a. A salvage theft examination shall be conducted by a peace officer who has been specially certified, and recertified when required, by the Iowa law enforcement academy to perform salvage theft examinations.

(1) To arrange for a salvage theft examination by an investigator from the department of transportation, the applicant shall contact the office of motor vehicle enforcement. The address is: Office of Motor Vehicle Enforcement, Department of Transportation, P.O. Box 10473, Des Moines, Iowa 50306-0473.

(2) To arrange for a salvage theft examination by any other authorized peace officer, the applicant shall contact the local law enforcement agency for instructions.

b. The owner of the vehicle may drive the vehicle to and from the examination location by completing the permit section located on the affidavit of salvage vehicle repairs form.

(1) The affidavit shall state that the vehicle is reasonably safe for operation and shall list the parts that have been replaced on the vehicle. The affidavit must be signed by the owner or the owner's authorized agent.

(2) To be valid, the permit to drive the vehicle to and from the examination location must be signed by the owner or owner's authorized agent.

c. The owner of the vehicle must be present for the examination or certify, on the affidavit of salvage vehicle repairs, the name of the person who will be representing the owner at the examination.

d. The owner or owner's representative, when appearing with the vehicle for the examination, shall submit to the peace officer for review the salvage title or a certified copy of the salvage title; the affidavit of salvage vehicle repairs; and, pursuant to subrules 405.15(3) and 405.15(4), bills of sale for all component parts replaced.

e. A $30 fee paid by check or money order made payable to the agency conducting the salvage theft examination shall be collected. The agency shall retain $20 and forward $10 to the office of vehicle services at the Des Moines address. The department shall deposit the $10 into the funds specified by law.

f. If the vehicle passes the salvage theft examination, the peace officer shall complete a salvage theft examination certificate on a form prescribed by the department. The form shall be distributed as follows:

(1) The white copy shall be mailed with the $10 to the office of vehicle services at the Des Moines address.

(2) The canary copy shall be given to the owner or the owner's representative. This copy must be surrendered when applying for title.

(3) The pink copy shall be retained by the examining officer for three years for verification purposes.

g. Reserved.

h. The peace officer shall return the salvage title or the certified copy of the salvage title, the permit to drive section, if applicable, on the affidavit of salvage vehicle repairs, and the bills of sale to the owner or the owner's representative.

405.15(2) *Affidavit of salvage vehicle repairs form and salvage theft examination certificate.*

a. The affidavit of salvage vehicle repairs form may be obtained from the office of motor vehicle enforcement at the Des Moines address, any local enforcement agency with officers certified to conduct salvage theft examinations or any local county treasurer's office.

b. The salvage theft examination certificate shall be a controlled form and furnished by the department.

c. The owner of the vehicle may obtain a duplicate copy of the salvage theft examination certificate upon written request to the issuing officer or agency.

d. The salvage theft examination certificate is not transferable.

405.15(3) *Bill of sale.* A bill of sale is a document from the seller to the buyer containing the name, address and telephone number of the seller, a description and identification number of the component part and, if applicable, the vehicle identification number (VIN) of the vehicle from which it was removed.

405.15(4) *Component part.* For salvage theft examinations, the definition of component part as found in Iowa Code section 321.1 shall apply.

[**ARC 0136C**, IAB 5/30/12, effective 7/4/12]

These rules are intended to implement Iowa Code sections 321.24, 321.52, 321.69 and 322G.12.

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CHAPTERS 406 to 409
Reserved

CHAPTER 410
SPECIAL MOBILE EQUIPMENT

761—410.1(321) General.

410.1(1) Special mobile equipment is defined in Iowa Code section 321.1.

410.1(2) Special mobile equipment is exempt from the titling and registration provisions of Iowa Code sections 321.18 and 321.20. However, a certificate of title and registration may be obtained in accordance with Iowa Code chapter 321 for a motor truck, trailer or semitrailer with special mobile equipment permanently attached.

410.1(3) Questions regarding special mobile equipment may be directed by mail to the Office of Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; or by telephone at (515)237-3264.

This rule is intended to implement Iowa Code sections 321.1, 321.18 and 321.20.

761—410.2(321E) Special mobile equipment transported on a registered vehicle. The movement of special mobile equipment or component parts of special mobile equipment transported on a vehicle registered for the gross weight of the vehicle without load, as provided in Iowa Code Supplement section 321E.12, is subject to the following:

410.2(1) A vehicle registered for its gross weight without load shall not be used to transport special mobile equipment in a for-hire operation.

410.2(2) If the special mobile equipment is leased, the lease agreement or a certified copy of the lease agreement shall be carried in the cab of the transporting vehicle.

410.2(3) All movements of special mobile equipment shall comply with the size and weight limits in Iowa Code chapter 321 unless a permit to exceed these limits is obtained in accordance with Iowa Code chapter 321E.

This rule is intended to implement Iowa Code Supplement section 321E.12.

761—410.3(321E) Special mobile equipment transported on a registered vehicle. Rescinded IAB 5/31/00, effective 7/5/00.

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CHAPTER 411
PERSONS WITH DISABILITIES PARKING PERMITS

[Prior to 6/3/87, Transportation Department [820]—(07,D) Ch 1]

761—411.1(321L) Administration. The office of vehicle services administers this chapter. The mailing address is Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278. Information about persons with disabilities parking permits is available from the office of vehicle services or on the department's Web site at http://www.iamvd.com.

761—411.2(321L) Application for persons with disabilities parking permit. Application for a persons with disabilities parking permit shall be made on a form prescribed by the department.

411.2(1) Application forms may be obtained from the department's Web site, the office of vehicle services, a driver's license examination station, a county treasurer's office, or the Persons with Disabilities Division, Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319.

411.2(2) Completed applications shall be submitted to the office of vehicle services. Completed applications may also be taken to a driver's license examination station or a county treasurer's office.

411.2(3) If the applicant is an agency or organization that is providing transportation for persons with disabilities or elderly persons, the application shall include the name, mailing address, telephone number and federal employer's identification number of the agency or organization and the signature of its authorized representative.

761—411.3(321L) Removable windshield placards.

411.3(1) *Eligibility.*

a. A person who has a permanent disability is eligible for a nonexpiring removable windshield placard.

b. An agency or organization providing transportation for persons with disabilities or elderly persons is eligible for a removable windshield placard valid for four years from the date of issuance. The placard shall bear the name of the agency or organization and the signature of its authorized representative.

c. A person who has a temporary disability is eligible for a temporary removable windshield placard valid for no less than one week nor more than six months.

411.3(2) *Display.* A removable windshield placard shall be displayed by hanging it from the rearview mirror in the driver's compartment of the motor vehicle so that it can be read through the windshield from outside the vehicle. If there is no rearview mirror in the vehicle, the placard shall be displayed on the dashboard. If the vehicle has no rearview mirror and no dashboard, the person with a disability may obtain a persons with disabilities special registration plate parking sticker to be affixed to the vehicle's registration plate.

761—411.4(321L) Persons with disabilities special registration plate parking stickers.

411.4(1) *Eligibility.*

a. A person who has a permanent disability and who owns a motor vehicle for which the person has been issued disabled veterans plates under Iowa Code section 321.105 or registration plates under Iowa Code section 321.34 may obtain a persons with disabilities special registration plate parking sticker to be affixed to the rear plate.

b. A person who has a temporary disability is not eligible for the sticker.

c. An agency or organization providing transportation for persons with disabilities or elderly persons is not eligible for the sticker.

411.4(2) *Display.* The sticker shall be affixed to the lower right corner of the rear registration plate, as required in rule 761—400.53(321).

411.4(3) *Validity.* The sticker is valid as long as the registration for the vehicle is current.

761—411.5(321L) Persons with disabilities special registration plates. See 761—Chapter 401.

761—411.6(321L) Wheelchair parking cone. Rescinded IAB 11/23/05, effective 12/28/05.

761—411.7(321L) Revocation. Proof of conviction of two or more violations involving improper use of a persons with disabilities parking permit is grounds for revocation of the holder's privilege to possess or use the permit.

411.7(1) If the permit is revoked, the holder shall return it to the department within ten days after receipt of notice of revocation unless the holder requests a hearing within the ten-day period.

411.7(2) A request for a hearing shall be made in writing to the director of the office of vehicle services. The hearing shall be held in accordance with 761—Chapter 13.

761—411.8(321L) Return of parking permit. A persons with disabilities parking permit to be returned to the department in accordance with Iowa Code section 321L.3 shall be returned within ten days of the occurrence.

These rules are intended to implement Iowa Code chapter 321L.

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CHAPTERS 412 to 414
Reserved

CHAPTER 415
DRIVER'S PRIVACY PROTECTION—CERTIFICATES OF TITLE AND VEHICLE REGISTRATION

761—415.1(321) Applicability.

415.1(1) This chapter applies to personal information about vehicle owners in records pertaining to certificates of title, registration receipts and registration renewal receipts issued by the department or a county treasurer.

415.1(2) Rules regarding personal information and highly restricted personal information in records pertaining to drivers' licenses and nonoperators' identification cards are found in 761—Chapters 610 and 611.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—415.2(321) Adoption. The department adopts the Driver's Privacy Protection Act of 1994 (18 U.S.C. § 2721 et seq.) as amended through calendar year 2000 (P.L. 106-346) for certificates of title, registration receipts and registration renewal receipts.

761—415.3(321) Definitions.

"Driver's Privacy Protection Act" or *"Act"* means the Act adopted in rule 761—415.2(321).

"Highly restricted personal information" means an individual's photograph or image, social security number, or medical or disability information.

"Law enforcement agency" includes, but is not limited to, offices of county attorneys, offices of United States attorneys, attorneys general offices, state and federal departments of justice, and a division or unit of a governmental agency if the division's or unit's primary responsibility is to prevent or detect crime or enforce criminal laws.

"Motor vehicle record" as used in the Act means any record that pertains to a driver's license, nonoperator's identification card, certificate of title, registration receipt, or registration renewal receipt issued by the department or a county treasurer.

"Person" means an individual, organization or entity.

"Personal information" means information that identifies an individual, including the items listed in Iowa Code section 321.11 and 18 U.S.C. § 2725(3) of the Act adopted in rule 761—415.2(321). "Personal information" also includes information on an individual's nonoperator's identification card.

"Requestor" means an individual or entity that seeks from the department access to personal information or highly restricted personal information contained in the individual's own or another individual's motor vehicle record. A requestor does not include an individual who is an authorized employee of the department or a county treasurer acting within the scope of the employee's office or employment.

"Vehicle owner" as used in this chapter means a vehicle owner who is an individual, not a company, organization or other legal entity.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—415.4(321) Requirements and procedures. Notwithstanding Iowa Code chapter 22 and 761—Chapter 4, the following procedures implement the Driver's Privacy Protection Act and Iowa Code section 321.11 as they pertain to records relating to certificates of title, registration receipts and registration renewal receipts. The department does not provide the waiver procedure described in the Act (codified as 18 U.S.C. § 2721(d)).

415.4(1) The department or a county treasurer shall require a requestor to:

a. Complete Form 431069, "Privacy Act Agreement for Request of Motor Vehicle Records," and submit it to the office of vehicle services.

b. Provide proof of identity by completing Form 431069 and attaching a legible photocopy of the requestor's driver's license or nonoperator's identification card.

c. Provide proof of authority to secure access to the personal information or highly restricted personal information by completing Part C of Form 431069 and providing the department with proof of the requestor's status or other additional information the department may request.

d. Complete the certification at Part D of Form 431069 and provide any proof necessary to establish relevant facts.

e. Pay the statutory fee, if applicable, for the requested motor vehicle record.

415.4(2) Form 431069 must be completed by a requestor and approved by the department before the department may disclose personal information or highly restricted personal information to the requestor. The department may deny requests for such information if a requestor refuses to complete Form 431069 or if the department is not satisfied that the requestor provided adequate and truthful information in Form 431069 or in the documents that the requestor attached to Form 431069.

415.4(3) Personal information and highly restricted personal information, except for an individual's photograph or image, may be disclosed with the express written consent of the vehicle owner to whom such information applies. When the requestor has obtained the written consent of the vehicle owner to whom the information applies, the requestor must attach that written consent to a completed Form 431069 and submit it to the office of vehicle services, along with the statutory fee, if applicable.

415.4(4) An individual may obtain the individual's own motor vehicle record by completing Part A of Form 431069, providing proof of identity by attaching a legible photocopy of the requestor's driver's license or nonoperator's identification card, submitting both to the office of vehicle services, and paying the statutory fee, if applicable.

415.4(5) The department shall not release any personal information or highly restricted personal information if the request is made by plate number or validation sticker number, except as provided in Iowa Code section 321.11.

415.4(6) All persons who obtain personal information or highly restricted personal information from the department are required to comply with Iowa Code section 321.11 and the Driver's Privacy Protection Act.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

These rules are intended to implement Iowa Code section 321.11.

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CHAPTER 420
MOTOR VEHICLE DEALERS, MANUFACTURERS AND DISTRIBUTORS

[Prior to 6/3/87, Transportation Department[820]—(07,D) Ch 10]

Rescinded IAB 7/17/96, effective 8/21/96. See 761—Chapter 425.

CHAPTER 421
MANUFACTURED OR MOBILE HOME RETAILERS, MANUFACTURERS AND DISTRIBUTORS

[Prior to 6/3/87, Transportation Department[820]—(07,D) Ch 7]

Rescinded IAB 11/7/07, effective 12/12/07

CHAPTER 422
TRAVEL TRAILER DEALERS, MANUFACTURERS AND DISTRIBUTORS

[Prior to 6/3/87, Transportation Department[820]—(07,D) Ch 8]

Rescinded IAB 7/17/96, effective 8/21/96. See 761—Chapter 425.

CHAPTER 423
Reserved

CHAPTER 424
TRANSPORTER PLATES

[Prior to 6/3/87, Transportation Department[820]—(07,D) Ch 5]

761—424.1(321) General.

424.1(1) *Information.* Information and blank forms relating to this chapter may be obtained from and completed forms shall be submitted to the Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278.

424.1(2) *Definitions.*

"Dealer plate" means a special plate, other than a transporter plate, as authorized by Iowa Code sections 321.57 to 321.63.

"Department" means the Iowa department of transportation.

"Operating authority" means the authority issued by the department or the Federal Motor Carrier Safety Administration under Iowa Code chapter 325A or 327B that is required for the delivery of a vehicle for compensation.

"Transporter" means a person who is engaged in the business of delivering vehicles owned by the person or delivering vehicles owned by other persons for compensation and who has an established place of business for such purpose in this state. An authorized vehicle recycler under Iowa Code chapter 321H who delivers vehicles in the course of the recycler's business meets this definition.

"Transporter plate" means a special plate for transporters as authorized by Iowa Code sections 321.57 to 321.63.

761—424.2 and **424.3** Reserved.

761—424.4(321) Transporter plates.

424.4(1) *Eligibility for plates.* A transporter, as defined in subrule 424.1(2), may obtain transporter plates from the department.

424.4(2) *Application.* The applicant shall accurately and completely fill out an application for special plates on a form prescribed by the department and submit the application to the department with the appropriate fees.

a. The application shall include the name, bona fide business address, and telephone number under which the applicant will conduct business as a transporter.

b. If the owner of the business is an individual, the application shall include the legal name, bona fide address, and telephone number of the individual. If the owner is a partnership, the application shall include the legal name, bona fide address, and telephone number of two partners. If the owner is a corporation, the application shall include the legal name, bona fide address, and telephone number of two corporate officers. In all cases, the telephone number must be a number where the individual, partner, or corporate officer can be reached during normal business hours.

c. The application shall include the federal employer identification number of the business. However, if the business is owned by an individual who is not required to have a federal employer identification number, the application shall include the individual's social security number, Iowa nonoperator's identification number or Iowa driver's license number.

d. The applicant must certify on the application that it possesses all necessary operating authority to conduct business as a transporter in the state.

424.4(3) *Permitted uses of a transporter plate.* The person delivering the vehicle must carry evidence issued by the owner of the vehicle authorizing the delivery. The evidence shall include the origin and destination of the vehicle delivery, the vehicle owner's name and address, and a description of the vehicle being delivered. Subject to these stipulations, a transporter plate may be displayed on a vehicle being operated or moved on the highway for the purpose of delivery to a place designated by the owner of the vehicle.

424.4(4) *Prohibited uses of a transporter plate.* A transporter plate shall not be displayed on a vehicle that is not being delivered or displayed in any manner not specifically permitted under Iowa Code section 321.57 or subrule 424.4(3).

These rules are intended to implement Iowa Code sections 321.1 and 321.57 to 321.63.

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CHAPTER 425
MOTOR VEHICLE AND TRAVEL TRAILER DEALERS, MANUFACTURERS, DISTRIBUTORS AND WHOLESALERS

[Prior to 7/17/96, see 761—Chapters 420 and 422]

761—425.1(322) Introduction.

425.1(1) This chapter applies to the licensing of motor vehicle and travel trailer dealers, manufacturers, distributors and wholesalers. Also included in this chapter are the criteria for the issuance and use of dealer plates.

425.1(2) The office of vehicle services administers this chapter. The mailing address is: Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278.

a. Applications required by the chapter shall be submitted to the office of vehicle services.

b. Information about dealer plates and the licensing of motor vehicles and travel trailer dealers, manufacturers, distributors and wholesalers is available from the office of vehicle services or on the department's Web site at http://www.iowadot.gov/mvd.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—425.2 Reserved.

761—425.3(322) Definitions. The following definitions, in addition to those found in Iowa Code sections 322.2 and 322C.2, apply to this chapter of rules:

"Certificate of title" means a document issued by the appropriate official which contains a statement of the owner's title, the name and address of the owner, a description of the vehicle, a statement of all security interests, and additional information required under the laws or rules of the jurisdiction in which the document was issued, and which is recognized as a matter of law as a document evidencing ownership of the vehicle described. The terms "title certificate," "title only" and "title" shall be synonymous with the term "certificate of title."

"Consumer use" means use of a motor vehicle or travel trailer for business or pleasure, not for sale at retail, by a person who has obtained a certificate of title and has registered the vehicle under Iowa Code chapter 321.

"Dealer," unless otherwise specified, means a person who is licensed to engage in this state in the business of selling motor vehicles or travel trailers at retail under Iowa Code chapter 322 or 322C.

"Engage in this state in the business" or similar wording means doing any of the following acts for the purpose of selling motor vehicles or travel trailers at retail: to acquire, sell, exchange, hold, offer, display, broker, accept on consignment or conduct a retail auction, or to act as an agent for the purpose of doing any of these acts. A person selling at retail more than six motor vehicles or six travel trailers during a 12-month period may be presumed to be engaged in the business. See rule 761—425.20(322) for provisions regarding fleet sales and retail auction sales.

"Manufacturer's certificate of origin" means a certification signed by the manufacturer, distributor or importer that the vehicle described has been transferred to the person or dealer named, and that the transfer is the first transfer of the vehicle in ordinary trade and commerce. The terms "manufacturer's statement," "importer's statement or certificate," "MSO" and "MCO" shall be synonymous with the term "manufacturer's certificate of origin." See rule 761—400.1(321) for more information.

"Principal place of business" means a building actually occupied where the public and the department may contact the owner or operator during regular business hours. In lieu of a building, a travel trailer dealer may use a manufactured or mobile home as an office if taxes are current or a travel trailer as an office if registration fees are current.

"Registered dealer" means a dealer licensed under Iowa Code chapter 322 or 322C who possesses a current dealer certificate under Iowa Code section 321.59.

"Regular business hours" means to be consistently open to the public on a weekly basis at hours reported to the office of vehicle services. Except as provided in Iowa Code section 322.36, regular business hours for a motor vehicle or travel trailer dealer shall include a minimum of 32 posted hours between 7 a.m. and 9 p.m., Monday through Friday.

"Salesperson" means a person employed by a motor vehicle or travel trailer dealer for the purpose of buying or selling vehicles.

"Vehicle," unless otherwise specified, means a motor vehicle or travel trailer.

"Wholesaler" means a person who sells new vehicles to dealers and not at retail.

This rule is intended to implement Iowa Code chapters 322 and 322C.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10; **ARC 0136C**, IAB 5/30/12, effective 7/4/12]

761—425.4 to **425.9** Reserved.

761—425.10(322) Application for dealer's license.

425.10(1) *Application forms.* To apply for a license as a motor vehicle or travel trailer dealer, the applicant shall complete an application on forms prescribed by the department.

425.10(2) *Surety bond.*

a. The applicant shall obtain a surety bond in the following amounts and file the original with the office of vehicle services:

(1) For a motor vehicle dealer's license, $50,000.

(2) For a travel trailer dealer's license, $25,000. However, an applicant for a travel trailer dealer's license is not required to file a bond if the person is licensed as a motor vehicle dealer under the same name and at the same principal place of business.

b. The surety bond shall provide for notice to the office of vehicle services at least 30 days before cancellation.

c. The office of vehicle services shall notify the bonding company of any conviction of the dealer for a violation of dealer laws.

d. If the bond is canceled, the office of vehicle services shall notify the dealer by first-class mail that the dealer's license shall be revoked on the same date that the bond is canceled unless the bond is reinstated or a new bond is filed.

e. If an applicant whose dealer's license was revoked pursuant to paragraph *"d"* establishes that the applicant obtained a reinstated or new bond meeting the requirements of subrule 425.10(2) that was effective on or before the date of cancellation, but due to mistake or inadvertence failed to file the original bond with the office of vehicle services, the applicant may file the original of the reinstated or new bond. Upon filing, the department will rescind the revocation of the dealer's license.

425.10(3) *Franchise.*

a. An applicant who intends to sell new motor vehicles or travel trailers shall submit to the office of vehicle services a copy of a signed franchise agreement with the manufacturer or distributor of each make the applicant intends to sell.

b. If a signed franchise agreement is not available at the time of application, the department may accept written evidence of a franchise which includes all of the following:

(1) The name and address of the applicant and the manufacturer or distributor.

(2) The make of motor vehicle or travel trailer that the applicant is authorized to sell.

(3) The applicant's area of responsibility as stipulated in the franchise and certified on a form prescribed by the department.

(4) The signature of the manufacturer or distributor.

425.10(4) *Corporate applicants.* If the applicant is a corporation, the applicant shall certify on the application that the corporation complies with all applicable state requirements for incorporation.

425.10(5) *Principal place of business.* The applicant shall maintain a principal place of business, which must be staffed during regular business hours. See rules 761—425.12(322) and 761—425.14(322) for further requirements.

425.10(6) *Zoning.* The applicant shall provide to the office of vehicle services written evidence, issued by the office responsible for the enforcement of zoning ordinances in the city or county where the applicant's business is located, which states that the applicant's principal place of business and any extensions comply with all applicable zoning provisions or are a legal nonconforming use.

425.10(7) *Separate licenses required.*

a. A separate license is required for each city or township in which an applicant for a motor vehicle dealer's license maintains a place of business.

b. A separate license is required for each county in which an applicant for a travel trailer dealer's license maintains a place of business.

425.10(8) *Financial liability.* The applicant for a motor vehicle dealer's license shall certify on the application that the applicant has the required financial liability coverage in the limits as set forth in Iowa Code subsection 322.4(1). It is the applicant's responsibility to ensure the required financial liability coverage is continuous with no lapse in coverage as long as the applicant maintains a valid dealer's license.

425.10(9) *Ownership information.*

a. If the owner of the business is an individual, the application shall include the legal name, bona fide address, and telephone number of the individual. If the owner is a partnership, the application shall include the legal name, bona fide address, and telephone number of two partners. If the owner is a corporation, the application shall include the legal name, bona fide address, and telephone number of two corporate officers. In all cases, the telephone number must be a number where the individual, partner, or corporate officer can be reached during normal business hours.

b. The application shall include the federal employer identification number of the business. However, if the business is owned by an individual who is not required to have a federal employer identification number, the application shall include the individual's social security number, Iowa nonoperator's identification number or Iowa driver's license number.

425.10(10) Reserved.

425.10(11) *Verification of compliance.* The department shall verify the applicant's compliance with all statutory and regulatory dealer licensing requirements.

This rule is intended to implement Iowa Code sections 322.1 to 322.15 and 322C.1 to 322C.6.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—425.11 Reserved.

761—425.12(322) Motor vehicle dealer's place of business.

425.12(1) *Verification of compliance.* Before a motor vehicle dealer's license is issued, an investigator from the department shall physically inspect an applicant's principal place of business to verify compliance with this rule.

425.12(2) *Telephone service and office area.* A motor vehicle dealer's principal place of business shall include telephone service and an adequate office area, separate from other facilities, for keeping business records, manufacturers' certificates of origin, certificates of title or other evidence of ownership for all motor vehicles offered for sale. Telephone service must be a land line and not cellular phone service. Evidence of ownership may include a copy of an original document if the original document is held by a lienholder.

425.12(3) *Facility for displaying motor vehicles.* A motor vehicle dealer's principal place of business shall include a suitable space reserved for display purposes where motor vehicles may be viewed by prospective buyers. The facility shall be:

a. Within a building. EXCEPTION: For used motor vehicle dealers and for dealers selling new trucks or motor homes exclusively, the display facility may be an outdoor area with an all-weather surface. An all-weather surface does not include grass or exposed soil.

b. Of a minimum size.

(1) For display of motorcycles and motorized bicycles, the minimum size of the display facility is 10 feet by 15 feet.

(2) For display of other motor vehicles, the minimum size of the display facility is 18 feet by 30 feet.

425.12(4) *Facility for reconditioning and repairing motor vehicles.* A motor vehicle dealer's principal place of business shall include a facility for reconditioning and repairing motor vehicles. The facility shall be an area that:

a. Is equipped to repair and recondition one or more motor vehicles of a type sold by the dealer.

b. Is within a building.

c. Has adequate access.

d. Is separated from the display and office areas by solid, floor-to-ceiling walls and solid, full-length doors.

e. Is of a minimum size.

(1) The minimum size facility for motorcycles and motorized bicycles is an unobstructed rectangular area measuring 10 feet by 15 feet.

(2) The minimum size facility for other types of motor vehicles is an unobstructed rectangular area measuring 14 feet by 24 feet.

425.12(5) *Motor vehicle dealer who is also a recycler.* If a motor vehicle dealer also does business as a recycler, there shall be separate parking for motor vehicles being offered for sale at retail from motor vehicles that are salvage.

This rule is intended to implement Iowa Code sections 322.1 to 322.15.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—425.13 Reserved.

761—425.14(322) Travel trailer dealer's place of business.

425.14(1) *Telephone service and office area.* A travel trailer dealer's principal place of business shall include telephone service and an adequate office area, separate from other facilities, for keeping business records, manufacturers' certificates of origin, certificates of title or other evidence of ownership for all travel trailers offered for sale. Telephone service must be a land line and not cellular phone service. Evidence of ownership may include a copy of an original document if the original document is held by a lienholder.

425.14(2) *Facility for displaying travel trailers.* A travel trailer dealer's principal place of business shall include a space of sufficient size to permit the display of one or more travel trailers. The display facility may be an indoor area or an outdoor area with an all-weather surface. An all-weather surface does not include grass or exposed soil. If an outdoor display facility is maintained, it may be used only to display, recondition or repair travel trailers or to park vehicles.

425.14(3) *Facility for repairing and reconditioning travel trailers.* A travel trailer dealer's principal place of business shall include a facility for reconditioning and repairing travel trailers. The facility:

a. Shall be equipped and of sufficient size to repair and recondition one or more travel trailers of a type sold by the dealer.

b. Shall have adequate access.

c. May be an indoor area or an outdoor area with an all-weather surface. An all-weather surface does not include grass or exposed soil.

d. May occupy the same area as the display facility.

425.14(4) *Travel trailer dealer also licensed as a motor vehicle dealer.* If a travel trailer dealer is also licensed as a motor vehicle dealer under the same name and at the same principal place of business, separate facilities for displaying, repairing and reconditioning travel trailers are not required.

This rule is intended to implement Iowa Code sections 322C.1 to 322C.6.

761—425.15 and **425.16** Reserved.

761—425.17(322) Extension lot license. Extension lots of motor vehicle and travel trailer dealers must be licensed. Application to license an extension lot shall be made on a form prescribed by the department.

425.17(1) For a motor vehicle dealer, an extension lot is a car lot for the sale of motor vehicles that is located within the same city or township as, but is not adjacent to, the motor vehicle dealer's principal place of business.

425.17(2) For a travel trailer dealer, an extension lot is a travel trailer lot for the sale of travel trailers that is located within the same county as, but is not adjacent to, the travel trailer dealer's principal place of business.

425.17(3) An extension lot must be owned or leased by the dealer.

425.17(4) Parcels of property are adjacent if the parcels are owned or leased by the dealer and the parcels are either adjoining or are separated only by an alley, street or highway that is not a fully controlled access facility.

This rule is intended to implement Iowa Code sections 322.1 to 322.15 and 322C.1 to 322C.6.

761—425.18(322) Supplemental statement of changes. A motor vehicle dealer shall file a written statement with the office of vehicle services at least ten days before any change of name, location, hours, or method or plan of doing business. A license is not valid until the changes listed in the statement have been approved by the office of vehicle services.

This rule is intended to implement Iowa Code sections 322.1 to 322.15.

761—425.19 Reserved.

761—425.20(322) Fleet vehicle sales and retail auction sales.

425.20(1) *Fleet sales.* Any person who has acquired vehicles for consumer use in a business shall obtain the appropriate dealer's license when more than six vehicles are offered for sale at retail in a 12-month period.

425.20(2) *Retail auction sales.* Any person who sells at public auction more than six vehicles in a 12-month period shall obtain the appropriate dealer's license. All certificates of title for the vehicles offered for sale at public auction shall be duly assigned to the dealer.

425.20(3) *Place of business.* A dealer's license issued under this rule does not require a place of business.

425.20(4) *Exceptions.*

a. The state of Iowa, counties, cities and other governmental subdivisions are not required to obtain a dealer's license to sell their vehicles at retail.

b. This rule does not apply to a vehicle owner, or to an auctioneer representing the owner, selling vehicles at a retail auction if the vehicles were acquired by the owner for consumer use, the vehicles are incidental to the auction, and only one owner's vehicles are sold.

This rule is intended to implement Iowa Code sections 322.1 to 322.15 and 322C.1 to 322C.6.

761—425.21 to **425.23** Reserved.

761—425.24(322) Miscellaneous requirements.

425.24(1) The department shall not issue a license under Iowa Code chapter 322 or 322C to any other person at a principal place of business of a person currently licensed under Iowa Code chapter 322 or 322C.

425.24(2) A motor vehicle or travel trailer dealer shall not represent or advertise the dealership under any name or style other than the name which appears on the dealer's license.

425.24(3) Other business activities are allowed at a place of business of a dealer, but those activities shall not include the sale of firearms, dangerous weapons as defined in Iowa Code section 702.7, or alcoholic beverages as defined in Iowa Code subsection 123.3(4).

This rule is intended to implement Iowa Code sections 322.1 to 322.15 and 322C.1 to 322C.6.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—425.25 Reserved.

761—425.26(322) Fairs, shows and exhibitions.

425.26(1) *Definitions.* As used in this rule:

"Display" means having new motor vehicles or new travel trailers available for public viewing at fairs, vehicle shows or vehicle exhibitions. The dealer may also post, display or provide product information through literature or other descriptive media. However, the product information shall not include prices, except for the manufacturer's sticker price. "Display" does not mean offering new vehicles for sale or negotiating sales of new vehicles.

"Fair" means a county fair or a scheduled gathering for a predetermined period of time at a specific location for the exhibition, display or sale of various wares, products, equipment, produce or livestock, but not solely new vehicles, and sponsored by a person other than a single dealer.

"Offer" new vehicles *"for sale," "negotiate sales"* of new vehicles, or similar wording, means doing any of the following at a fair, show or exhibition: posting prices in addition to the manufacturer's sticker price, discussing prices or trade-ins, arranging for payments or financing, and initiating contracts.

"Vehicle exhibition" means a scheduled event conducted at a specific location where various types, makes or models of new vehicles are displayed either at the same time or consecutively in time, and sponsored by a person other than a single dealer.

"Vehicle show" means a scheduled event conducted for a predetermined period of time at a specific location for the purpose of displaying at the same time various types, makes or models of new vehicles, which may be in conjunction with other events or displays, and sponsored by a person other than a single dealer.

425.26(2) *Permits for motor vehicle dealers.*

a. A "display only" fair, show or exhibition permit allows a motor vehicle dealer to display new motor vehicles at a specified fair, vehicle show or vehicle exhibition in any Iowa county. The permit is valid on Sundays.

b. A "full" fair, show or exhibition permit allows a motor vehicle dealer to display and offer new motor vehicles for sale and negotiate sales of new motor vehicles at a specified fair, vehicle show or vehicle exhibition that is held in the same county as the motor vehicle dealer's principal place of business. EEXCEPTION: A motor vehicle dealer who is licensed to sell motor homes may be issued a permit to offer for sale Class "A" and Class "C" motor homes at a specified fair, show or exhibition in any Iowa county. A "full" fair, show or exhibition permit is not valid on Sundays.

c. The following restrictions are applicable to both types of permits:

(1) Permits will be issued to motor vehicle dealers only for fairs, vehicle shows or vehicle exhibitions where more than one motor vehicle dealer may participate.

(2) A permit is limited to the line makes for which the motor vehicle dealer is licensed in Iowa.

425.26(3) Reserved.

425.26(4) *Permits for travel trailer dealers.* A fair, show or exhibition permit allows a travel trailer dealer to display and offer new travel trailers for sale and negotiate sales of new travel trailers at a specified fair, vehicle show, or vehicle exhibition in any Iowa county.

a. The permit is valid on Sundays.

b. The permit is limited to the line makes for which the travel trailer dealer is licensed in Iowa.

c. A travel trailer dealer who does not have a permit may display vehicles at fairs, vehicle shows and vehicle exhibitions.

425.26(5) *Permit application.* A motor vehicle or travel trailer dealer shall apply for a fair, show or exhibition permit on an application form prescribed by the department. The application shall include the dealer's name, address and license number and the following information about the fair, show or exhibition: name, location, sponsor(s) and duration, including the opening and closing dates.

425.26(6) *Display of permit.* The motor vehicle or travel trailer dealer shall display the permit at the fair, show or exhibition in close proximity to the vehicles being exhibited.

425.26(7) *Variance.* Rescinded IAB 11/7/07, effective 12/12/07.

425.26(8) *Display without permit.* Rescinded IAB 7/10/02, effective 8/14/02.

This rule is intended to implement Iowa Code subsections 322.5(2) and 322C.3(9).

761—425.27 and **425.28** Reserved.

761—425.29(322) Classic car permit. A classic car permit allows a motor vehicle dealer to display and sell classic cars at a specified county fair, vehicle show or vehicle exhibition that is held in the same county as the motor vehicle dealer's principal place of business. "Classic car" is defined in Iowa Code subsection 322.5(3).

425.29(1) The permit period is the duration of the event, not to exceed five days. The permit is valid on Sundays. Only one permit may be issued to each motor vehicle dealer for an event. No more than three permits may be issued to a motor vehicle dealer in any one calendar year.

425.29(2) Application for a classic car permit shall be made on a form prescribed by the department. The application shall include the dealer's name, address and license number and the following information about the county fair, vehicle show or vehicle exhibition: name, location, sponsor(s) and duration, including the opening and closing dates.

425.29(3) The motor vehicle dealer shall display the permit in a prominent place at the location of the county fair, vehicle show or vehicle exhibition.

This rule is intended to implement Iowa Code subsection 322.5(3).

761—425.30(322) Motor truck display permit. Application for a permit under Iowa Code subsection 322.5(4) shall be made on a form prescribed by the department. The application shall include information or documentation showing that the nonresident motor vehicle dealer is eligible for issuance of a permit and that the event meets the statutory conditions for permit issuance.

This rule is intended to implement Iowa Code subsection 322.5(4).

761—425.31(322) Firefighting and rescue show permit.

425.31(1) Application for a firefighting and rescue show permit shall be made on a form prescribed by the department. The application shall include the name, address and license number of the applicant, the type of vehicles being displayed, and the following information about the vehicle show or exhibition: name, location, sponsor(s), and duration, including the opening and closing dates.

425.31(2) The permit is not valid on Sundays. Only one permit shall be issued to each licensee for an event.

425.31(3) The permit holder shall display the permit in a prominent place at the location of the vehicle show or exhibition.

This rule is intended to implement Iowa Code subsection 322.5(5).

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—425.32 to **425.39** Reserved.

761—425.40(322) Salespersons of dealers.

425.40(1) Every motor vehicle and travel trailer dealer shall:

a. Keep a current written record of all salespersons acting in its behalf. The record shall be open to inspection by any peace officer or any employee of the department.

b. Maintain a current record of authorized persons allowed to sign all documents required under Iowa Code chapter 321 for vehicle sales.

425.40(2) No person shall either directly or indirectly claim to represent a dealer unless the person is listed as a salesperson by that dealer.

This rule is intended to implement Iowa Code sections 322.3, 322.13, and 322C.4.

761—425.41 to **425.49** Reserved.

761—425.50(322) Manufacturers, distributors, and wholesalers. This rule applies to the licensing of manufacturers, distributors, and wholesalers of new motor vehicles and travel trailers.

425.50(1) *Application for license.* To apply for a license, the applicant shall complete an application form prescribed by the department. A list of the applicant's franchised dealers in Iowa and a sample copy of a completed manufacturer's certificate of origin that is issued by the firm shall accompany the

application. A distributor or wholesaler shall also provide a copy of written authorization from the manufacturer to act as its distributor or wholesaler.

425.50(2) *Licensing requirements.*

a. Rescinded IAB 11/3/99, effective 12/8/99.

b. New motor homes delivered to Iowa dealers must contain the systems and meet the standards specified in Iowa Code paragraph 321.1(36C)*"d."*

c. A licensee shall ensure that any new retail outlet is properly licensed as a dealer before any vehicles are delivered to the outlet.

d. A licensee shall notify the office of vehicle services in writing at least ten days prior to any:

(1) Change in name, location or method of doing business, as shown on the license.

(2) Issuance of a franchise to a dealer in this state to sell new vehicles at retail.

(3) Rescinded IAB 11/3/99, effective 12/8/99.

(4) Change in the trade name of a travel trailer manufactured for delivery in this state.

e. A licensee shall notify the office of vehicle services in writing at least ten days before any new make of vehicle is offered for sale at retail in this state.

This rule is intended to implement Iowa Code sections 322.27 to 322.30 and 322C.7 to 322C.9.

761—425.51(322) Factory or distributor representatives. Rescinded IAB 11/3/99, effective 12/8/99.

761—425.52(322) Used vehicle wholesalers. Rescinded IAB 11/7/07, effective 12/12/07.

761—425.53(322) Wholesaler's financial liability coverage. A new motor vehicle wholesaler shall certify on the license application that it has the required financial liability coverage in the limits set forth in Iowa Code section 322.27A. It is the wholesaler's responsibility to ensure that the required financial liability coverage is continuous with no lapse in coverage as long as the wholesaler maintains a valid wholesaler's license.

This rule is intended to implement Iowa Code section 322.27A.

761—425.54 to **425.59** Reserved.

761—425.60(322) Right of inspection.

425.60(1) Peace officers have the authority to inspect vehicles or component parts of vehicles, business records, and manufacturers' certificates of origin, certificates of title and other evidence of ownership for all vehicles offered for sale.

425.60(2) The department has the right at any time to verify compliance of a person licensed under Iowa Code chapter 322 or 322C or issued a certificate under Iowa Code section 321.59 with all statutory and regulatory requirements.

This rule is intended to implement Iowa Code sections 321.62, 321.95, 322.13, and 322C.1.

761—425.61 Reserved.

761—425.62(322) Denial, suspension or revocation.

425.62(1) The department may deny an application or suspend or revoke a certificate or license if the applicant, certificate holder or licensee fails to comply with the applicable provisions of this chapter of rules, Iowa Code sections 321.57 to 321.63 or Iowa Code chapter 322 or 322C.

425.62(2) The department may deny a dealer's application for a fair, show or exhibition permit for a period not to exceed six months if the dealer fails to comply with the applicable provisions of rule 761—425.26(322) or Iowa Code subsection 322.5(2) or 322C.3(9).

425.62(3) The department may deny a motor vehicle dealer's application for a demonstration permit for a period not to exceed six months if the dealer fails to comply with rule 761—425.72(321).

425.62(4) The department shall send notice by certified mail to a person whose certificate, license or permit is to be revoked, suspended, canceled or denied. The notice shall be mailed to the person's mailing address as shown on departmental records or, if the person is currently licensed, to the principal

place of business, and shall become effective 20 days from the date mailed. A person who is aggrieved by a decision of the department and who is entitled to a hearing may contest the decision in accordance with 761—Chapter 13. The request shall be submitted in writing to the director of the office of vehicle services at the address in subrule 425.1(2). The request shall be deemed timely submitted if it is delivered or postmarked on or before the effective date specified in the notice of revocation, suspension, cancellation or denial.

This rule is intended to implement Iowa Code chapter 17A and sections 321.57 to 321.63, 322.6, 322.9, 322.31, and 322C.6.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—425.63 to **425.69** Reserved.

761—425.70(321) Dealer plates.

425.70(1) *Definition.* The definitions of "dealer" and "vehicle" in Iowa Code section 321.1 apply to this rule.

425.70(2) *Persons who may be issued dealer plates.* Dealer plates as provided in Iowa Code sections 321.57 to 321.63 may be issued to:

a. Licensed motor vehicle dealers.

b. Licensed travel trailer dealers.

c. A person engaged in the business of buying, selling or exchanging trailer-type vehicles subject to registration under Iowa Code chapter 321, other than travel trailers, and who has an established place of business for such purpose in this state.

d. Insurers selling vehicles of a type subject to registration under Iowa Code chapter 321 solely for the purpose of disposing of vehicles acquired as a result of a damage settlement or recovered stolen vehicles acquired as a result of a loss settlement. The plates shall display the words "limited use."

e. Persons selling vehicles of a type subject to registration under Iowa Code chapter 321 solely for the purpose of disposing of vehicles acquired or repossessed by them in exercise of powers or rights granted by lien or title-retention instruments or contracts given as security for loans or purchase money obligations, and who are not required to be licensed dealers. The plates shall display the words "limited use."

f. Persons engaged in the business of selling special equipment body units which have been or will be installed on motor vehicle chassis not owned by them, solely for the purpose of delivering, testing or demonstrating the special equipment body and the motor vehicle. The plates shall display the words "limited use."

g. A licensed manufacturer of ambulances, rescue vehicles or fire vehicles, solely for the purpose of transporting, demonstrating, showing or exhibiting the vehicles. The plates shall display the words "limited use."

h. A licensed wholesaler who is also licensed as a motor vehicle dealer as specified in paragraph 425.70(3)*"e."*

425.70(3) *Use of dealer plates.*

a. Dealer plates shall not be displayed on vehicles that are rented or loaned. However, a dealer plate may be displayed on a motor vehicle, other than a truck or truck tractor, loaned to a customer of a licensed motor vehicle dealer while the customer's motor vehicle is being serviced or repaired by the dealer.

b. Motor vehicles used by dealers, manufacturers or distributors to transport other vehicles shall be registered, except when being transported from the place of manufacturing, assembling or distribution to a dealer's place of business.

c. Saddle-mounted vehicles being transported shall display dealer plates.

d. Dealer plates may be displayed on a trailer carrying a load, provided the truck or truck tractor towing the trailer is properly registered under Iowa Code section 321.122, except as provided in rule 761—425.72(321).

e. Dealer plates may be used by a dealer licensed as a wholesaler for a new motor vehicle model when operating a new motor vehicle of that model if the motor vehicle is owned by the wholesaler and is operated solely for the purpose of demonstration, show or exhibition.

This rule is intended to implement Iowa Code sections 321.57 to 321.63.

761—425.71 Reserved.

761—425.72(321) Demonstration permits.

425.72(1) Demonstration permits may be issued by motor vehicle dealers to permit the use of dealer plates for the purpose of demonstrating the load capabilities of motor trucks and truck tractors. A demonstration permit must be issued on a form prescribed by the department.

425.72(2) The dealer shall complete the permit. The information to be filled out includes, but is not limited to, the following:

a. Date of issuance by the dealer, date of expiration, and the specific dates for which the permit is valid. The expiration date shall be five days or less from the date of issuance.

b. Dealer's name, address and license number.

c. Name(s) of the prospective buyer(s) and all prospective drivers.

d. Route of the demonstration trip. The points of origin and destination shall be the dealership. The permit is not valid for a route outside Iowa.

e. The make, year and vehicle identification number of the motor vehicle being demonstrated.

425.72(3) The permit shall at all times be carried in the motor vehicle to which it refers and shall be shown to any peace officer upon request.

425.72(4) Only one demonstration permit per motor vehicle shall be issued for a prospective buyer.

425.72(5) The demonstration permit is valid only for a movement that does not exceed the legal length, width, height and weight restrictions. The permit is not valid for an overdimensional or overweight movement.

This rule is intended to implement Iowa Code sections 321.57 to 321.63.

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◊ Two or more ARCs

CHAPTERS 426 to 429
Reserved

CHAPTER 430
MOTOR VEHICLE LEASING LICENSES

[Prior to 6/3/87, Transportation Department[820]—(07,D)Ch9]

761—430.1(321F) General.

430.1(1) *Information.* Information and blank forms relating to this chapter may be obtained from and completed forms shall be submitted to the Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278.

430.1(2) *Definition. "Engage in the business"* means leasing two or more motor vehicles in a 12-month period. A person shall not be considered to be engaged in the business if the lease for a vehicle subject to registration was originally created in a jurisdiction outside the state of Iowa.

761—430.2(321F) Application. Application for a motor vehicle leasing license shall be made on a form prescribed by the department.

430.2(1) The application shall include the name, bona fide business address, and telephone number under which the applicant will conduct the business of leasing motor vehicles for use by others for compensation.

430.2(2) If the owner of the business is an individual, the application shall include the legal name, bona fide address, and telephone number of the individual. If the owner is a partnership, the application shall include the legal name, bona fide address, and telephone number of two partners. If the owner is a corporation, the application shall include the legal name, bona fide address, and telephone number of two corporate officers. In all cases, the telephone number must be a number where the individual, partner, or corporate officer can be reached during normal business hours.

430.2(3) The application shall include the federal employer identification number of the business. However, if the business is owned by an individual who is not required to have a federal employer identification number, the application shall include the individual's social security number, Iowa nonoperator's identification number or Iowa driver's license number.

761—430.3(321F) Supplemental statements. The licensee shall notify the department, in writing, within ten days, at the address shown in subrule 430.1(1), of any change in the information required on the original application.

761—430.4(321F) Separate licenses required. A separate license is required for:

430.4(1) Each address under which a single business entity will conduct business under Iowa Code chapter 321F and these rules.

430.4(2) Each address that will be used for titling or registering vehicles subject to registration in Iowa.

These rules are intended to implement Iowa Code chapter 321F.

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CHAPTER 431
VEHICLE RECYCLERS

[Prior to 6/3/87, Transportation Department[820]—(07,D)Ch 6]

761—431.1(321H) General.

431.1(1) *Information.* Information and blank forms relating to this chapter may be obtained from and completed forms shall be submitted to the Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278. Information and forms are also available on the department's Web site at http://www.iowadot.gov/mvd.

431.1(2) *Definitions.*

"Principal place of business" means a building actually occupied where the public and the department may contact the owner or operator during regular business hours.

"Regular business hours" means to be consistently open to the public on a weekly basis at hours reported to the office of vehicle services. Regular business hours shall include a minimum of 32 posted hours between 7 a.m. and 9 p.m., Monday through Friday.

This rule is intended to implement Iowa Code sections 321H.2 and 321H.4.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10; **ARC 0136C**, IAB 5/30/12, effective 7/4/12]

761—431.2(321H) Criteria for a vehicle recycler license.

431.2(1) *General qualifications.* Every authorized vehicle recycler shall:

a. Maintain regular business hours and telephone service at the principal place of business which shall include separate and adequate office space for the recycler's business records. Telephone service must be a land line and not cellular phone service.

b. Comply with local zoning laws.

c. Comply with the provisions of Iowa Code chapter 306C, relating to the Iowa junkyard control law, when applicable.

431.2(2) *Vehicle rebuilder qualifications.* For every licensed location, a vehicle rebuilder must have:

a. An unobstructed area inside a building for rebuilding and restoring vehicles. The inside measurement of the unobstructed area must be at least 14 feet by 24 feet.

b. Sufficient storage for all vehicles in the rebuilder's inventory.

c. Equipment necessary to perform rebuilding and restoring of vehicles in the inventory, such as frame-straightening equipment, a hydraulic jack, alignment and calibration equipment, and tools.

431.2(3) *Used vehicle parts dealer qualifications.* For every licensed location, a used vehicle parts dealer must have sufficient storage for the vehicle parts in the dealer's inventory.

431.2(4) *Vehicle salvager qualifications.* For every licensed location, a vehicle salvager must have:

a. Sufficient storage for vehicles, vehicle parts, and vehicle bodies included in the salvager's inventory.

b. Sufficient equipment necessary to perform dismantling, scrapping or storing of vehicles and vehicle parts in the inventory.

This rule is intended to implement Iowa Code section 321H.4.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—431.3(321H) Application. The application for a vehicle recycler's license shall be made on a form prescribed by the department.

431.3(1) The application shall include the name, bona fide business address, and telephone number under which the applicant will conduct business as an authorized vehicle recycler.

431.3(2) If the owner of the business is an individual, the application shall include the legal name, bona fide address, and telephone number of the individual. If the owner is a partnership, the application shall include the legal name, bona fide address, and telephone number of two partners. If the owner is a corporation, the application shall include the legal name, bona fide address, and telephone number of two corporate officers. In all cases, the telephone number must be a number where the individual, partner, or corporate officer can be reached during normal business hours.

431.3(3) The application shall include the federal employer identification number of the business. However, if the business is owned by an individual who is not required to have a federal employer identification number, the application shall include the individual's social security number, Iowa nonoperator's identification number or Iowa driver's license number.

431.3(4) The application shall include the address of any extension of the applicant's place of business.

431.3(5) The application shall indicate the type of business the applicant is engaged in and include the applicant's certification that it complies with the requirements for this type of business.

431.3(6) A letter issued by the office responsible for the enforcement of zoning ordinances in the city or county where the applicant's place of business is located must accompany the application. The letter shall state that the business complies with all applicable zoning provisions or is a legal nonconforming use. A compliance letter is also required for any extension of the applicant's place of business.

431.3(7) The application shall include a statement of the previous criminal history of the applicant. If the applicant is a corporation, the statement shall be required from each officer. If the applicant is a partnership, the statement shall be required from each partner.

This rule is intended to implement Iowa Code section 321H.4.

761—431.4(321H) Firm name. A recycler shall not represent or advertise the business under any name or style other than that which appears on the recycler's license.

This rule is intended to implement Iowa Code section 321H.4.

761—431.5(321H) Denial, suspension or revocation of license.

431.5(1) If an applicant fails to comply with rule 761—431.2(321H) or rule 761—431.3(321H), the department shall deny the application.

431.5(2) If a recycler fails to comply with any of the provisions of this chapter of rules, the department may suspend or revoke the recycler's license.

431.5(3) The department may deny, revoke or suspend a license for any of the reasons stated in Iowa Code section 321H.6.

431.5(4) A person who is aggrieved by a decision of the department and who is entitled to a hearing may contest the decision pursuant to 761—Chapter 13.

This rule is intended to implement Iowa Code chapter 17A and section 321H.6.

761—431.6(321) Right of inspection. Peace officers shall have the authority to inspect vehicles or component parts of vehicles and the records and documents required to be kept by a recycler.

This rule is intended to implement Iowa Code section 321.95.

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CHAPTERS 432 to 449
Reserved

CHAPTER 450
MOTOR VEHICLE EQUIPMENT

[Appeared as Ch 1, Department of Public Safety, 1973 IDR; amended January 1975 IDR Supplement]
[Prior to 6/3/87, Transportation Department[820]—(07,E)Ch 1]

761—450.1(321) Safety standards for motor vehicle equipment. Rescinded IAB 7/10/02, effective 8/14/02.

761—450.2(321) Equipment requirements for specially constructed, reconstructed, street rod, and replica motor vehicles, other than motorcycles and motorized bicycles. The following standards are minimum requirements for constructing and equipping specially constructed, reconstructed, street rod, and replica motor vehicles other than motorcycles and motorized bicycles.

450.2(1) *Definitions.* The definitions in Iowa Code section 321.1 and rule 761—400.16(321) are hereby made part of this chapter.

450.2(2) *Application.* As outlined in rule 761—400.16(321), the applicant shall submit the required application forms and exhibits to the county treasurer. The vehicle and ownership documents shall be examined by the department. If the department determines that the motor vehicle complies with this rule, that the integral parts and components have been identified as to ownership, and that the application forms have been completed properly, the department shall assign an identification number to the vehicle and certify that the motor vehicle is eligible for titling and registration. If the frame or unibody specified on an application for a specially constructed, reconstructed, street rod, or replica motor vehicle is designated "not for highway use," the application shall not be approved. The exchange of compatible body parts does not constitute a specially constructed, reconstructed, street rod, or replica motor vehicle. The removal, addition, or substitution of reconstructed motor vehicle parts modifies the vehicle's external appearance so that it does not reflect the original make or manufacturer model for that model.

450.2(3) *Defroster and defogging device.* Every closed motor vehicle shall be equipped with a device capable of defogging or defrosting the windshield area.

450.2(4) *Door latches.* Every motor vehicle that is equipped with doors leading directly into a compartment that contains one or more seating accommodations shall be equipped with mechanically actuated door latches which firmly and automatically secure the door when pushed closed and which allow each door to be opened from the inside by the actuation of a convenient lever, handle or other nonelectric device. Interior handles must be visible.

450.2(5) *Floor pan.* Every motor vehicle shall be equipped with a floor pan under the entire passenger-carrying compartment. The floor pan shall support the weight of the number of occupants that the vehicle is designed to carry. The floor pan shall be so constructed that it prevents the entry of exhaust fumes.

450.2(6) *Glazing.*

a. *Windshields.* Every motor vehicle shall be equipped with a laminated safety glass windshield that complies with and bears the approval marking of the American National Standards Institute (ANSI) Z 26.1 Standard. The windshield shall be in such a position that it affords continuous horizontal frontal protection to the driver and front seat occupants. The minimum vertical height of the unobstructed windshield glass shall be 6 inches. This paragraph does not preclude the use of a windshield that can be folded down to a horizontal position, provided that the windshield can be firmly fastened in both the vertical and horizontal positions.

b. *Side and rear glass.* Side and rear glass is not required in motor vehicles. If present, however, this glass must be either laminated or tempered safety glass bearing the approval of the ANSI Z 26.1 Standard.

450.2(7) *Driver visibility.* Each motor vehicle shall provide the driver with a minimum outward horizontal vision capability of 90 degrees each side of a vertical plane passing through the fore and aft centerline of the vehicle. This plane of vision may be interrupted by window framing and windshield door support posts not exceeding 4 inches in width at each side location.

450.2(8) *Hood latches.* If a motor vehicle is equipped with a front-opening hood, that hood shall be equipped with a primary and secondary latching system to hold the hood in a closed position.

450.2(9) *Instruments and controls.* Each motor vehicle shall be equipped with:

a. An operating speedometer calibrated to indicate "miles per hour."

b. An operating odometer calibrated to indicate "total miles driven."

c. A steering wheel circular or nearly circular in shape, having an outside diameter of not less than 13 inches.

d. An accelerator control system that returns the engine throttle to an idle position automatically when the driver removes the actuating force from the accelerator control.

450.2(10) *Brakes.*

a. Every motor vehicle shall be equipped with brakes acting upon all wheels. The service brakes must be capable of meeting or exceeding the stopping requirements of Iowa Code section 321.431. If necessary, the braking system may be tested by a road test on a public roadway by an officer of the motor vehicle division of the department.

b. Every motor vehicle shall be equipped with a parking brake operating on at least two wheels applied with required effectiveness despite exhaustion of any source of energy or leakage of any kind in the service brake system. The parking brake shall meet the requirements of Iowa Code sections 321.430 and 321.431.

450.2(11) *Rearview mirror.* Every motor vehicle shall be equipped with two rearview mirrors, each having substantial unit magnification. One shall be mounted on the inside of the vehicle in such a position that it affords the driver a clear view to the rear. The other shall be mounted on the outside of the vehicle on the driver's side in such a position that it affords the driver a clear view to the rear. When an inside mirror does not give a clear view to the rear, a right-hand outside mirror shall be required in lieu thereof. The mirror mounting shall provide a stable support for the mirror, and shall provide for mirror adjustment by tilting in both horizontal and vertical directions. Each mirror shall have a minimum of 10 square inches of reflective surface.

450.2(12) *Seat belts.* Every motor vehicle shall be equipped with at least a Type I (lap belt) seat belt for the driver and each passenger seating position. The belts at each location shall comply with DOT Motor Vehicle Safety Standard No. 209, and shall be firmly anchored to the vehicle body.

450.2(13) *Seating.* All bench-type and individual seats in motor vehicles shall be firmly anchored to structural components or body parts.

450.2(14) *Fenders and mud flaps.* Rescinded IAB 9/8/10, effective 10/13/10.

450.2(15) *Bumpers.* Rescinded IAB 9/8/10, effective 10/13/10.

450.2(16) *Exhaust system.* Every motor vehicle shall have an exhaust system meeting the following requirements:

a. The system shall be free of leaks, including the exhaust manifold (or headers), piping forward of the muffler, the muffler(s), and tail piping.

b. Exhaust fumes shall be emitted to the extremity of the vehicle, behind the rear wheels, or to the extremity of the vehicle within 6 inches in front of the rear wheels. Exhaust fumes from trucks, other than enclosed vans, may be emitted to the rear of that part of the vehicle designed for and normally used for carrying the driver and passengers.

c. Each exhaust system must be equipped with a muffler that prevents excessive noise.

d. No part of the exhaust system shall pass through any area of the vehicle that is used as a passenger-carrying compartment, and shall be so constructed that persons entering the vehicle cannot make contact with the exhaust system.

e. All exterior side exhaust pipes must be fully shielded and any vertical truck exhaust stacks shall be shielded to the top of the cab.

450.2(17) *Frame.* Every vehicle shall be equipped with a frame consisting of wall box tubing, round tubing, wall channel or unitized construction capable of supporting the vehicle, its load and the torque produced by the power source.

450.2(18) *Fuel system.* Every motor vehicle shall have a fuel system in which all components are securely fastened with fasteners designed for this purpose, including the tank, tubing, hoses, clamps, etc. The filler from the system shall be located in a position not within the passenger-carrying

compartment, and shall be capped. The system shall be leakproof, and fuel lines shall be positioned so as not to come in contact with high temperature surfaces or moving parts.

450.2(19) *Steering and suspension.*

a. Every motor vehicle shall have no parts extending below the wheel rims in their lowest position, except for tires and electrical grounding devices designed for this purpose.

b. The steering system shall remain unobstructed when turned from lock to lock.

c. The steering wheel shall have no less than two turns and no more than six turns when turning the road wheels from lock to lock.

d. While in a sharp turn at a speed between 5 and 15 MPH, release of the steering wheel shall result in a distinct tendency for the vehicle to increase its turning radius.

e. No motor vehicle shall be constructed so that the weight on any axle is less than 20 percent of the gross weight of the vehicle and load.

f. Motor vehicles shall be equipped with a damping device at each wheel location providing a minimum relative motion between the unsprung axle and the chassis of plus or minus 2 inches.

g. When each corner of the vehicle is depressed and released the damping device shall stop vertical body motion within two cycles.

h. There shall be no heating or welding on coil springs, leaf springs, or torsion bars.

450.2(20) *Tires.* Tires shall comply with Iowa Code section 321.440. Each tire shall have a load-bearing capacity in keeping with the size and weight of the vehicle.

450.2(21) *Lighting and electrical system.* Each motor vehicle shall be equipped with approved lighting devices in sufficient number, type, and locations to meet the requirements of Iowa Code sections 321.384 to 321.423, including headlamps, rear lamps, license plate lamp, rear reflectors, parking lamps, stop lamps, turn signals, and high-low beam indicator. In addition, every motor vehicle shall be equipped with:

a. A driver-controlled switch capable of selecting high and low beams (dimmer switch).

b. A motor vehicle more than 40 inches in width shall be equipped with turn signal lamps and have a manually operated switch controlled by the driver that shall cause the turn signal lamps to function. This switch shall be self-canceling.

c. A horn that shall be electrically actuated, and shall emit a sound clearly audible from a distance of 200 feet. The horn shall be actuated with a switch easily accessible to the driver when operating the vehicle.

d. All wiring shall be done in an orderly and workmanlike fashion, with no wiring in contact with high temperature surfaces or moving parts.

e. Headlamps shall be in a plane that is perpendicular to a vertical plane through the longitudinal centerline of the vehicle. The headlamps shall be mounted not less than 24 inches, nor more than 54 inches, above the road surface when measured to the headlamp center.

f. A tail lamp or lamps shall be mounted on the rear of the motor vehicle or vehicle, exhibiting a red light plainly visible from a distance of 500 feet to the rear. The tail lamp or lamps shall be mounted not less than 15 inches, nor more than 72 inches, above the roadway.

g. All original lamps and lighting equipment provided on the motor vehicle by the manufacturer shall be maintained in working condition or shall be replaced with equivalent equipment.

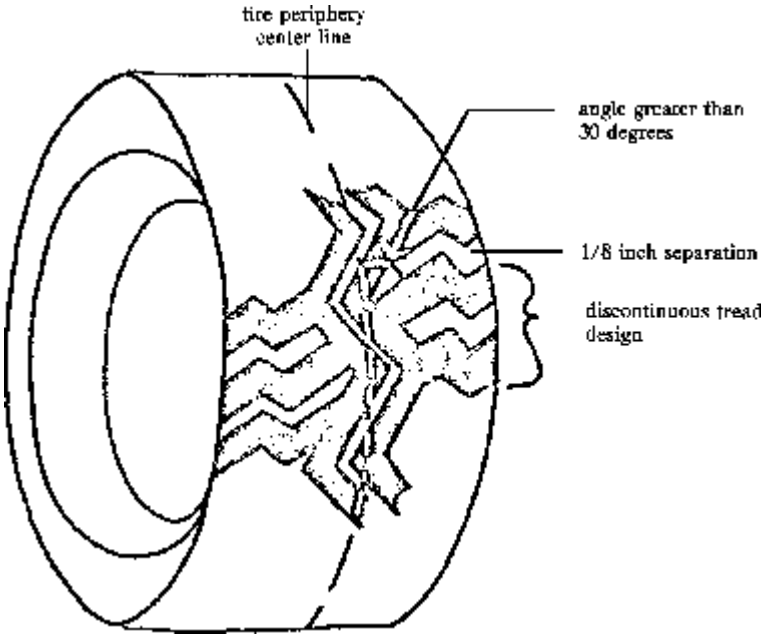
This rule is intended to implement Iowa Code section 321.23.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—450.3(321) Mud and snow tire. A mud and snow tire is a tire that is designed to provide additional starting, stopping and driving traction in mud and snow. The tread design shall have ribs, lugs, blocks or knobs which are discontinuous and have a minimum separation of one-eighth of an inch between the ribs, lugs, blocks or knobs. A substantial portion of the rib, lug, block or knob edge in the design of the tread shall be at an angle greater than 30 degrees to the periphery centerline. A mud and snow tire must comply with the tire restrictions expressed in Iowa Code section 321.440.

A tire labeled “Mud and Snow” or any contraction using the letters “M” and “S,” such as “MS,” “M/S,” “M-S” or “M & S” shall be considered a mud and snow tire.

A representation of the distinguishing features of a mud and snow tire is pictured below.



This rule is intended to implement Iowa Code subsection 321.236(12).

761—450.4(321) Minimum requirements for constructing and equipping specially constructed or reconstructed motorcycles or motorized bicycles. Minimum requirements for constructing and equipping specially constructed or reconstructed motorcycles or motorized bicycles as defined in Iowa Code section 321.1 are as follows:

450.4(1) *Application.* As outlined in rule 761—400.16(32), the applicant shall submit the required application forms and exhibits to the county treasurer. The vehicle and ownership documents shall be examined by the department. If the department determines that the motor vehicle complies with this rule, that the integral parts and components have been identified as to ownership, and that the application forms have been completed properly, the department shall assign an identification number to the vehicle and certify that the motor vehicle is eligible for titling and registration. If the frame specified on an application for a specially constructed or reconstructed motorcycle or motorized bicycle is designated "not for highway use," the application shall not be approved. The exchange of compatible body parts does not constitute a specially constructed or reconstructed motorcycle or motorized bicycle. The removal, addition, or substitution of a reconstructed motorcycle or motorized bicycle part modifies the vehicle's external appearance so that it does not reflect the original make or manufacturer model. EXEMPTION: The conversion of a manufactured motorcycle from two wheels to three-wheel operation by the addition or substitution of a bolt-on conversion kit shall not constitute a reconstructed motorcycle.

450.4(2) *Upgrade pulls—minimum speed.* No motor vehicle or combination of vehicles which cannot proceed up a 3 percent grade, on dry concrete pavement, at a minimum speed of 20 miles per hour, shall be operated upon the highways of this state.

450.4(3) *Engine.* Rescinded IAB 9/8/10, effective 10/13/10.

450.4(4) *Frame/chassis.* A motorcycle or motorized bicycle frame/chassis, including the suspension components and engine mountings, shall be of sufficient strength, capable of supporting the combined weight of all vehicle components and riders for which the vehicle was designed.

450.4(5) *Front end assembly.*

a. *Trail (extended fork measured in inches).* No reconstructed or specially constructed motorcycle or motorized bicycle shall have the front fork so extended as to place the center of the front wheel axle farther than 36 inches from a vertical plane through the steering axis.

b. *Rake (extended fork measured in degrees).* No reconstructed or specially constructed motorcycle or motorized bicycle shall have the front fork so extended as to exceed a 45-degree angle between the fork assembly and a vertical plane through the steering axis.

c. *Extensions.* No reconstructed or specially constructed motorcycle or motorized bicycle shall be equipped with extension slugs. However, one-piece extension tubes and springer units, if approved, are acceptable.

d. *Wheelbase.* No reconstructed or specially constructed motorcycle or motorized bicycle shall have an overall wheelbase, measured from the center of the front axle to the center of the rear axle, of less than 40 inches.

e. *Motorcycle front end geometry.* A representation of the front end geometry of a motorcycle is depicted in the Appendix to this rule.

450.4(6) *Brakes.* Every motorcycle and motorized bicycle shall be equipped with at least a rear brake. If the vehicle is also equipped with a front brake, all control cables, lines and hoses shall be located and secured so as not to become pinched between the fork and frame members when the wheel is turned completely to the left or right. Brake-actuating devices shall be in a readily accessible location, unencumbered by vehicle components. A suitable mechanism shall be provided for the purpose of automatically returning the actuating devices to a normal position upon release.

450.4(7) *Tires, wheels, rims.* Motorcycle tires shall be of pneumatic design with a minimum width of two and twenty-five hundredths inches and designed for highway use. Wheel rim diameters shall not be less than 10 inches and rims shall otherwise comply with applicable federal standards.

450.4(8) *Steering and suspension.*

a. *Stability.* Motorcycle or motorized bicycle steering and suspension shall provide the operator with the means of safely controlling vehicle direction.

b. *Wheel alignment.* The rear wheel of a two-wheel motorcycle or motorized bicycle shall track behind the front wheel within 1 inch with both wheels in a vertical plane when the vehicle is operating on a straight course. On a three-wheel motorcycle or motorized bicycle, the two wheels mounted on the rear axle shall have a wheel track distance not less than 30 inches and the midpoint of the rear wheel track distance shall be within 1 inch of the front wheel track when the vehicle is proceeding on a straight course.

c. *Steering.*

(1) The steering head shall be provided with a bearing or similar device that will allow the steering shaft to turn freely in rotational motion only. All handlebar-mounted control cables, wires, lines and hoses shall be located and secured so as not to become pinched between the fork and frame members when the wheel is turned completely to the right or the left.

(2) A steering wheel may be used on a three-wheel reconstructed or specially constructed motorcycle or motorized bicycle provided:

1. The steering wheel is circular or nearly circular in shape, having an outside diameter of not less than 13 inches.

2. The steering wheel shall have no less than two turns and no more than six turns when the road wheels are turned from lock to lock.

d. *Handlebars.* Handlebars shall be of sturdy construction, adequate in size (length) to provide proper leverage for steering, and capable of withstanding a minimum force of 100 pounds applied to each hand grip in any direction. The handlebars shall provide a minimum distance of 18 inches between grips after final assembly.

e. *Hand grips.* Motorcycles or motorized bicycles shall have handlebars equipped with hand grips of nonslip design or material.

f. *Suspension.* Motorcycles or motorized bicycles shall be equipped with a suspension system, and the suspension system shall be applicable to at least the front wheel. The suspension system(s) shall be designed for the purpose of maximum vehicle stability.

450.4(9) *Fuel system.* All fuel system components, including the tank, pump, tubing, hoses, clamps, etc., shall be securely fastened to the motorcycle or motorized bicycle so as not to interfere with vehicle operation and be leakproof when the vehicle is in its normal operating attitude. Fuel lines and tank shall be positioned in a manner so as to prevent their contact with the engine head, manifold, exhaust system, or other high temperature surfaces or moving components. The fuel system shall be adequately vented and provided with a fuel shutoff valve located between the fuel supply and the engine.

450.4(10) *Exhaust system.* Motorcycles or motorized bicycles with an internal combustion engine shall be equipped with an exhaust system incorporating a muffler or other mechanical device for the purpose of reducing engine noise. Cutouts and bypasses in the exhaust system are prohibited. The system shall be leakproof and all components shall be securely attached to the vehicle and located so as not to interfere with the operation of the motorcycle or motorized bicycle. Shielding shall be provided to prevent inadvertent contact with the exhaust system by the operator and/or passenger during normal operations.

450.4(11) *Mirrors.* Every motorcycle and motorized bicycle shall be equipped with at least one mirror of unit magnification, securely affixed to the handlebar and capable of adjustment within a range that will reflect an image that includes at least the horizon and the road surface to the rear of the motorcycle or motorized bicycle. The mirror shall consist of a minimum reflective surface of 10 square inches. All mirrors shall be regular in shape (circular, oval, rectangular, or square) and shall not contain sharp edges or projections capable of producing injury.

450.4(12) *Fenders.* Rescinded IAB 9/8/10, effective 10/13/10.

450.4(13) *Seat or saddle.* A seat or saddle securely attached to the vehicle shall be provided for the use of the operator. The seat or saddle shall not be less than 20 inches above a level road surface when measured to the lowest point on top of the seat or saddle cushion with the driver seated in a driving position. The seat or saddle adjustment locking device shall prevent relative movement of the seat from its selected and secured position under all normal vehicle operating conditions.

450.4(14) *Horn.* Every motorcycle and motorized bicycle shall be equipped with at least one horn. The horn shall be electrically operated and shall operate from a control device located on the handlebar. When operated the horn shall be audible for at least 200 feet.

450.4(15) *Speedometer and odometer.* Every motorcycle and motorized bicycle shall be equipped with a properly operating speedometer and odometer calibrated in miles per hour and miles respectively and shall be fully illuminated when the headlamp(s) is activated.

450.4(16) *Lighting equipment.* Every motorcycle and motorized bicycle shall be equipped with at least one headlamp but not more than two, mounted securely. Headlamp(s) shall be mounted not less than 24 inches, nor more than 54 inches, above the level road surface. A headlight beam indicator light shall be located within the operator's field of vision and illuminated automatically when the high beam of the headlamp is actuated. Every motorcycle and motorized bicycle shall be equipped with a tail and brake light assembly and a license plate light. All original lamps and lighting equipment provided on the motor vehicle by the manufacturer shall be maintained in working condition or shall be replaced with equivalent equipment.

450.4(17) *Footrest.* Every motorcycle shall be equipped with two footrests, one on each side of the vehicle and shall be provided for each designated seating position. Footrests shall be located so as to provide reasonable accessibility. Footrests shall be able to fold upward if they protrude beyond the side of the motorcycle's fixed items. Every motorized bicycle shall be equipped with either two footrests or two pedals, one on each side of the vehicle, to provide reasonable accessibility.

450.4(18) *Highway bars.* If a motorcycle or motorized bicycle is so equipped, highway bars (alternate footrests) shall be located at a maximum distance of 26 inches from the foot controls and shall not interfere with the operation of the foot controls.

This rule is intended to implement Iowa Code section 321.23.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—450.5(321) Rescinded IAB 3/26/97, effective 4/30/97.

761—450.6(321) Safety requirements for the movement of implements of husbandry on a roadway. The following standards are minimum safety requirements for the movement of implements of husbandry on a roadway.

450.6(1) *Towing standard.* No power unit operated by a retail seller or manufacturer shall tow more than one implement of husbandry from the manufacturer to the retail seller, from the retail seller to the farm purchaser, or from the manufacturer to the farm purchaser.

450.6(2) *Equipment standards.*

a. Braking. The towing unit or self-propelled implement of husbandry operated upon a highway shall be equipped with a braking device(s) which can control the movement of and stop the vehicle(s). When the vehicle is traveling 20 miles per hour, the braking device shall be adequate to stop the vehicle or vehicles within 30 feet if the gross weight is less than 5000 pounds and 50 feet if the gross weight is 5000 pounds or more.

b. Rearview mirror. The towing vehicle or self-propelled implement of husbandry shall be equipped with a rearview mirror that reflects to the operator a view of the highway for a distance of at least 200 feet to the rear of the vehicle(s). The rearview mirror equipment standard may be met by the use and installation of a temporary rearview mirror.

c. Lighting. The towing or towed vehicle or self-propelled implement of husbandry shall be equipped with at least one rear taillight which exhibits a red light plainly visible from a distance of 500 feet to the rear. The rear taillight equipment standard may be met by the use and installation of a temporary rear taillight. If an implement of husbandry is being towed by a vehicle which is equipped with brake lights, the towed unit must also have brake lights, constructed and located on the implement of husbandry so as to give a signal of intention to stop. The light shall be red or yellow in color. The signal shall be plainly visible in normal sunlight and at night from a distance of 100 feet to the rear and may be met by the use and installation of a temporary light.

d. Turn signal. The towing or towed vehicle or self-propelled implement of husbandry shall be equipped with a turn-signal device that operates in conjunction with or separately from the rear taillight. The signal shall be plainly visible and understandable from a distance of 100 feet to the rear. The turn-signal device equipment standard may be met by the use and installation of a temporary turn-signal device.

e. Tires. Pneumatic tires shall not be used if any part of the ply or cord is exposed; if there is any bump, bulge, or separation; if there is a tread design depth of less than one-sixteenth inch; if there is marking "not for highway use" or "unsafe for highway use."

f. Warning devices. A towing vehicle or self-propelled implement of husbandry shall be equipped with flares, red reflectors or reflective triangles if operated after sunset and before sunrise.

g. Drawbar. When one vehicle is towing another vehicle, the drawbar shall be of sufficient strength to pull the weight towed and shall be fastened to the frame of the towing unit so as to prevent sidesway. In addition to the principal connection there shall be a safety chain which shall be fastened so it is capable of holding the towed vehicle if the principal connection fails.

This rule is intended to implement Iowa Code section 321.383.

761—450.7(321) Front windshields, windows or sidewings.

450.7(1) *Prohibition.* Pursuant to Iowa Code subsection 321.438(2), a person shall not operate on the highway a motor vehicle equipped with a front windshield, a side window to the immediate right or left of the driver (front side window) or a sidewing forward of and to the left or right of the driver (front sidewing) which is excessively dark or reflective.

450.7(2) *Standard of transparency.* "Excessively dark or reflective" means that the windshield, front side window or front sidewing does not meet a minimum standard of transparency of 70 percent light transmittance.

450.7(3) *Dark window exemption.*

a. Effective July 4, 2012, no exemption shall be granted from the minimum standard of transparency set forth in subrule 450.7(2).

b. A motor vehicle fitted with a front windshield, a front side window or a front sidewing with less than 70 percent but not less than 35 percent light transmittance before July 4, 2012, may continue to be maintained and operated with a front windshield, a front side window or a front sidewing with less than 70 percent but not less than 35 percent light transmittance on or after July 4, 2012, so long as the vehicle continues to be used for the transport of a passenger or operator who obtained Form 432020, which documented a medical need for such reduced transparency, and was signed by the person's physician before July 4, 2012. Form 432020 must be carried at all times in the vehicle to which the exemption applies. At such time as the vehicle is no longer used for the transport of the passenger or operator who is the subject of Form 432020, the exemption expires and may not be renewed. The owner of the vehicle to which the exemption applied must return the vehicle to conformance with the minimum standard of transparency set forth in subrule 450.7(2) within 60 days of expiration of the exemption.

c. "Physician" as used in this rule means a person licensed under Iowa Code chapter 148, 151 or 154.

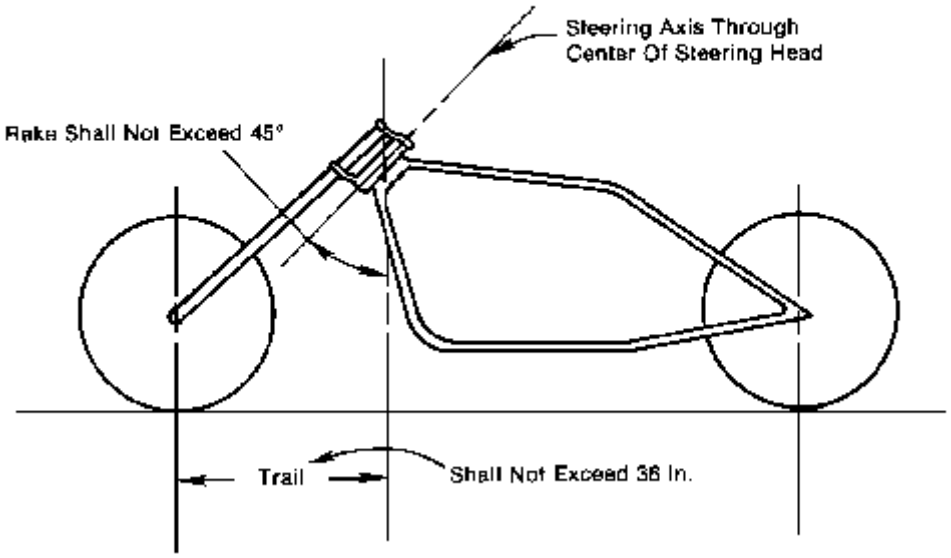
This rule is intended to implement Iowa Code section 321.438.

[**ARC 0136C**, IAB 5/30/12, effective 7/4/12]

APPENDIX TO RULE
761—450.2(321)
Rescinded IAB 9/8/10, effective 10/13/10

APPENDIX TO RULE
761—450.4(321)

MOTORCYCLE FRONT END GEOMETRY



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[Filed emergency 8/8/90—published 9/5/90, effective 8/10/90]
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[Filed 10/28/98, Notice 8/26/98—published 11/18/98, effective 12/23/98]

[Filed 6/19/02, Notice 4/17/02—published 7/10/02, effective 8/14/02]
[Filed ARC 9048B (Notice ARC 8869B, IAB 6/30/10), IAB 9/8/10, effective 10/13/10]
[Filed ARC 0136C (Notice ARC 0068C, IAB 4/4/12), IAB 5/30/12, effective 7/4/12]

CHAPTER 451
EMERGENCY VEHICLE PERMITS

[Prior to 6/3/87, see Transportation Department[820]—(07,E) Ch 2]

761—451.1(321) Information. Information about certificates of designation for authorized emergency vehicles is available from the office of vehicle services. The address of the office of vehicle services is: Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278.

This rule is intended to implement Iowa Code sections 321.2 and 321.3.

761—451.2(321) Authorized emergency vehicle certificate.

451.2(1) *Application.* Application for a certificate which designates a privately owned vehicle as an authorized emergency vehicle shall be submitted to the office of vehicle services on a form prescribed by the department. Iowa Code section 321.451 lists the types of privately owned vehicles that may be issued a certificate of designation and the requirements for designation.

451.2(2) *Expiration.* The certificate of designation expires at midnight on the thirty-first day of December five years from the year in which it was issued.

451.2(3) *Limitation.* A certificate issued to a towing or recovery vehicle is valid only when the vehicle is at the scene of an emergency, unless otherwise authorized by a law enforcement officer.

This rule is intended to implement Iowa Code section 321.451.

[761—Chapter 451 appeared as Ch 2, Department of Public Safety, 1973 IDR]
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[Filed 10/11/07, Notice 8/15/07—published 11/7/07, effective 12/12/07]

CHAPTER 452
REFLECTIVE DEVICES ON SLOW-MOVING VEHICLES

[Appeared as Ch 3, Department of Public Safety, 1973 IDR]
[Prior to 6/3/87, Transportation Department[820]—(07,E) Ch 3]

761—452.1(321) Slow-moving vehicle. Rescinded IAB 4/5/00, effective 5/10/00.

761—452.2(321) Required equipment. Rescinded IAB 4/5/00, effective 5/10/00.

761—452.3(321) Alternative reflective device. If a person operating a vehicle drawn by a horse or mule objects for religious reasons to using a reflective device that complies with the standards of the American Society of Agricultural Engineers, the vehicle may be identified by an alternative reflective device that is in compliance with the following:

452.3(1) The alternative reflective device shall consist of one-inch-wide strips applied to the rear of the vehicle. The combined length of the strips shall be at least 72 inches. The strips, when applied, shall approximate the outline of the vehicle.

452.3(2) The reflective material may be black, gray, silver or white in color, but must reflect white when illuminated by other vehicles' headlamps.

452.3(3) The reflective material shall be visible from a distance of not less than 500 feet from the rear of the vehicle when illuminated by other vehicles' headlamps.

452.3(4) The reflective material shall be kept free of dirt and debris.

This rule is intended to implement Iowa Code Supplement section 321.383(2).

[Filed 2/22/72; transferred to Department of Transportation 7/1/75]
[Filed 5/11/87, Notice 3/11/87—published 6/3/87, effective 7/8/87]
[Filed 3/9/00, Notice 1/26/00—published 4/5/00, effective 5/10/00]

CHAPTER 453
WEIGHT EQUALIZING HITCH AND SWAY CONTROL DEVICES FOR TRAILERS

Rescinded IAB 1/23/02, effective 2/27/02

CHAPTER 454
TOWING WRECKED OR DISABLED VEHICLES

761—454.1(321) Definitions. For the purpose of Iowa Code section 321.463, the following definitions are established:

"Tow" means the transportation by a vehicle designed to tow or transport wrecked or disabled vehicles directly from the scene of a crash, disablement, or impoundment to any place of repair, storage, or safekeeping.

"Wrecked or disabled vehicle" means a vehicle upon a highway involved in a crash or having mechanical failure, broken parts, or other defects, any of which prevent the vehicle from moving safely under its own power, or any vehicle impounded by the order of a peace officer.

This rule is intended to implement Iowa Code section 321.463.

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CHAPTERS 455 to 479
Reserved

CHAPTER 480
ABANDONED VEHICLES

[Prior to 6/3/87, Transportation Department[820]—(07,D) Ch 2]

761—480.1(321) Definitions. The definitions in Iowa Code section 321.1 and subsection 321.89(1) apply to this chapter. In addition:

"Abandoned vehicle," when used in Iowa Code section 321.89 and this chapter of rules, means only those vehicles subject to registration as referred to in Iowa Code section 321.18.

"Public auction," when used in Iowa Code section 321.89, means a conventional oral auction setting open to the general public where bidders register and bring the required bid deposit with them to the auction on the day and at the location and time specified for the sale. Bidders bid against each other until bidding stops. The high bidder is awarded the property provided the bid represents the fair market value of the property.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—480.2(321) Location. Information, forms and instructions are available from: Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278 or the department's Web site at http://www.iowadot.gov/mvd.

[**ARC 9048B**, IAB 9/8/10, effective 10/13/10]

761—480.3(321) General requirements.

480.3(1) A police authority shall report an abandoned vehicle to the department only if it is remitting unclaimed profits or requesting reimbursement.

480.3(2) A private entity designated by a police authority to process an abandoned vehicle may request reimbursement of expenses that are in excess of the proceeds of the sale of the abandoned vehicle.

480.3(3) To request reimbursement, the police authority or private entity shall complete and submit to the department an abandoned vehicle report on a form prescribed by the department.

480.3(4) A police authority shall also complete and submit the prescribed abandoned vehicle report form when remitting unclaimed profits.

480.3(5) The department shall reimburse the police authority or private entity only for losses incurred in disposing of a vehicle abandoned on a public highway.

480.3(6) If a police authority has designated a private entity to process an abandoned vehicle, the police authority shall provide to the private entity a certificate of disposal form prescribed by the department. On the form, the police authority shall provide a description of the vehicle and list the name and address of the last registered owner, all known lienholders of record, and any other known claimants to the vehicle.

480.3(7) If a police authority has designated a private entity to process an abandoned vehicle, the police authority is eligible for reimbursement of only the towing expense.

761—480.4(321) Abandoned vehicle report.

480.4(1) *Impound report.* The police authority or private entity shall submit with the abandoned vehicle report the police authority's impound report showing the date the vehicle was taken into custody and providing a complete description of the vehicle. The date the vehicle was taken into custody is the date of abandonment unless the police authority declares a different date of abandonment. The abandonment date shall be used to calculate the 20-day notification period to the owner and lienholder(s).

480.4(2) *Notice.* The police authority or private entity shall submit with the abandoned vehicle report a copy of the notice sent to the owner and lienholder(s) or proof of publication of notice. The department shall not reimburse any loss unless the notice was sent or published within the required 20 days.

480.4(3) *Certificate of disposal.* A private entity shall submit with the abandoned vehicle report a copy of the completed certificate of disposal.

480.4(4) *Receipts.* The police authority or private entity shall submit with the abandoned vehicle report detailed receipts showing payment for each expense incurred. A receipt must identify the date(s) of occurrence of the expense; for example, a receipt for storage must identify the beginning and ending

dates. A receipt for both towing and storage must show separately the towing charge and the storage charge per day. Reimbursement shall be limited as follows:

a. Towing—$50 per vehicle.

b. Notice—actual postage or publication cost.

c. Storage—$5 per day, not to exceed 45 days per vehicle.

(1) If a police authority provides its own storage facility for abandoned vehicles, the department shall not reimburse the police authority for use of that facility.

(2) When the vehicle is held for an evidentiary hearing for more than 45 days, the police authority or private entity shall submit proof of the evidentiary hearing to obtain reimbursement.

d. Auction—10 percent of the vehicle's sale price or $10 per vehicle, whichever is less. A receipt is not required for auction expense reimbursement.

480.4(5) *Towing only.* To request reimbursement of only the towing expense, the police authority shall report the abandoned vehicle to the department on the prescribed abandoned vehicle report form. The form shall be accompanied by a receipt showing payment for the towing expense incurred. Reimbursement for towing is limited to $50 per vehicle.

761—480.5(321) Time limits.

480.5(1) *Report claiming reimbursement.* A claim for reimbursement must be submitted to the department within 90 days after the sale or disposal of the abandoned vehicle.

480.5(2) *Report remitting unclaimed profits.*

a. If proceeds from the sale or disposal of a vehicle are not claimed by the owner or lienholder(s) during the specified 90 days, the police authority shall send the proceeds to the department within 10 days after the claiming period expires.

b. If personal property is disposed of pursuant to Iowa Code section 321.89, the proceeds are exempt from this rule.

These rules are intended to implement Iowa Code sections 321.89 and 321.90.

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CHAPTERS 481 to 499
Reserved

MOTOR CARRIERS

CHAPTER 500
INTERSTATE REGISTRATION AND OPERATION OF VEHICLES

[Prior to 6/3/87, Transportation Department[820]—(07,F) Ch 1]

761—500.1(326) Definitions. The definitions in Iowa Code section 326.2 apply to this chapter. In addition:

"Cab card" means a registration receipt that describes the vehicle and reflects the weight in each jurisdiction in which a vehicle is registered for operation.

"Credential" means a plate, validation sticker, cab card or temporary authority.

"International Registration Plan (IRP)" means a vehicle prorate registration reciprocity agreement among jurisdictions.

"Power unit" for registration purposes means a bus, truck, truck tractor, road tractor or tractor.

"Qualified fleet owner" means a motor carrier who has received written approval by the department to self-certify IRP credential destruction.

1. The motor carrier must meet the following requirements to receive department approval:

- A minimum of five years' experience with IRP registration in any jurisdiction;
- A satisfactory IRP payment history. A satisfactory payment history includes, but is not limited to, no suspension of IRP registration in the last five years due to late payment or returned check because of insufficient funds; and
- A satisfactory rating from the U.S. Department of Transportation in the previous five years.

2. A motor carrier subject to a federal out-of-service order in the current year or any of the four prior years shall not be eligible to self-certify IRP credential destruction.

"Registrant" means a person, firm or corporation in whose name or names a vehicle is properly registered.

"Registration year" means the period January 1 through December 31 for vehicles registered under the International Registration Plan.

"Self-certification of IRP credential destruction" means a signed statement that is completed by a qualified fleet owner certifying all IRP credentials have been destroyed.

"Temporary authority" means a document that allows the vehicle to be operated until a plate and cab card are issued. "Temporary authority" describes the vehicle and lists the weight for each jurisdiction in which the vehicle is registered for operation.

This rule is intended to implement Iowa Code sections 326.2, 326.33 and 326.15 as amended by 2004 Iowa Acts, chapter 1013, section 32.

761—500.2(17A,326) General information.

500.2(1) *Information and location.* Applications, forms and information on interstate registration and operation of vehicles are available by mail from the Office of Motor Carrier Services, 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; or by facsimile at (515)237-3225.

500.2(2) *Method of operation.* The operations of the department's motor vehicle division relating to reciprocity and prorate registration shall be conducted in accordance with the International Registration Plan and the Code of Iowa.

500.2(3) *Organizational data.* The office of motor carrier services of the motor vehicle division is authorized pursuant to Iowa Code chapter 326 to:

a. Enter into reciprocity agreements with other jurisdictions. These agreements exempt nonresidents from the registration and registration fee requirements of Iowa Code chapter 321.

b. Enter into reciprocity prorate agreements with other jurisdictions. The department joined the International Registration Plan (IRP). Such plan and any revisions thereto are hereby incorporated into this chapter. A copy of the agreement may be obtained by contacting the office of motor carrier services. Under this agreement, the office of motor carrier services shall:

(1) Compute and collect registration fees due this state under prorate registration agreements; and

(2) Issue registration plates, validation stickers, cab cards, temporary authority, and trip permits to qualified registrants.

This rule is intended to implement Iowa Code sections 17A.3, 326.5 and 326.6.

761—500.3(17A,326) Waiver of rules. In accordance with 761—Chapter 11, the director of transportation may, in response to a petition, waive provisions of this chapter. A waiver shall not be granted unless the director finds that special or emergency circumstances exist. "Special or emergency circumstances" means one or more of the following:

500.3(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.

500.3(2) Circumstances where the movement is necessary to cooperate with national defense officials.

500.3(3) Circumstances where the movement is necessary to cooperate with public or private utilities in order to maintain their public services.

500.3(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.

500.3(5) Circumstances where weather or transportation problems create an undue hardship for citizens of the state of Iowa.

500.3(6) Circumstances where movement involves emergency-type vehicles.

500.3(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.

This rule is intended to implement Iowa Code sections 17A.9A and 326.33.

761—500.4(326) Renewal for IRP registration. Renewal forms for the coming year are prepared automatically and distributed in November to all registrants who maintained an active IRP fleet with Iowa during that year. If the registrant does not receive a renewal application by December 1, the registrant is responsible for informing the office of motor carrier services and for making the necessary arrangements for renewal of the registration. Renewal applications should be submitted to the office of motor carrier services no later than January 1 to ensure adequate time for processing. A renewal is considered timely filed when it is received by the office of motor carrier services or postmarked on or before January 31.

500.4(1) The renewal must include:

a. A completed and signed mileage schedule and vehicle schedule(s).

b. An updated Federal Highway Administration motor carrier identification information report (MCS 150).

c. Necessary title documentation.

d. A schedule of heavy highway vehicles (Form 2290).

500.4(2) Additional renewal procedures.

a. Units being removed from the fleet shall be deleted on the renewal vehicle schedule and the plates, cab cards and stickers must be returned. In lieu of returning the plates, cab cards and stickers, a qualified fleet owner may submit a self-certification of IRP credential destruction to the office of motor carrier services on or before December 31. Registration renewal fees for deleted units shall be assessed unless the self-certification of IRP credential destruction or the plates, cab cards and stickers are received by the office of motor carrier services or postmarked on or before December 31. Operating a vehicle with credentials that were self-certified as destroyed shall result in suspension of the self-certification privilege.

b. Units being stored shall be marked "stored" on the renewal vehicle schedule and the plates, cab cards and stickers must be returned in accordance with rule 761—500.5(321).

This rule is intended to implement Iowa Code sections 326.6, 326.14 and 326.15 as amended by 2004 Iowa Acts, chapter 1013, section 32.

761—500.5(321) Deadline for placing a vehicle in storage. The registrant of a currently registered vehicle may at any time request that a vehicle be put into storage. The registrant must complete a vehicle schedule and return it with the plate, cab card and sticker to the office of motor carrier services. The vehicle schedule, plate, cab card and sticker must be received or postmarked on or before January 31 to stop the registration fee from being assessed for the renewal year. The office of motor carrier services shall destroy the plate and return the cab card to the registrant with the word "stored" stamped on it. Placing the vehicle in storage stops penalties on registration fees. When the vehicle is taken out of storage, the vehicle shall be assessed for the current annual registration fee.

This rule is intended to implement Iowa Code sections 321.126 and 321.134.

761—500.6(321,326) Penalty for late filing of renewal. Renewals postmarked or received in the office of motor carrier services after January 31 are filed late and a 5 percent penalty shall be assessed. An additional 5 percent penalty shall be assessed on the first of each month thereafter until the renewal is filed. The penalty is calculated based on the following:

500.6(1) If the renewal is filed on or before May 19, the penalty shall be calculated on all trailer fees for the current year, on the first half of the Iowa power unit registration fees (both permanent and nonpermanent plated vehicles), and all registration fees due the other jurisdictions.

500.6(2) If the renewal is filed on or after May 20, the penalty shall be calculated on all registration fees due all jurisdictions for the current year only.

This rule is intended to implement Iowa Code sections 321.134 and 326.14.

761—500.7(326) IRP payment methods. A registrant with a good Iowa payment history may pay by cash, check, wire transfer or any other means offered by the department. Payment should be made payable to the Iowa Department of Transportation. All other registrants must submit fees by guaranteed funds. Examples of guaranteed funds are: money order, cashier's check, certified check or cash.

This rule is intended to implement Iowa Code section 326.10A.

761—500.8(326) IRP plate. Upon payment of appropriate fees, the office of motor carrier services shall issue one IRP nonexpiring plate for each power unit to be mounted on the front of the power unit and one nonexpiring trailer plate to be mounted on the rear of the trailer.

This rule is intended to implement Iowa Code sections 326.14 and 326.17.

761—500.9(326) Fleet additions and temporary authority. A registrant may submit a vehicle schedule to change the fleet operations. A temporary authority may be issued to operate a vehicle(s) for the period of time required to process the vehicle schedule. The temporary authority shall not exceed 60 days. However, at the discretion of the permitting authority, the 60-day temporary authority may be extended if there are extenuating circumstances. Once temporary authority is generated and used, fees shall be due and the invoice may only be canceled if an error was made by the department or there were extenuating circumstances for which nonuse can be proven.

This rule is intended to implement Iowa Code section 326.11 as amended by 2005 Iowa Acts, House File 216, section 41.

761—500.10(326) Fleet deletions. A registrant may remove vehicles from the fleet at any time after the commencement of the registration year or from the second-half invoice. Vehicles shall be deleted on the vehicle schedule, and the plates, cab cards and stickers must be returned to the office of motor carrier services at the time of deletion. In lieu of returning the plates, cab cards and stickers, a qualified fleet owner may submit a self-certification of IRP credential destruction on or before the vehicle(s) deletion date to the office of motor carrier services. Second-half fees for deleted vehicles shall be assessed unless the self-certification of IRP credential destruction or the plates, cab cards and stickers are received by the office of motor carrier services or postmarked on or before June 30. Operating a vehicle with credentials that were self-certified as destroyed shall result in suspension of the self-certification privilege.

This rule is intended to implement Iowa Code sections 326.12 and 326.15 as amended by 2004 Iowa Acts, chapter 1013, section 32.

761—500.11(326) Voluntary cancellation of registration. A registrant may cancel an application for IRP registration (the IRP vehicle schedule) if the registrant notifies the office of motor carrier services within 15 days of the invoice date. The notice shall state the reason for cancellation, the licensing status and ownership and be signed by the registrant or its representative. If notice is not received within 15 days or, if a temporary permit was issued in accordance with 761—500.9(326), all registration fees must be paid in full.

This rule is intended to implement Iowa Code sections 326.6 and 326.11.

761—500.12(326) Policy on registration credit. If a vehicle is deleted from the IRP fleet and replaced with another vehicle, registration credit may be applied to IRP fees due on the replacement vehicle. The vehicle schedule identifying the added and deleted vehicles must be submitted to the office of motor carrier services. The deletion must take place on or before the replacement unit's registration fees are required to be effective by law. In accordance with Iowa Code section 326.12, credit shall not be allowed if the registrant is filing late.

This rule is intended to implement Iowa Code section 326.12.

761—500.13(326) Penalty for late filing of vehicle schedule.

500.13(1) A late filing penalty of 5 percent shall be assessed to the vehicle if a vehicle schedule is not filed within 30 days of:

a. The purchase of a new or used vehicle;

b. A vehicle's being brought into Iowa from out of state to be registered; or

c. A vehicle's being first operated with the exemption allowed under Iowa Code section 321.20A.

500.13(2) The 5 percent penalty is calculated based on the following:

a. If the vehicle schedule is filed on or before May 19, the penalty shall be calculated on all trailer fees for the current year, on the first half of the Iowa power unit registration fees (both permanent and nonpermanent plated vehicles) and all registration fees due the other jurisdictions.

b. If the vehicle schedule is filed on or after May 20, the penalty shall be calculated on all registration fees due all jurisdictions for the current year only.

500.13(3) An additional 5 percent penalty shall be assessed on the first of each month thereafter until the vehicle schedule is filed.

500.13(4) The department may collect intrastate registration fees and penalties when registering a delinquent vehicle to bring the vehicle fees current before allowing the IRP registration of the vehicle.

This rule is intended to implement Iowa Code section 326.11.

761—500.14(326) Renewal and vehicle schedule late payment penalty. Payment of current registration year invoices, except second-half invoices, shall be considered late and a 5 percent penalty shall be assessed to all payments not received or postmarked within 30 days of the invoice date or within 30 days of January 31 of that registration year, whichever is later. An additional 5 percent penalty shall be assessed on the first of each month thereafter that the payment has not been received.

500.14(1) The penalty shall be calculated based on the following:

a. If payment is received on or before May 19, the penalty shall be calculated on all trailer fees for the current year, on the first half of the Iowa power unit registration fees (both permanent and nonpermanent plated vehicles) and all fees due the other jurisdictions.

b. If payment is received on or after May 20, the penalty shall be calculated on all registration fees due all jurisdictions for the current year only.

500.14(2) An additional 5 percent penalty shall be assessed on the first of each month thereafter that the fees remain unpaid.

This rule is intended to implement Iowa Code section 326.16.

761—500.15(321) Deadline for payment of first-half fee. Iowa-based registrants with motor vehicles that are subject to IRP registration and are eligible to pay registration fees in semiannual installments, pursuant to Iowa Code section 321.134, shall be extended this privilege through May 19 of the current

registration year. On May 20 and thereafter, payments shall be accepted only in the amount of the annual registration fee pursuant to Iowa Code sections 321.105, 321.106 and 321.134.

This rule is intended to implement Iowa Code section 321.134.

761—500.16(321,326) Second-half late payment penalty. Payment of second-half invoices shall be considered late and a 5 percent penalty shall be assessed if payment is not received or postmarked before August 1. An additional 5 percent penalty shall continue to accrue on the first of each month thereafter until the second-half invoice(s) is paid. The penalty is calculated on the total of the second-half invoice.

This rule is intended to implement Iowa Code sections 321.134 and 326.16.

761—500.17(326) Duplicate credentials. The fees for duplicate credentials are as follows:

500.17(1) A replacement cab card is $3.

500.17(2) A replacement plate including the cab card is $8. If applicable, a mailing fee will also be assessed.

500.17(3) A validation sticker replacement including the cab card is $3.50.

This rule is intended to implement Iowa Code section 326.22.

761—500.18(326) Suspension for nonpayment of registration fees. The office of motor carrier services shall send a notice of delinquency to all registrants whose registration fees are 30 days overdue. The notice of delinquency will state that the registrant's IRP registrations shall be suspended unless payment is received within 30 days. When a registrant is under suspension, all of the registrant's Iowa-based IRP vehicles shall be suspended.

This rule is intended to implement Iowa Code section 326.16.

761—500.19(326) Suspension of registration if payment is dishonored by a financial institution. The department may suspend a registrant's registration and plates if the registrant's payment is not honored in accordance with Iowa Code sections 321.101 and 326.10A.

This rule is intended to implement Iowa Code section 326.10A.

761—500.20(326) Making claim for refund. A refund of fees previously paid for the registration of vehicles may be made in accordance with Iowa Code sections 321.126, 321.127, 321.173 and 326.15 as amended by 2004 Iowa Acts, chapter 1013, section 32. A claim for refund on an IRP registered vehicle(s) may be obtained from the office of motor carrier services. In lieu of returning the plates, a qualified fleet owner may submit a self-certification of IRP credential destruction on or before the vehicle's deletion date to the office of motor carrier services.

This rule is intended to implement Iowa Code sections 321.126, 321.127 and 326.15 as amended by 2004 Iowa Acts, chapter 1013, section 32.

761—500.21(326) Registration expiration and enforcement dates. The annual registration of IRP vehicles expires on December 31 at midnight. Credentials for the current year for vehicles being renewed under IRP shall be displayed by 12:01 a.m. on March 15.

This rule is intended to implement Iowa Code section 326.14.

761—500.22(326) Registration of vehicles with non-Iowa titles. Registrants applying for registration for non-Iowa titled vehicles shall submit to the office of motor carrier services with the application or payment as specified in rule 761—500.7(326) either a photocopy of the non-Iowa title or a copy of the title application if the title has not been issued. If a jurisdiction does not issue titles, a photocopy of the bill of sale or a copy of the Canadian registration shall accompany the application or payment.

This rule is intended to implement Iowa Code section 326.45.

761—500.23(326) Record retention.

500.23(1) *Record retention requirement and penalty.* Iowa IRP registrants shall preserve the records upon which their registration is based as required by the IRP and Iowa Code section 326.19. The department may assess a penalty upon registrants who have failed to maintain proper records.

500.23(2) *Mileage records.* Mileage records shall be preserved for the current registration year and the three preceding registration years. Mileage summaries must be supported by individual vehicle mileage records to provide an auditable system.

500.23(3) *Source documents.* Individual vehicle mileage records as specified in the IRP audit guidelines shall be acceptable to verify fleet mileage. The individual vehicle mileage record must include all of the following:

a. Date of trip (starting and ending dates);

b. Trip origin and destination;

c. Routes of travel;

d. Total trip miles;

e. Mileage by jurisdiction; and

f. Unit number or vehicle identification number.

Odometer readings may be substituted for routes of travel if the substitution is approved by the department.

500.23(4) *Reaudit and assessment.* If an audit determines that a registrant has not maintained adequate mileage records, the following procedures shall apply:

a. The department shall send an audit report to the registrant, detailing the areas of noncompliance.

b. After a three-month grace period, the department shall reaudit the registrant's records to monitor improvement. If the registrant's record-keeping system is not in compliance at the time of the reaudit, the department shall assess an audit penalty. The penalty shall equal 20 percent of the registrant's projected full Iowa fees for the registration year audited.

c. After an initial billing, the registrant shall be subject to periodic reaudits, and penalties may be assessed for up to three full years of subsequent noncompliance, pursuant to the IRP agreement.

This rule is intended to implement Iowa Code sections 326.19 and 326.19A.

761—500.24(326) Trip permits. The registrants may meet the registration requirements of Iowa Code chapter 326 by operating under a trip permit. However, moves that are intrastate or exceed legal dimensions or weight and operate under permit as specified in Iowa Code chapter 321E shall not be allowed. Trip permits may be obtained as follows:

500.24(1) The registrant, permit service or process agent may request trip permits by facsimile, telephone, the Internet or mail from the office of motor carrier services. Such requests shall include the appropriate permit fee remittance. Registrants purchasing trip permits in advance of use may not return unused permits for a refund.

500.24(2) Permits may be purchased directly from truck stops in several locations across the state that have executed a "Trip Permit Agreement." The registrant may obtain a list of participating truck stops by contacting the office of motor carrier services.

This rule is intended to implement Iowa Code sections 326.23 and 326.46.

761—500.25(326) Electronic information. To the greatest extent possible, the office of motor carrier services shall maintain in electronic form all records required under this chapter. The retention period for electronic records must follow the guidelines of the IRP.

500.25(1) *IRP vehicle transaction.* The office of motor carrier services shall destroy paper copies of IRP vehicle transaction requests 90 days after the IRP invoice is generated.

500.25(2) *Heavy highway vehicle schedule.* The office of motor carrier services shall destroy paper copies of the heavy highway vehicle schedule once the electronic record is updated.

500.25(3) *MCS 150.* The office of motor carrier services shall forward the updated Federal Highway Administration's motor carrier identification information (MCS 150) to the Federal Motor Carrier Safety

Administration office after the update is marked on the electronic record. The office of motor carrier services shall not retain paper copies of this form.

This rule is intended to implement Iowa Code section 326.33.

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CHAPTERS 501 to 504
Reserved

CHAPTER 505
INTERSTATE MOTOR VEHICLE FUEL LICENSES AND PERMITS

[Prior to 6/3/87, Transportation Department[820]—(07,F) Ch7]

761—505.1(452A) Definitions.

"Department" means the Iowa department of transportation.

"Fuel(s)" means and includes motor fuel and special fuel as defined in Iowa Code section 452A.2.

"Fuel license" or *"license"* means an International Fuel Tax License issued pursuant to Iowa Code section 452A.53.

"IFTA member jurisdiction" means a jurisdiction that is a member of the International Fuel Tax Agreement. A list of jurisdictions and their membership statuses may be obtained by contacting the office of motor carrier services.

"International Fuel Tax Agreement (IFTA)" is a multijurisdiction agreement for the administration of motor fuel tax laws for vehicles operated in multiple member jurisdictions.

"Lease" means a contract or agreement by which a vehicle owner (lessor) provides a vehicle to a person or company (lessee) for use during a specified period of time.

1. *"Long-term lease"* means a lease for a period of 30 days or more.
2. *"Short-term lease"* means a lease for a period of 29 days or less including trip leases. Back-to-back leases of 29 days or less are considered short-term leases.

"Licensee" means any person who holds a valid fuel license.

"Non-IFTA member jurisdiction" means a jurisdiction that is not a member of the International Fuel Tax Agreement. A list of jurisdictions and their membership statuses may be obtained by contacting the office of motor carrier services.

"Permittee" means any person who holds a valid temporary fuel permit.

"Qualified motor vehicle" means a motor vehicle or combination of vehicles used or designed to transport persons or property if any of the following apply:

1. The vehicle or combination of vehicles weighs more than 26,000 pounds.
2. The vehicle or combination of vehicles is registered for more than 26,000 pounds.
3. The power unit has three or more axles.

"Qualified motor vehicle" does not include recreational vehicles.

"Quarter" means calendar quarter, January 1 to March 31, April 1 to June 30, July 1 to September 30, and October 1 to December 31.

"Temporary fuel permit" or *"temporary permit"* means a single trip fuel permit issued pursuant to Iowa Code section 452A.53.

In addition to the preceding definitions, all of the definitions contained in Iowa Code sections 452A.2 and 452A.57 shall govern the rules in this chapter, where not inconsistent with the above definitions.

This rule is intended to implement Iowa Code sections 452A.2 and 452A.57.

761—505.2(452A) General information.

505.2(1) *Information and location.* Applications, forms and information on interstate motor vehicle fuel permits and licenses are available by mail from the Office of Motor Carrier Services, 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)237-3224; or by facsimile at (515)237-3354.

505.2(2) *Organizational data.* The office of motor carrier services of the department's motor vehicle division is authorized, pursuant to Iowa Code chapter 452A, division III, to:

a. Issue fuel licenses or temporary fuel permits.

b. Compute and collect interstate motor fuel taxes.

c. Refund overpayments of interstate fuel taxes.

d. Administer agreements with other jurisdictions for the collection and refund of interstate motor fuel tax. In accordance with this, the department has adopted the International Fuel Tax Agreement (IFTA). Such agreement and any revisions thereto are hereby incorporated into this chapter. International Fuel Tax Agreement governing documents do not create rights in the taxpayer. A copy of the agreement

may be obtained by contacting the office of motor carrier services or may be reviewed through the Internet at www.iftach.org.

505.2(3) *Waiver of rules.* In accordance with 761—Chapter 11, the director of transportation may, in response to a petition, waive provisions of this chapter. A waiver shall not be granted unless the director finds that special or emergency circumstances exist.

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

a. 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.

b. Circumstances where the movement is necessary to cooperate with national defense officials.

c. Circumstances where the movement is necessary to cooperate with public or private utilities in order to maintain their public services.

d. 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.

e. Circumstances where weather or transportation problems create an undue hardship for citizens of the state of Iowa.

f. Circumstances where the movement involves emergency-type vehicles.

g. 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.

This rule is intended to implement Iowa Code sections 452A.51 and 452A.56.

761—505.3(452A) General stipulations.

505.3(1) *IFTA member requirements.* In order to enter this state and not be in violation of Iowa Code section 452A.52, the operator of the qualified motor vehicle based in an IFTA member jurisdiction must do one of the following:

a. Possess a fuel license pursuant to Iowa Code section 452A.53.

b. Purchase a temporary fuel permit pursuant to Iowa Code section 452A.53 and subrule 505.3(9) when entering or before entering the state.

505.3(2) *Non-IFTA member requirements.* The operator of a qualified motor vehicle based in a non-IFTA member jurisdiction must do one of the following:

a. Possess a fuel license pursuant to Iowa Code section 452A.53.

b. Purchase a temporary fuel permit pursuant to Iowa Code section 452A.53 and subrule 505.3(9) when entering or before entering the state.

c. Enter the state with 30 gallons of fuel or less.

d. Enter the state with only Iowa tax paid fuel.

505.3(3) *Determination of fuel supply.* To determine if a vehicle has entered the state with more than 30 gallons of fuel, the total of all fuel in all tanks that could be used to fuel the power source of the vehicle shall be considered to reach a total gallonage. The fuel tank connected to a "reefer unit" which can neither be directly nor indirectly connected to the power source of the vehicle shall not be considered in arriving at the 30 gallon total.

505.3(4) *Fuel license.*

a. A fuel license may be obtained from the office of motor carrier services at a cost of $10. The application must be complete and include, but not be limited to, the following information:

(1) Name and address of company, corporation, or owner who operates or controls the qualified motor vehicle(s);

(2) Name(s) and address(es) of principal or corporate officers;

(3) Signature and telephone number of contact person; and

(4) A power of attorney if someone other than an officer or employee of the company will be completing quarterly reports or requesting information from the department.

b. The fuel license remains valid until canceled or revoked. The reporting and computation procedure for a fuel license allows for the payment of taxes due and a refund of any overpayment. All persons holding a valid fuel license must file quarterly reports with the department.

505.3(5) *Number of temporary permits or licenses required.* No vehicle may operate under more than one license or temporary permit at a time.

505.3(6) *Possession of the license or temporary permit.* A license or temporary permit must be carried in the vehicle to meet the requirements of Iowa Code chapter 452A. Several vehicles may be operated and reported under the same license by making a photocopy of the license and carrying it in each vehicle operating under said license. A license, copy of a license or temporary permit is void if altered. A duplicate license may be purchased from the office of motor carrier services for a charge of 50 cents.

505.3(7) *Cancellation and reissuance.*

a. If a qualified motor vehicle operating under a license is consistently operated only within the state or only outside the state, the licensee or the department shall request that the license be canceled for nonuse.

b. A fuel license that has been canceled for cause pursuant to Iowa Code section 452A.68 may be reinstated if a bond is filed.

505.3(8) *Bond requirements.*

a. Bonds shall be required in the following situations:

(1) When a previous fuel licensee is reapplying for a fuel license and has two or more outstanding fuel billings due for periods within the three years prior to date of application for a new license;

(2) When a previous fuel licensee is reapplying for a new fuel license and has failed to file two or more reports for a calendar year within the three years prior to date of application for a new license;

(3) When a previous fuel licensee is reapplying for a new license and has filed reports late for two or more reporting periods for a calendar year within the three years prior to date of application for a new fuel license; or

(4) When an audit indicates problems severe enough that a bond is required to protect the interests of member jurisdictions.

b. Bonds required shall be payable to the state of Iowa, in the minimum amount of $500 or the equivalent to at least twice the estimated average tax liability for the reporting period in which the licensee will be required to file a tax return, whichever is greater.

c. A copy of such bond shall be filed with the office of motor carrier services before a new license shall be issued. The office of motor carrier services shall be notified of bond cancellation 30 days before the cancellation is effective.

505.3(9) *Temporary fuel permits.*

a. A temporary fuel permit may be obtained by any person operating a qualified motor vehicle that is not otherwise covered by a license. The temporary permit may be obtained from the office of motor carrier services at a cost of $20. The temporary permit may also be obtained from permit services, processing agents or truck stops designated by the department. A designated list of authorized business locations may be obtained from the office of motor carrier services upon request. An application for a temporary permit may be made by phone, facsimile or electronically to the office of motor carrier services. Permittees who purchase temporary fuel permits in advance of use may not return unused permits for refund.

b. The temporary fuel permit is valid for 72 consecutive hours from the date and hour appearing on the temporary permit or upon departure from Iowa, whichever occurs first. A new temporary permit is required in order to reenter the state. While a permittee is operating under a temporary permit, unlimited travel is allowed within Iowa. No refund of tax paid on overpurchases of Iowa fuel is allowed.

c. Application may be made to the office of motor carrier services or at locations designated by the department. Alternate locations designated shall be approved "truck stops" as defined in Iowa Code section 326.23. These truck stops shall obtain prepaid temporary fuel permits at a cost of $20 each. If a truck stop subsequently ceases to sell temporary permits, the remaining unissued permits may be redeemed at the office of motor carrier services for the same price paid to obtain them. When a

temporary permit is purchased from the truck stop, it shall be issued at a price of $20 plus any specific cost attributable directly to that purchase. The effective date of a temporary fuel permit shall be the date and hour of purchase from the truck stop.

d. An application for a temporary fuel permit shall include, but is not limited to, the following information:

(1) The name and address of the person who owns or controls the vehicle;

(2) The make, year, serial number, license number, and unit number of the vehicle; and

(3) The address to which the temporary permit is to be sent, if applicable.

e. The temporary permit fee shall also accompany the application unless a method of collection upon delivery is requested.

f. A temporary permit shall not be transferred and is valid only for the carrier and the vehicle that are described on the permit. Once a temporary permit has been issued to a qualified motor vehicle, the purchase price is nonrefundable.

g. The temporary permit must be completed and carried in the qualified motor vehicle for which it is issued.

h. The 72-hour period for which the temporary permit is valid may be extended for "emergencies," such as extreme weather conditions when travel is not advisable or other instances, at the discretion of the office of motor carrier services.

i. A temporary fuel permit is invalid if the permittee has outstanding IFTA fuel tax bills.

j. Fees for a temporary permit may be paid by cash, company or personal check, or credit card through Vital Chek. At the discretion of the department, a payment procedure may also be established to allow for monthly billing. The following procedures shall apply:

(1) Applicants shall deposit sufficient funds with the permit-issuing authority to guarantee payment of fees for the average number of permits ordered monthly. Deposits may be used to pay outstanding fees due when payment is not received upon billing.

(2) Monthly billings shall be sent to account holders.

(3) All future permit activity may be suspended after written notice of suspension to the account holder when the following requirements are not met:

1. Payment shall be received within 30 days from the date of the billing.

2. All information listed on the account holder's permit shall match the information listed on the permit-issuing authority's permit.

(4) Account privileges may be permanently canceled for cause after written notice to the account holder.

(5) Any account holder in good standing may close the account and request return of the deposit. Accounts closed under these circumstances may be reopened.

505.3(10) *Qualified motor vehicles on lease.*

a. *Long-term lease.* Under normal circumstances the lessee is responsible for reporting all mileage and fuel activity unless otherwise specified by the lease. Supporting documentation including the lease must be made available to confirm the responsibility.

b. *Short-term lease.* The lessor is responsible for reporting all mileage and fuel activity unless otherwise specified by the lease. Supporting documentation such as a maintenance agreement or lease must be made available to confirm the responsibility.

c. *Purchase receipts.* Purchase receipts must be made out in the name of the lessor, lessee or cash and must identify the vehicle for which the purchase is made by showing one of the following: vehicle license number, full vehicle identification number (VIN) or fleet unit number.

This rule is intended to implement Iowa Code sections 452A.52, 452A.53, 452A.54, 452A.58 and 452A.68.

761—505.4(452A) Quarterly reports.

505.4(1) *Failure to file.* All valid fuel licensees shall file quarterly reports with the department. If a licensee has not traveled in Iowa, the report shall still be filed. Failure to file is cause for revocation of the license and assessment of a penalty.

505.4(2) *Filing deadline.* All persons holding a valid fuel license, pursuant to the provisions of Iowa Code section 452A.53, shall file quarterly reports with the department and either remit any tax due no later than the last day of the month following the last day of the quarter covered by the report, or request a refund no later than the last day of the third month following the last day of the quarter covered by the report. If the claim for refund is filed after that date, the refund shall be disallowed.

505.4(3) *Reporting multiple vehicles on single license.* The licensee shall select which vehicles may be operated under the license. All miles traveled, interstate and intrastate, and all fuel purchased for those vehicles shall be reported on a consistent basis.

505.4(4) *Tax refund.* Refunds shall be computed separately for each fuel type. If a refund for a fuel type does not exceed $10, it shall not be processed unless there is more than one type of fuel reported on one return and the combined refunds for all fuel types exceed $10.

505.4(5) *Refunds of tax on fuel purchased in Iowa and consumed out of Iowa.* Even though fuel is purchased in Iowa, fuel tax is paid in Iowa, and the excess fuel tax paid is subject to refund under the provisions of Iowa Code chapter 452A, division III, relating to interstate motor vehicle operation, the refund is not subject to state sales tax.

505.4(6) *Timely filing of report.*

a. The interstate fuel tax report required under Iowa Code section 452A.54 shall be deemed timely filed if received in the office of motor carrier services or postpaid, properly addressed, and postmarked by the United States Postal Service on or before midnight of the filing deadline. If the filing date falls on a Saturday, Sunday, or legal holiday, the next secular or business day shall be the filing deadline.

b. All reports and remittances shall be either mailed to the Office of Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; delivered in person to 6310 SE Convenience Blvd., Ankeny, Iowa; or sent by facsimile to (515)237-3257.

c. If a report or remittance is not received by the department and the taxpayer can prove by competent evidence that the return or remittance was timely filed, the report shall be considered timely filed. For the purpose of this rule, competent evidence means evidence in addition to the testimony of the sender sufficient or adequate to prove that the document was mailed on a specific date.

505.4(7) *Extension of time to file.* The department may grant an extension for the filing of any required report or tax payment. In order for an extension to be granted, the application requesting such extension must be filed with the department prior to the due date of the report or remittance. In determining whether an application for extension is timely filed, the provisions of subrules 505.4(2) and 505.4(6) shall apply. The application for extension shall be accompanied by an explanation of the circumstances justifying an extension. Any extension granted shall be documented on a form issued by the department indicating the length of the extension. This form shall be attached to the report when it is filed. If an extension is granted, the penalties under Iowa Code section 452A.65 applicable to a late-filed report or remittance shall not accrue until the expiration of the extension period.

505.4(8) *Penalties.*

a. A penalty of $50 or 10 percent of the total tax due, whichever is greater, shall be assessed against the taxpayer if the report is not filed by the due date in accordance with subrule 505.4(6).

b. If the quarterly report shows no taxes owed or a refund due, the penalty for filing a report after the due date is $50.

505.4(9) Reserved.

505.4(10) *Interest.* Interest at the rate established pursuant to Iowa Code chapter 421 shall be assessed against the taxpayer for each month the tax remains unpaid. The interest shall accrue from the date the return was required to be filed. Interest shall not apply to any penalty. Each fraction of a month shall be considered a full month for the computation of interest.

505.4(11) *Application of remittance.* All payments shall be first applied to the interest, then to the penalty and then the balance, if any, on the amount of tax then due.

If a taxpayer remits a payment on or before the due date, but the payment is insufficient to discharge the tax liability, the entire amount of such payment shall apply to the tax. Any penalty or interest subsequently assessed shall be based on the unpaid portion of the tax.

If the department determines there is additional tax due from a taxpayer, interest and penalty shall accrue on that amount from the date the tax should have been reported and paid.

505.4(12) *Reports, records and variations.* The department shall prescribe and furnish all forms upon which reports, claims for refund, temporary permits, and license applications shall be made under Iowa Code chapter 452A, division III.

a. If the information required in these documents is presented to the department on forms or in a manner other than on the prescribed form, the report, application or claim shall not be deemed "filed."

b. The fact that the reporting party does not have the prescribed form shall not be an acceptable reason for failure to file. The office of motor carrier services may be contacted to request copies of any forms needed.

505.4(13) *Estimating gallonage.*

a. In the event the taxpayer's records are lacking or inadequate to support any report filed or to determine the tax liability, the department shall have the power to estimate the gallonage upon which tax is due. This estimation shall be based upon such factors as, but not limited to, the following:

(1) Prior experience of the taxpayer,

(2) Taxpayers in similar situations,

(3) Industry averages,

(4) Records of suppliers or customers, or

(5) Such other pertinent information as the department may possess, obtain or examine.

b. The findings of the department as to the amount of fuel taxes due from any person shall be presumed to be the correct amount and in any litigation which may follow, the certificate of the department shall be admitted in evidence, shall be considered to be true and accurate unless shown otherwise by an objecting party and shall impose upon the other party the burden of showing any error in the department's finding and the extent thereof, or showing that the finding was contrary to law.

505.4(14) *Information confidential.* Iowa Code section 452A.63, which makes all information obtained from reports or records required to be filed or kept under Iowa Code chapter 452A confidential, applies generally to the director, auditors, agents, officers, or other employees of the department. However, any person having acquired information disclosed in a taxpayer's filed report shall be bound by the same rules of confidentiality. The information may only be divulged to the appropriate public officials enumerated in Iowa Code section 452A.63.

505.4(15) *Taxes erroneously or illegally collected.* Any licensee shall be entitled to a refund of taxes, penalties, or interest erroneously or illegally collected by the department or as a result of a computation error. The claim must be filed within a year of payment and accompanied by evidence to support the claim. If the request for refund includes the return of penalties or interest, the interest or penalties shall be refunded in the same proportion as the tax.

505.4(16) *Supplemental billings.* The amount due is payable upon being billed by the office of motor carrier services. Billings shall be generated by the department for the collection of additional amounts due in the following circumstances:

a. Penalties are assessed under the provisions of subrule 505.4(8).

b. Interest is assessed under the provisions of subrule 505.4(10).

c. An error in the computation on the front of the report results in additional tax due.

d. There is a failure to remit payment for part or all of the tax due with the filed report.

e. Payment is remitted and subsequently not honored.

f. Taxes, penalties or interest are assessed as the result of an audit.

This rule is intended to implement Iowa Code sections 452A.54, 452A.55, 452A.60, 452A.61, 452A.63, 452A.64, and 452A.65.

761—505.5(452A) Audits—required reports.

505.5(1) *Delegation to audit and examine.* Pursuant to Iowa Code sections 452A.53, 452A.55, and 452A.62, the department reserves the right to examine returns and records, perform audits and determine the correct amount of tax due.

505.5(2) *Statute of limitations.* Within three years after a return is filed, the department may audit the return to determine the accuracy of taxes paid. There is no time limitation on collection activities for any tax, penalty or interest due the department.

505.5(3) *Outstanding tax, penalty, or interest for canceled and inactive licenses.* Any outstanding taxes, penalties, or interest must be paid before reapplying for a fuel license.

505.5(4) *Audit period —records—costs.* The statute of limitations on the determination of any additional tax liability shall be three years after a return is filed; therefore, all records must be kept for four years after a return is filed.

a. For the purpose of verifying the correctness of a return filed or for estimating the tax liability of any taxpayer, the department shall:

(1) Have the right and duty to examine or cause to be examined the books, papers, records, memoranda, or documents of a taxpayer which relate in any manner to fuel taxes.

(2) Have the authority to require, at a hearing, the attendance of the taxpayer and other witness and the production of books, papers, records, memoranda or documents.

b. The cost of an audit shall be at the taxpayer's expense when the records are maintained outside the state of Iowa.

505.5(5) *Taxpayers required to keep records.* The records required to be kept by this rule shall be preserved for a period of four years after a return is filed unless otherwise stated and shall be open for examination by the department during this period of time. A licensee shall retain invoices or other proofs of purchase which meet the requirements of subrule 505.5(6). The fact that the tax has been paid shall appear on the proof of purchase.

505.5(6) *Records to be kept and preserved.*

a. Every person required to file a quarterly report under Iowa Code section 452A.54 shall keep and preserve the following records:

(1) Fuel purchase invoices or documentation of fuel withdrawn from bulk storage.

(2) Trip sheets or other documentation of mileage activity.

b. Whenever an invoice is required to be kept or prepared by Iowa Code chapter 452A or these rules, the following shall be the minimal requirements which must be complied with:

(1) It must include the seller's name and address.

(2) It must include the purchaser's name and address.

(3) It must contain a vehicle serial number, fleet unit number or vehicle license number.

(4) It must include the calendar date of purchase.

(5) It must indicate the type of fuel purchased.

(6) It must indicate the quantity of fuel purchased.

(7) It must indicate the total purchase price.

(8) If the purchase is special fuel, the fact that the fuel tax is included in the purchase price must be indicated.

c. Whenever an invoice is required to be kept under Iowa Code chapter 452A or these rules, the original or duplicate copy must be kept. If the original or duplicate copy is lost or destroyed, a copy, certified by the seller as being a true copy of the original, shall be acceptable.

d. A copy of any invoice, which is required to be kept by the purchaser, must be kept by the seller for the same period of time.

e. Credit card invoices are acceptable if they meet all the requirements listed in paragraphs 505.5(6)*"b," "c,"* and *"d"* above.

505.5(7) *New licensees.* When a person is issued a new license, the department may, within one year of issuance of the license, audit the records of the new licensee for a period going back two years from the date of issuance.

505.5(8) *Nonlicense and nonpermit holders.* All persons who bring into the state a qualified motor vehicle, upon which the Iowa tax on said fuel has not been paid, are operating within the purview of these rules as stated in Iowa Code section 452A.55. They are therefore subject to audit and must keep the same records required of a fuel licensee.

505.5(9) *Interstate—intrastate operators—motor vehicle special fuel holding tanks.* If a person operates one or more qualified motor vehicles under a fuel license and also operates one or more qualified motor vehicles which are not operated under the fuel license, record keeping regarding the fuel consumed from the special holding tank may be performed in either of the following ways:

a. Operators of interstate vehicles shall be given an invoice that meets the standards set forth in Iowa Code section 452A.17, subsection 3, for each tank fill, and the vehicle operator must then log the mileage; or

b. The licensee shall report total miles driven and total fuel used from the bulk tank, including both interstate and intrastate vehicles.

This rule is intended to implement Iowa Code sections 452A.53, 452A.55, 452A.60, 452A.62, and 452A.69.

761—505.6(452A) Hearings.

505.6(1) *Conduct of hearings.* Hearings are conducted in accordance with Iowa Code section 452A.69.

505.6(2) *Circumstances for holding hearings.*

a. When there is reasonable cause to believe that there is an evasion of fuel taxes, the department may cause a hearing to be held to determine the amount of fuel taxes due, if any. The person who is suspected of evading fuel taxes shall be sent at least ten days' notice of the hearing. The provisions of Iowa Code section 452A.64 and subrule 505.4(13), paragraph *"b,"* shall apply.

b. If a licensee disputes the findings of an investigation or audit by the department, the licensee may request a hearing to present further evidence, information or records to support the claim. The written request for hearing shall be directed to the attention of the director of the office of motor carrier services within 30 days of the date of notice of audit results issued by the department.

This rule is intended to implement Iowa Code sections 452A.64 and 452A.69.

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CHAPTER 510
DESIGNATED HIGHWAY SYSTEM

[Prior to 6/3/87, Transportation Department[820]—(07,A) Ch1]

Rescinded IAB 7/6/94, effective 6/30/94

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

[Appeared as Ch 2, Highway Commission, 1973 IDR; amended in July 1974 and January and July 1975 Supplements]
[Previously numbered as (07,E) Ch 12, transferred at the request of the department on 10/8/75]
[Prior to 6/3/87, Transportation Department[820]—(07,F) Ch 2]

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

"Department" means the Iowa department of transportation.

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

"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 office of motor carrier services for permits for movement on the primary system.
2. Authority responsible for the maintenance of a nonprimary system of highways or streets for permits for movement on that system. However, the office of motor carrier services 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"* is defined in Iowa Code section 306.3. The primary road system includes the interstate road system.

"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.

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

"Sufficient shoulder width" means a gravel or paved surface extending a minimum of six feet beyond the edge of the roadway.

This rule is intended to implement Iowa Code sections 321E.9, 321E.15, 321E.27, 321E.29 and 321E.34.

761—511.2(321E) Location and general information.

511.2(1) Applications, forms, instructions and restrictions are available by mail from the Office of Motor Carrier Services, 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)237-3264; or by facsimile at (515)237-3257. Permits may be obtained electronically upon making application to the office of motor carrier services.

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) Rescinded IAB 2/7/01, effective 3/14/01.

511.2(4) Except as provided in subrule 511.7(6) and rule 511.13(321,321E), permits may be issued only for the transporting of a single article which exceeds statutory size or weight limits or both, and which 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(5) Nothing in the permit shall be construed as waiving any load limits which have been or which might be established on any bridge or any road which is posted with embargo signs, unless specifically stated on the permit.

511.2(6) 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 17A.3 and 321E.1.

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 shall 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.

511.3(3) Movement shall be permitted only during the hours from one-half hour before sunrise to one-half hour after sunset unless it is established by the permit-issuing authority that the movement can be better accomplished at another period of time because of traffic volume conditions.

511.3(4) Except as provided in Iowa Code section 321.457, no movement shall 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 shall be permitted until one-half hour before sunrise on the day after the holiday or holiday weekend.

511.3(5) The permit shall be carried in the cab of the vehicle for which it has been issued and shall be available for inspection at all times.

511.3(6) Vehicles and loads under permit shall be open to inspection by any peace officer or any authorized agent of any permit-issuing authority.

511.3(7) Continuous moves. 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 shall not exceed:

(1) Width. 11 feet.

(2) Height. 14 feet, 4 inches.

(3) Length. 100 feet.

(4) Weight. Legal axle limits.

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

c. Safety lighting shall be provided at the widest part of a load. The lamps may be placed at the outer ends of the load itself or on appurtenances which 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.1 and 321E.11.

761—511.4(321E) Permits. Permits issued shall be in writing and may be either single-trip, multitrip, annual, annual oversize/overweight or all-systems permits.

511.4(1) *Methods of issuance.*

a. Permits for movement on the primary road system may be obtained in person, by facsimile, wire service, electronic communication, or by mail at the address in subrule 511.2(1).

b. Reserved.

511.4(2) *Forms.*

a. Applications for permits for movement on the primary road system shall be made and permits shall be issued on departmental Forms 442009, 442047, 442051, 442058 and 442059.

b. Any applications to other permit-issuing authorities made upon Forms 442009, 442047, 442051, 442058 and 442059 shall be sufficient and accepted as properly made by these authorities.

c. Subject to the preceding paragraph, permit-issuing authorities may adopt, amend or modify these 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, annual oversize/overweight, and all-systems permits shall expire on the last day of the month one year from the date of issuance.

b. A single-trip permit shall be effective for five days.

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

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 shall be the same as on the original permit.

This rule is intended to implement Iowa Code sections 321E.1 and 321E.2.

[**ARC 0136C**, IAB 5/30/12, effective 7/4/12]

761—511.5(321,321E) Fees and charges.

511.5(1) *Annual permit.* A fee of $25 shall be charged for each annual permit, payable prior to the issuance of the permit. Carriers purchasing annual permits in advance of use cannot return unused permits for refunds.

511.5(2) *Annual oversize/overweight permit.* A fee of $300 shall be charged for each annual oversize/overweight permit, payable prior to the issuance of the permit. Transfer of current annual oversize/overweight permit to a replacement vehicle may be allowed when the original vehicle has been damaged in an accident, junked or sold.

511.5(3) *All-systems permit.* A fee of $120 shall be charged for each annual all-systems permit, payable prior to the issuance of the permit.

511.5(4) *Multitrip permit.* A fee of $200 shall be charged for each multitrip permit, payable prior to the issuance of the permit. Additional routes will require a new permit.

511.5(5) *Single-trip permit.* A fee of $10 shall be charged for each single-trip permit, payable prior to the issuance of the permit.

511.5(6) *Duplicate permit.* A fee of $2 shall be charged for each duplicate permit, payable prior to the issuance of the permit.

511.5(7) *Registration fee.* A registration fee shall 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. The fee shall be 5 cents per ton exceeding the weight registered under Iowa Code section 321.122 per mile of travel and shall be payable prior to the issuance of the permit. Fees shall not be prorated for fractions of miles.

511.5(8) *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.

511.5(9) *Methods of payment.*

a. Fees and costs required under this chapter of rules shall normally be paid by certified check, cashier's check, traveler's check, bank draft or cash. Personal checks may be accepted at the discretion of the permit-issuing authority.

b. At the discretion of the permit-issuing authority, a payment procedure may be established to allow monthly billing for permits. The following procedures shall apply:

(1) Applicants shall deposit sufficient funds with the permit-issuing authority to guarantee payment of fees for the average number of permits ordered monthly. Deposits may be used to pay outstanding fees due when payment is not received upon billing.

(2) Monthly billings shall be sent to account holders.

(3) All future permit activity may be suspended after written notice of suspension to the account holder when the following requirements are not met:

Payment shall be received within 30 days from the date of the billing.

All information listed on the account holder's permit shall match the information listed on the permit-issuing authority's permit.

(4) Account privileges may be permanently canceled after written notice to the account holder when the requirements listed in paragraph 511.5(9)*"b"* are not met.

(5) Any account holder in good standing may close the account and request return of the deposit. Accounts closed under these circumstances may be reopened.

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

761—511.6(321E) Insurance and bonds.

511.6(1) *Insurance.*

a. 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, annual oversize/overweight, all-systems, multitrip or single-trip permit shall be required. In lieu of filing with the permit-issuing authority, a copy of the current certificate of public liability insurance in these amounts shall be carried in the vehicle for which the permit has been issued.

b. Notwithstanding paragraph *"a"* of this subrule, 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 section 321E.13.

761—511.7(321,321E) Annual permits. Annual 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. Annual permits are issued for the following:

511.7(1) Vehicles with indivisible loads, including construction machinery, 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.* See rule 511.12(321,321E).

e. *Distance.* Movement is allowed for unlimited distance; routing through the office of motor carrier services is not required.

511.7(2) Vehicles with indivisible loads, including construction machinery, 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.* See rule 511.12(321,321E).

e. *Distance.* Movement is restricted to 50 miles unless trip routes are obtained from the office of motor carrier services 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 construction machinery, 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.* See rule 761—511.12(321,321E).

e. *Distance.* Trip routes must be obtained from the office of motor carrier services.

511.7(4) Rescinded IAB 1/23/02, effective 2/27/02.

511.7(5) 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.* See rule 511.12(321,321E).

e. *Speed.* Rescinded IAB 2/7/01, effective 3/14/01.

f. *Roadway width.* At least 24 feet 0 inches.

g. *Limited movement.* Movement shall be solely for 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 shall be on the most direct route necessary for the movement.

511.7(6) Vehicles with divisible loads of hay, straw or stover provided the following are not exceeded:

a. *Width.* 12 feet 5 inches.

b. *Length.* Must comply with Iowa Code section 321.457.

c. *Height.* Statutory: 13 feet 6 inches.

d. *Weight.* See rule 511.12(321,321E).

e. *Distance.* Unlimited.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.1, 321E.2, 321E.10, 321E.28, 321E.29 and 321E.29A and Iowa Code Supplement section 321E.8 as amended by 2002 Iowa Acts, Senate File 2192, section 36.

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 permit under rule 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 construction machinery, 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.* See rule 511.12(321,321E).

e. *Routing.* The owner or operator shall select a route using a vertical clearance map, kip map, bridge embargo map and detour and road embargo map provided by the department. Detour and road embargo information may also be found on the Internet at www.511ia.com. The owner or operator shall contact the department by telephone at 1-800-925-6469 between 8 a.m. and 4 p.m., Monday through Thursday, except for legal holidays or at any other time at (515)237-3206 prior to making the move to verify that the owner or operator is using the most recent information.

511.8(2) Reserved.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.1, 321E.2, 321E.28 and Iowa Code Supplement section 321E.8 as amended by 2002 Iowa Acts, Senate File 2192, section 36.

761—511.9(321,321E) All-systems permits. All-systems permits are issued by the office of motor carrier services 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 office of motor carrier services will provide a list of the authorized city streets and county roads. These permits are issued for the following:

511.9(1) Vehicles with indivisible loads, including construction machinery, 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.* See rule 511.12(321,321E).

e. *Distance.* Movement is allowed for unlimited distance; routing through the office of motor carrier services and city and county jurisdictions is not required.

511.9(2) Vehicles with indivisible loads, including construction machinery, 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.* See rule 511.12(321,321E).

e. *Distance.* Movement is restricted to 50 miles unless trip routes are obtained from the office of motor carrier services 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 construction machinery, 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.* See rule 511.12(321,321E).

e. *Distance.* Trip routes must be obtained from the office of motor carrier services and city and county jurisdictions.

511.9(4) Rescinded IAB 1/23/02, effective 2/27/02.

511.9(5) 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.* See rule 511.12(321,321E).

e. *Speed.* Rescinded IAB 2/7/01, effective 3/14/01.

f. *Roadway width.* At least 24 feet 0 inches.

g. *Limited movement.* Movement shall be solely for 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 shall be on the most direct route necessary for the movement.

511.9(6) Vehicles with divisible loads of hay, straw or stover provided the following are not exceeded:

a. *Width.* 12 feet 5 inches.

b. *Length.* Must comply with Iowa Code section 321.457.

c. *Height.* Statutory: 13 feet 6 inches.

d. *Weight.* See rule 511.12(321,321E).

e. *Distance.* Movement is allowed for unlimited distance; routing through the office of motor carrier services and city and county jurisdictions is not required.

511.9(7) 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.1, 321E.2, 321E.10, 321E.28 and 321E.29 and Iowa Code Supplement section 321E.8 as amended by 2002 Iowa Acts, Senate File 2192, section 36.

761—511.10(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 shall be for specific routes between points of origin and destination. Multitrip permits are issued for the following:

511.10(1) Multitrip permits may be issued for vehicles with indivisible loads, including construction machinery, mobile homes and factory-built structures, provided the following are not exceeded:

a. *Width.* 16 feet.

b. *Length.* 120 feet.

c. *Height.* Limited only to the height of underpasses, bridges, power lines, and other established height restrictions. The carrier shall be 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.* 156,000 pounds total gross weight.

e. *Distance.* On routes specified by the permit-issuing authority.

511.10(2) Multitrip permits may be issued for all movements allowed under the single-trip permit provisions of rule 511.11(321,321E) provided the movement is within the size and weight limitations of subrule 511.10(1).

511.10(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 of rules.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.1, 321E.2, 321E.9A and 321E.28.

761—511.11(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 shall be for a specific route between an origin and destination. Single-trip permits are issued for the following:

511.11(1) Vehicles with indivisible loads, including construction machinery, mobile homes and factory-built structures, provided the following are not exceeded:

a. *Width.* 14 feet 0 inches.

b. *Length.* 80 feet 0 inches overall.

c. *Height.* Limited only to the height of underpasses, bridges, power lines, and other established height restrictions. The carrier shall be 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.* See rule 511.12(321,321E).

e. *Distance.* Unlimited distance over specified routes.

511.11(2) Rescinded IAB 4/28/93, effective 6/2/93.

511.11(3) Vehicles with indivisible loads, including construction machinery, mobile homes and factory-built structures, provided the following are not exceeded:

a. *Width.* 40 feet 0 inches overall.

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

c. *Height.* Limited only to the height of underpasses, bridges, power lines, and other established height restrictions. The carrier shall be 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.* See rule 511.12(321,321E).

e. *Distance.* Limited at the discretion of the permit-issuing authority. The following factors shall be considered:

Road conditions; road width; traffic volume; weather conditions; and roadside obstructions, including bridges, signs and overhead obstructions.

511.11(4) Vehicles especially designed for the movement of grain bins and vehicles with indivisible loads, including construction machinery, mobile homes and factory-built structures, provided the following are not exceeded:

a. *Width.* Must comply with Iowa Code section 321.454.

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

c. *Height.* Statutory: 13 feet 6 inches.

d. *Weight.* See rule 511.12(321,321E).

e. *Distance.* Unlimited distance over specified routes.

511.11(5) Vehicles with divisible loads of hay, straw or stover provided the following are not exceeded:

a. *Width.* 12 feet 5 inches.

b. *Length.* Must comply with Iowa Code section 321.457.

c. *Height.* Statutory: 13 feet 6 inches.

d. *Weight.* See rule 511.12(321,321E).

e. *Distance.* Unlimited.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.1, 321E.2, 321E.9, 321E.28 and 321E.29.

761—511.12(321,321E) Maximum axle weights and maximum gross weights for vehicles and loads moved under permit.

511.12(1) *Annual and all-systems permits.*

a. For movement under an annual or all-systems permit, the axle weight and combined gross weight shall not exceed the limits found in Iowa Code section 321.463.

b. See subrule 511.12(5) for exceptions for construction machinery.

511.12(2) *Annual oversize/overweight permits.*

a. For movement under an annual oversize/overweight permit, the gross weight on any axle shall not exceed 20,000 pounds, with a maximum of 156,000 pounds total gross weight.

b. See subrule 511.12(5) for exceptions for construction machinery.

511.12(3) *Multitrip permits.*

a. For movement under a multitrip permit, the gross weight on any axle shall not exceed 20,000 pounds with a maximum of 156,000 pounds total gross weight.

b. See subrule 511.12(5) for exceptions for construction machinery.

511.12(4) *Single-trip permits.*

a. For movement under a single-trip permit, the gross weight on any axle shall not exceed 20,000 pounds.

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.

d. See subrule 511.12(5) for exceptions for construction machinery.

511.12(5) *Construction machinery.* Construction machinery 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 or all-systems 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.

This rule is intended to implement Iowa Code sections 321.463, 321E.7, 321E.9, 321E.9A and 321E.32 and Iowa Code Supplement section 321E.8 as amended by 2002 Iowa Acts, Senate file 2192, section 36.

761—511.13(321,321E) Movement of vehicles with divisible loads exceeding statutory size or weight limits.

511.13(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.

511.13(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 511.12(321,321E).

511.13(3) Movement shall be subject to the routes established by the permit-issuing authority.

511.13(4) This rule does not apply to divisible loads of hay, straw or stover.

This rule is intended to implement Iowa Code sections 321.463 and 321E.29.

761—511.14(321E) Towing units. The towing unit shall be a truck or truck tractor with dual wheels and with a gross vehicle weight rating of at least 10,000 pounds when towing mobile homes or loads exceeding 10,000 pounds.

This rule is intended to implement Iowa Code section 321.457.

761—511.15(321E) Escorting.

511.15(1) *Escort qualification.* An escort shall be a person aged 18 or over who possesses a Class A, B, C or D driver's license which allows driving unaccompanied, has a properly equipped vehicle, and who carries proof of public liability insurance in the amounts of $100,000/$200,000/$50,000.

511.15(2) *Escorting responsibilities.*

a. The escorting vehicle shall be a mid-size 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. In questionable cases the permit-issuing authority shall determine if a vehicle meets these conditions.

b. The escorting vehicle shall have an amber revolving light at least 7 inches high and 7 inches in diameter with at least a 100-candlepower lamp providing 360° warning. A light of smaller dimensions shall not be permitted unless a strobe light is used. While escorting a permit load, the revolving light shall be mounted on top of the escort vehicle and shall be burning. Additional escort vehicle markings may be approved or required by the permit-issuing authority.

c. An 18-inch by 18-inch red or orange fluorescent flag shall be mounted on each corner of the front bumper of the escort vehicle.

d. The escort shall remain 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 shall maintain a reasonable and proper distance consistent with existing traffic conditions.

e. A separate escort shall be provided for each load hauled under escort.

f. All traffic laws and provisions of the oversize permit for the load shall be obeyed.

g. 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 traffic control needed.

h. Immediately prior to an escorting trip, the escort shall determine 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.

i. Escort fees charged by state and local authorities shall not exceed $250 per day per escort vehicle.

j. A pole used for measuring vertical clearances shall be mounted on the escort vehicle. The escort shall be required to measure all vertical clearances whenever the height of the permitted vehicle exceeds 14 feet 4 inches up to and including 20 feet.

511.15(3) *Requirements for escorts, flags, signs and lights.* 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′	✓	not required	not required	not required
Over 85′ up to and including 120′	✓	✓	not required	not required
Over 120′	✓	not required	rear	rear
Projections				
Front: over 25′	not required	✓	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	✓	not required	not required
Height				
Over 14′4″ up to and including 20′	✓	not required	front with a height pole	front with a height pole
Weight				
Over 80,000 lbs.	not required	✓	not required	not required

Width				Lane Width Less than 12′	Lane Width 12′ and more
Over 8′6″ up to half the roadway	✓	not required	not required	not required	not required
Over half the roadway, up to and including 14′6″					
with sufficient shoulders	✓	not required	rear *	front	front *
without sufficient shoulders	✓	not required	rear *	front	front
Over 14′6″ up to and including 16′6″	✓	not required	rear *	front	front
Over 16′6″ up to and including 18′	✓	not required	rear	front	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.

✓Required

Definitions:

Flags - Red or orange fluorescent flags at least 18″ square must be mounted as follows: one flag at each front corner of the towing unit and one flag at each rear corner of the load. In addition, there must be a flag at any additional protrusion in the width of the load.

Signs - A sign reading "Oversize Load" must be used. The sign must be at least 18″ high by 7′ long with a minimum of 12″ black letters, with a 1 ½″ stroke, on a yellow background, and mounted on the front bumper and on the rear of the load. The rear sign for mobile homes and factory-built structures must be mounted at least 7′ above the highway surface, measuring from the bottom of the sign.

Lights - An amber revolving light must be at least 7″ high and 7″ in diameter with at least a 100-candlepower lamp providing 360° warning (or strobe light) mounted on the towing unit, visible from front and rear. More than one light may be necessary.

Sufficient Shoulder - A gravel or paved surface extending a minimum of 6′ beyond the edge of the roadway. (Roadways with sufficient shoulders will be identified by the department.)

The permit-issuing authority may require additional escorts when deemed necessary. The signs or warning devices must be removed or covered when the vehicle is within legal dimensions.

This rule is intended to implement Iowa Code sections 321E.14, 321E.24 and 321E.34.

761—511.16(321,321E) Permit violations.

511.16(1) 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 office of motor carrier services may, after notice and hearing, suspend, modify or revoke the permit privileges of the permit holder consistent with Iowa Code section 321E.20.

511.16(2) Rescinded IAB 1/15/97, effective 4/30/97.

511.16(3) Rescinded IAB 1/15/97, effective 4/30/97.

511.16(4) Rescinded IAB 10/12/05, effective 11/16/05.

This rule is intended to implement Iowa Code sections 321.492, 321E.16 and 321E.20.

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[1] Effective date of 511.2(1), 511.4(1)*"a,"* 511.4(2)*"a"* and *"b,"* 511.5(1), 511.5(6)*"b"*(3), 511.7, 511.8, 511.9(1) to 511.9(5), 511.14(2)*"g"* and *"i,"* 511.14(3)*"e,"* delayed 70 days by the Administrative Rules Review Committee at its meeting held May 12, 1993; delay lifted by this Committee June 8, 1993, effective June 9, 1993.

CHAPTER 512
Reserved

CHAPTER 513
COMPACTED RUBBISH VEHICLE PERMITS

[Prior to 6/3/87, Transportation Department[820]—(07,F) Ch 6]

761—513.1(321) Definitions.

"Compacted rubbish vehicle" means any vehicle hauling rubbish which has been mechanically compacted with a hydraulically, electrically, or air operated ram.

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

761—513.2(321) General stipulations. All compacted rubbish vehicle permits issued by the department shall be subject to the following:

513.2(1) Permits issued shall be in writing and shall be carried on the vehicles for which the permits have been issued and shall be available for inspection by any peace officer or authorized agent of any permit-granting authority.

513.2(2) Movements by permit shall be allowed day and night, seven days a week including holidays.

513.2(3) Vehicles traveling under permit shall be registered for the gross weight or combined gross weight of the vehicle and load.

513.2(4) Vehicles under permit must be in compliance with posted bridge and road embargoes and speed limits.

513.2(5) Maximum axle weight allowed on the interstate system shall be 20,000 pounds on a single axle and 34,000 pounds on a tandem axle.

761—513.3(321) Application. Forms for an annual special permit for compacted rubbish vehicles are available by mail from the Office of Motor Carrier Services, 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)237-3264; or by facsimile at (515)237-3257. Completed applications shall include the following:

513.3(1) Complete name and address of the applicant; vehicle make, serial number, license number, state in which registered and registered weight.

513.3(2) Axle measurements, which must be in compliance with 761—Chapter 511.

513.3(3) Route requested, including the beginning and ending points for all county, city and state routes requested.

513.3(4) Appropriate county and city approvals, if applicable.

761—513.4(321) Replacement permit. A permit may be issued, at the discretion of the issuing authority, for a replacement vehicle if a permit had previously been obtained for the original vehicle. The original permit shall be returned to the office of motor carrier services. The expiration date on the replacement permit shall be the same as on the original permit.

761—513.5(321) Permit violations. All permit violations shall be handled in accordance with 761—Chapter 511, including a factual summary of all violations of Iowa Code section 321.473.

These rules are intended to implement Iowa Code section 321.473.

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CHAPTERS 514 to 519
Reserved

CHAPTER 520
REGULATIONS APPLICABLE TO CARRIERS

[Prior to 6/3/87, Transportation Department[820]—(07,F) Ch 8]

761—520.1(321) Safety and hazardous materials regulations.

520.1(1) *Regulations.*

a. *Motor carrier safety regulations.* The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, 2011).

b. *Hazardous materials regulations.* The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, 2011).

c. *Copies of regulations.* Copies of the federal regulations may be reviewed at the state law library or through the Internet at http://www.fmcsa.dot.gov.

520.1(2) *Carriers subject to regulations.*

a. Operators of commercial vehicles, as defined in Iowa Code section 321.1, are subject to the Federal Motor Carrier Safety Regulations adopted in this rule unless exempted under Iowa Code section 321.449.

b. Operators of vehicles transporting hazardous materials in commerce are subject to the Federal Hazardous Materials Regulations adopted in this rule unless exempted under Iowa Code section 321.450.

c. Operators of vehicles for hire, designed to transport 7 or more persons, but fewer than 16, including the driver, must comply with 49 CFR Part 395 of the Federal Motor Carrier Safety Regulations. In addition, operators of vehicles for hire designed to transport 7 or more persons, but fewer than 16, including the driver, are not exempt from logbook requirements afforded the 100-air-mile radius driver under 49 CFR 395.1(e). However, the provisions of 49 CFR Part 395 shall not apply to vehicles offered to the public for hire that are used principally in intracity operation and are regulated by local authorities.

520.1(3) *Declaration of knowledge of regulations.* Operators of commercial vehicles who are subject to the regulations adopted in this rule shall at the time of application for authority to operate in Iowa or upon receipt of their Iowa registration declare knowledge of the Federal Motor Carrier Safety Regulations and Federal Hazardous Materials Regulations adopted in this rule.

This rule is intended to implement Iowa Code sections 321.1, 321.449 and 321.450.

[**ARC 7750B**, IAB 5/6/09, effective 6/10/09; **ARC 8720B**, IAB 5/5/10, effective 6/9/10; **ARC 9493B**, IAB 5/4/11, effective 6/8/11; **ARC 0034C**, IAB 3/7/12, effective 4/11/12]

761—520.2(321) Definitions. The following definitions apply to the regulations adopted in rule 761—520.1(321):

"Any requirements which impose any restrictions upon a person" as used in Iowa Code section 321.449(6) means the requirements in 49 CFR Parts 391 and 395.

"Driver age qualifications" as used in Iowa Code section 321.449(3) means the age qualifications in 49 CFR 391.11(b)(1).

"Driver qualifications" as used in Iowa Code section 321.449(2) means the driver qualifications in 49 CFR Part 391.

"Farm customer" as used in Iowa Code section 321.450, unnumbered paragraph 3, means a retail consumer residing on a farm or in a rural area or city with a population of 3000 or less.

"Gasoline" as used in Iowa Code section 321.450, first unnumbered paragraph, means leaded gasolines, no-lead gasolines, ethanol and ethanol-blended gasolines, aviation gasolines, number 1 and number 2 fuel oils, diesel fuels, aviation jet fuels and kerosene.

"Hours of service" as used in Iowa Code section 321.449(2) means the hours of service requirements in 49 CFR Part 395.

"Record-keeping requirements" as used in Iowa Code section 321.449(2) means the record-keeping requirements in 49 CFR Part 395.

"Rules adopted under this section concerning physical and medical qualifications" as used in Iowa Code section 321.449(5) and Iowa Code section 321.450, unnumbered paragraph 2, means the regulations in 49 CFR 391.11(b)(4) and 49 CFR Part 391, Subpart E.

"Rules adopted under this section for a driver of a commercial vehicle" as used in Iowa Code section 321.449(4) means the regulations in 49 CFR Parts 391 and 395.

This rule is intended to implement Iowa Code sections 321.449 and 321.450.

761—520.3(321) Motor carrier safety regulations exemptions.

520.3(1) The following intrastate vehicle operations are exempt from the motor carrier safety regulations concerning inspection in 49 CFR Part 396.17 as adopted in rule 761—520.1(321):

a. Implements of husbandry including nurse tanks as defined in Iowa Code section 321.1.

b. Special mobile equipment (SME) as defined in Iowa Code section 321.1.

c. Unregistered farm trailers as defined in 761—subrule 400.1(3), pursuant to Iowa Code section 321.123.

d. Motor vehicles registered for a gross weight of five tons or less when used by retail dealers or their employees to deliver hazardous materials, fertilizers, petroleum products and pesticides to farm customers.

520.3(2) Reserved.

This rule is intended to implement Iowa Code sections 321.1, 321.123, 321.449 and 321.450.

761—520.4(321) Hazardous materials exemptions. These exemptions apply to the regulations adopted in rule 761—520.1(321):

520.4(1) Pursuant to Iowa Code section 321.450, unnumbered paragraph 3, "retail dealers of fertilizers, petroleum products, and pesticides and their employees while delivering fertilizers, petroleum products and pesticides to farm customers within a 100-air-mile radius of their retail place of business" are exempt from 49 CFR 177.804; and, pursuant to Iowa Code section 321.449(4), they are exempt from 49 CFR Parts 391 and 395. However, pursuant to Iowa Code section 321.449, the retail dealers and their employees under the specified conditions are subject to the regulations in 49 CFR Parts 390, 392, 393, 396 and 397.

520.4(2) Rescinded IAB 3/10/99, effective 4/14/99.

This rule is intended to implement Iowa Code section 321.450.

761—520.5(321) Safety fitness.

520.5(1) *New motor carrier safety audits.* Peace officers in the office of motor vehicle enforcement of the Iowa department of transportation shall perform safety audits of new motor carriers and shall have the authority to enter a motor carrier's place of business for the purpose of performing these audits. These audits shall be performed in compliance with 49 CFR Part 385 and shall be completed within 18 months from the day the motor carrier commences business.

520.5(2) *Motor carrier compliance reviews.* Peace officers in the office of motor vehicle enforcement of the Iowa department of transportation shall perform compliance reviews of motor carriers and shall have the authority to enter a motor carrier's place of business for the purpose of performing these compliance reviews. These compliance reviews shall be performed in compliance with 49 CFR Part 385.

This rule is intended to implement Iowa Code sections 321.449 and 321.450.

761—520.6(321) Out-of-service order. A person shall not operate a commercial vehicle or transport hazardous material in violation of an out-of-service order issued by an Iowa peace officer. An out-of-service order for noncompliance shall be issued when either the vehicle operator is not qualified to operate the vehicle or the vehicle is unsafe to be operated until required repairs are made. The out-of-service order shall be consistent with the North American Uniform Out-of-Service Criteria.

This rule is intended to implement Iowa Code sections 321.3, 321.208A, 321.449, and 321.450.

761—520.7(321) Driver's statement. A "driver" as used in Iowa Code section 321.449(5) and Iowa Code section 321.450, unnumbered paragraph 2, shall carry at all times a notarized statement of employment. The statement shall include the following:

1. The driver's name, address and social security number;

2. The name, address and telephone number of the driver's pre-July 29, 1996, employer;

3. A statement, signed by the pre-July 29, 1996, employer or the employer's authorized representative, that the driver was employed to operate a commercial vehicle only in Iowa; and

4. A statement showing the driver's physical or medical condition existed prior to July 29, 1996.

This rule is intended to implement Iowa Code sections 321.449 and 321.450.

761—520.8(321) Agricultural operations. The provisions of 49 CFR Part 395.3 shall not apply to drivers transporting agricultural commodities or farm supplies for agricultural purposes in Iowa if such transportation:

1. Is limited to an area within a 100-air-mile radius from the source of the commodities or the distribution point from the farm supplies, and

2. Is conducted only during the time frames of March 15 through June 30 and October 4 through December 14.

This rule is intended to implement Iowa Code sections 321.449 and 321.450.

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[1] Effective date of 520.1(1)*"a"* and *"b";* rescission of 520.1(2)*"b";* and 520.3 delayed until adjournment of the 1993 Regular Session of the General Assembly by the Administrative Rules Review Committee at its meeting held October 14, 1992; delay lifted by the Committee November 10, 1992.

CHAPTER 523
TRUCK OPERATORS AND CONTRACT CARRIERS

[Transferred from IDR 1973, Commerce Commission, Ch 3, 7/1/75]
[Prior to 6/3/87, Transportation Department[820]—(07,F)Ch 3]

Rescinded IAB 8/11/99, effective 9/15/99

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.

524.1(2) This chapter applies to motor carriers of household goods, bulk liquid commodities, all other property, and passengers.

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 Office of Motor Carrier Services, 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)237-3224; or by facsimile at (515)237-3354.

524.2(2) *Waiver of rules.* In accordance with 761—Chapter 11, the director of transportation may, in response to a petition, waive provisions of this chapter. A waiver shall 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 shall be submitted in writing to the office of motor carrier services.

761—524.3(325A) Applications and supporting documents.

524.3(1) *Application.* An application for a motor carrier permit or motor carrier certificate shall be made to the office of motor carrier services on a form prescribed for that purpose and furnished upon request.

524.3(2) *Application fee.* An application for a motor carrier permit or motor carrier certificate shall be accompanied by the statutory application fee. This fee shall be paid by cash, check or money order made payable to the Iowa Department of Transportation.

524.3(3) *Supporting documents.* An application for a motor carrier permit or motor carrier certificate must be accompanied by the following:

a. Proof of insurance.

b. Safety self-certification. (See rule 524.9(325A).)

c. Form MCS 150, if the motor carrier does not have a U.S. DOT number.

d. Financial statement, only for motor carriers of bulk liquid commodities (nondairy) and regular-route passengers. (See rule 524.10(325A).)

e. Tariff, only for motor carriers of household goods.

761—524.4(325A) Issuance of credentials. When all requirements are met, the department shall issue the motor carrier permit or certificate. The motor carrier shall make a copy of the permit or certificate

and carry it in each motor vehicle at all times. The permit or certificate shall be available for display to any peace officer upon request.

761—524.5(325A) Duplicate motor carrier permit or motor carrier certificate. Written requests for a duplicate motor carrier permit or motor carrier certificate shall be sent to the office of motor carrier services. Requests shall include the carrier name or U.S. DOT number. Any motor carrier in good standing shall be issued a duplicate document upon payment of the required fee.

761—524.6(325A) Amendment to a motor carrier permit or certificate.

524.6(1) *Update to a motor carrier permit.* To change the commodities being transported under a permit, an updated application must be submitted to the office of motor carrier services. The updated application shall include the permit number and the required fee for a duplicate permit. Transporting of commodities not listed on the permit shall not commence 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.* Notification of a name or address change shall be sent to the office of motor carrier services within 30 days after the change. Notification shall include the permit or certificate number, old name or address, new name or address, and the required fee.

761—524.7(325A) Insurance—suspension.

524.7(1) *Insurance.* Each motor carrier shall 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.

a. The insurance or the surety bond shall be written for a period of one year or more.

b. The department shall be given written notice 30 days prior to the cancellation of the insurance or the surety bond.

524.7(2) *Self-insurance.* In lieu of maintaining the above insurance, intrastate carriers that also operate interstate and have been approved by a federal agency to self-insure may apply to the department to self-insure by submitting a written request to the office of motor carrier services. The written request shall include a copy of the federal agency's approval. The department shall allow self-insurance as long as a federal agency has approved the carrier to self-insure and the motor carrier provides the department with copies of any information required by that federal agency. The department must be notified immediately by the motor carrier if there is any change in the status of the self-insurance for interstate operation.

524.7(3) *Suspension for no insurance.* If a motor carrier fails to maintain the required insurance on file with the department, the department shall suspend the motor carrier's permit or certificate in accordance with Iowa Code chapter 325A and rule 524.17(325A). The suspension shall remain in effect until the requirements are met and a reinstatement fee is paid. A motor carrier shall not continue operation without proper insurance.

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 office of motor carrier services. The written request shall include a copy of the most recent audited financial statement and a vehicle list.

524.8(2) *Review by the department.* The department may request additional information. The department shall deny the request to self-insure or suspend existing approval if the motor carrier fails to meet the self-insurance standard. Approval of self-insurance is continuous. However, the motor carrier shall annually file audited financial statements with the office of motor carrier services within 60 days after the end of the motor carrier's fiscal year.

524.8(3) *Cancellation of self-insurance approval.* The department may cancel approval of self-insurance on reasonable grounds. Reasonable grounds include, but are not limited to, the following: failure to pay a final judgment within 30 days or failure to file an annual, audited financial statement.

The department shall give five days' notice to the motor carrier prior to any hearing to cancel approval of self-insurance.

761—524.9(325A) Safety self-certification. All motor carriers shall follow the safety regulations as stated in 761—Chapter 520 concerning operation, maintenance and inspection of vehicles used in the business. Motor carriers shall submit on a form prescribed by the department a self-certification stating knowledge, understanding and willingness to follow these safety regulations.

761—524.10(325A) Financial statement. An application by a motor carrier of bulk liquid commodities (nondairy) or regular-route passengers must include a statement signed by an authorized agent of a lending institution or a certified public accountant attesting to the financial capability of that carrier. At a minimum, the certification shall be based on meeting the following ratios:

Current Ratio: Minimum of 1.2:1

$$\frac{\text{Current Assets}}{\text{Current Liabilities}} = _____$$

Projected Operating Ratio: Maximum of 95

1. New Operation

(Use 5-Year Projection) $\frac{\text{Operating Expenses}}{\text{Operating Revenue}} \times 100 = _____$

2. Existing Operation

(Use 1-Year Projection)

Working Capital Ratio: Minimum 12 days Capital

$$\frac{\text{Current Assets Less Current Liabilities}}{\text{Average Daily Operating Expenses}} = _____$$

761—524.11(325A) Safety education seminar.

524.11(1) *Requirement.* Motor carriers of bulk liquid commodities (nondairy) and passengers shall attend an approved safety education seminar within six months of issuance of the permit or certificate except as provided in subrule 524.11(4). The individuals in attendance shall be the persons responsible for the safety records and driver training. Failure to attend an approved safety education seminar within the time provided shall result in suspension of the motor carrier permit or certificate.

524.11(2) *Availability.* The department shall provide an approved safety education seminar periodically. Information on the seminar schedule is available by mail from the Office of Motor Vehicle Enforcement, Iowa Department of Transportation, P.O. Box 10473, Des Moines, Iowa 50306-0473; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; or by telephone at (800)925-6469.

524.11(3) *Third-party safety education seminar approval.* The office of motor vehicle enforcement shall approve the course curriculum before approving individuals outside the department to conduct safety education seminars. The course curriculum shall be submitted for approval to the office of motor vehicle enforcement. At a minimum, the safety course curriculum shall 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 which are adopted annually by the department.

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 Guide Book.

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 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 office of motor carrier services. A motor carrier must pay the seminar fee and attend the seminar within six

months of updating the certificate. A new motor carrier certificate removing the limitation would then be issued.
[**ARC 0136C**, IAB 5/30/12, effective 7/4/12]

761—524.12(325A) Marking of motor vehicles. "Motor vehicle" is defined in Iowa Code chapter 325A. Before placing any motor vehicle in service, the motor vehicle shall be clearly marked with letters and figures large enough to be easily read at a distance of 50 feet and in a color in contrast to the background. These markings shall be painted on each side of the motor vehicle or may consist of a removable device that meets identification and legibility requirements and is securely placed on each side of the motor vehicle.

524.12(1) Motor carriers operating intrastate only shall display:

a. Name of motor carrier under whose authority the motor vehicle is being operated.

b. U.S. DOT number followed by the letters "IA."

524.12(2) Motor carriers operating both interstate and intrastate shall display markings in accordance with 49 CFR Part 390.21, as adopted in 761—Chapter 520.

761—524.13(325A) Bills of lading or freight receipts.

524.13(1) *Requirements.* Every motor carrier operating under a motor carrier permit, except for those motor carriers transporting unprocessed agricultural and horticultural products and livestock, shall issue a bill of lading or receipt in triplicate on the date freight is received for shipment. The bill of lading or receipt shall show the following:

a. Name of motor carrier.

b. Date and place received.

c. Name of consignor.

d. Name of consignee.

e. Destination.

f. Description of shipment.

g. Signature of motor carrier or agent issuing the bill of lading or receipt.

h. Freight described in apparent good order unless an exception is noted.

524.13(2) *Retention.* There shall be one copy of the bill of lading or receipt for the consignor, one for the consignee and one to be kept by the motor carrier. The motor carrier's copy shall be carried with the cargo and shall show the total of all charges made for the movement of freight. The motor carrier shall keep the bill of lading or receipt for a period of not less than one year. At any reasonable time, the bill of lading or receipt is subject to inspection by the department's representatives.

761—524.14(325A) Lease of a vehicle.

524.14(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.

524.14(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.

524.14(3) *Marking of a motor vehicle.* Each lessee shall properly identify each motor vehicle during the period of the lease as specified in rule 524.12(325A).

524.14(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—524.15(325A) Tariffs.

524.15(1) *Requirements.* All motor carriers of household goods shall maintain on file with the office of motor carrier services a tariff stating the rates and charges that apply for the services performed under the permit.

524.15(2) *Printing.* All tariffs and amendments or supplements must be in book, pamphlet or loose-leaf form. They must be plainly printed or reproduced. No alteration in writing or erasure shall be made in any tariff or supplement.

524.15(3) *Filing date.* All changes to tariffs and supplements must be filed with the office of motor carrier services at least seven days prior to the effective date. Tariffs, supplements or adoption notices issued in connection with applications for motor carriers of household goods may become effective on the date the permits are issued.

524.15(4) *Copy to department.* To file a tariff with the office of motor carrier services, motor carriers of household goods or their agents shall submit a transmittal letter listing all the enclosed tariffs and include one copy of each tariff, supplement or revised page.

524.15(5) *Title page.* The title page of every tariff and supplement shall include the following:

a. Each tariff shall be numbered in the upper right-hand corner, beginning with number 1. The number shall be shown as follows: Ia. DOT No. ....

When a tariff is issued canceling a tariff previously filed, the Ia. DOT number that has been canceled must be shown in the right-hand corner under the Ia. DOT number of the new tariff.

b. Supplements or changes to a tariff shall be numbered beginning with number 1, and this information shall be shown in the upper right-hand corner along with the number of any previous supplements canceled or changed by the supplement.

c. 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 must precede the trade name.

d. Each tariff shall include a brief description of the territory or points from which and to which the tariff applies.

e. Each tariff shall contain the issue and effective dates.

f. 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.

524.15(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 shall not be accepted.

524.15(7) *Duplication of rates.* Motor carriers of household goods or their agents shall not publish duplicate or conflicting rates.

524.15(8) *Tariff changes.* All rates and charges which have been filed with the office of motor carrier services 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 preceding issue 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.

The proper symbol must be shown directly in connection with each change.

524.15(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.

524.15(10) *Application for special permission.* Motor carriers of household goods and agents when making application for permission to establish rates, charges, or rules of the tariff on less than the statutory seven days' notice shall use the form prescribed by the office of motor carrier services.

524.15(11) Powers of attorney and participation notices.

a. Whenever a motor carrier of household goods desires to give authority to an agent or to another motor carrier of household goods to issue and file tariffs and supplements in its stead, a power of attorney in the form prescribed by the department must be used.

b. The original power of attorney shall be filed with the office of motor carrier services and a copy sent to the agent or motor carrier of household goods on whose behalf the document was issued.

c. Whenever a motor carrier of household goods desires to cancel the authority granted an agent or another motor carrier of household goods by power of attorney, this may be done by a letter addressed to the department revoking the authority on 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.

524.15(12) *Nonconforming tariffs.* The office of motor carrier services shall review tariffs that do not conform with subrules 524.15(1) to 524.15(11) to determine if they contain the necessary information and if they are acceptable. Tariffs that are unacceptable shall be returned with an explanation.

761—524.16(325A) Transfer of motor carrier regular-route passenger certificate or motor carrier permit for household goods. Rescinded IAB 5/30/12, effective 7/4/12.

761—524.17(325A) Suspension, revocation or reinstatement. 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 and the reinstatement fee is paid. A new permit or certificate shall be issued upon reinstatement.

761—524.18(325A) Hearings. 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, Iowa Administrative Code. The request for a hearing shall be submitted in writing to the director of the office of motor carrier services. The request shall include, as applicable, the motor carrier's name, permit or certificate number, complete address and telephone number. The request must be submitted within 20 days after the date of the notice of suspension, revocation or denial.

These rules are intended to implement Iowa Code chapter 325A.

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CHAPTER 525
MOTOR CARRIERS AND CHARTER CARRIERS

[Prior to 6/3/87, Transportation Department [820]—(07F)Ch 4]

Rescinded IAB 8/11/99, effective 9/15/99

CHAPTER 528
LIQUID TRANSPORT CARRIERS

[Prior to 6/3/87, Transportation Department[820]—(07,F)Ch 13]

Rescinded IAB 8/11/99, effective 9/15/99

CHAPTER 529
FOR-HIRE INTERSTATE MOTOR CARRIER AUTHORITY

[Prior to 6/3/87, Transportation Department[820]—(07,F)Ch 5]

761—529.1(327B) Motor carrier regulations. The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-368 and 370-379, dated October 1, 2011, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library or through the Internet at http://www.fmcsa.dot.gov.

[**ARC 7901B**, IAB 7/1/09, effective 8/5/09; **ARC 8837B**, IAB 6/16/10, effective 7/21/10; **ARC 0136C**, IAB 5/30/12, effective 7/4/12]

761—529.2(327B) Registering interstate authority in Iowa. Registration for interstate exempt and nonexempt authority shall be either mailed to the Office of Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; delivered in person to 6310 SE Convenience Blvd., Ankeny, Iowa; or sent by facsimile to (515)237-3257.

761—529.3(327B) Waiver of rules. In accordance with 761—Chapter 11, the director of transportation may, in response to a petition, waive provisions of this chapter. A waiver shall 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 chapter 327B.

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CHAPTERS 530 to 599
Reserved

DRIVER LICENSES

CHAPTER 600
GENERAL INFORMATION

[Prior to 6/3/87, Transportation Department[820]—(07,C)Ch 13]

761—600.1(321) Definitions. The definitions in Iowa Code section 321.1 and the following definitions apply to the rules in 761—Chapters 600 to 699.

"Director of the office of driver services" includes the office director's designee.

"License" means "driver's license" as defined in Iowa Code subsection 321.1(20A) unless the context otherwise requires.

"Medical report" means a report from a physician attesting to a person's physical or mental capability to operate a motor vehicle safely. The report should be submitted on Form 430031, "Medical Report." In lieu of Form 430031, a report signed by a physician on the physician's letterhead may be accepted if it contains all the information specified on Form 430031.

"Physician" means a person licensed to practice medicine and surgery or osteopathic medicine and surgery.

This rule is intended to implement Iowa Code section 321.1.

761—600.2(17A) Information and location. Applications, forms and information concerning driver's licensing are available at any driver's license examination station. Assistance is also available by mail from the Office of Driver Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (800)532-1121; or by facsimile at (515)237-3071.

This rule is intended to implement Iowa Code section 17A.3.

761—600.3(321) Persons exempt.

600.3(1) Persons listed in Iowa Code section 321.176 are exempt from driver's licensing requirements.

600.3(2) "Nearby" in Iowa Code subsection 321.176(2) shall mean a distance of not more than two miles.

This rule is intended to implement Iowa Code section 321.176.

761—600.4(252J,261,321) Persons not to be licensed.

600.4(1) The department shall not knowingly issue a license to any person who is ineligible for licensing.

600.4(2) The department shall not knowingly license any person who is unable to operate a motor vehicle safely because of physical or mental disability until that person has submitted a medical report stating that the person is physically and mentally capable of operating a vehicle safely.

600.4(3) The department shall not knowingly license any person who has been specifically adjudged incompetent, pursuant to Iowa Code chapter 229, on or after January 1, 1976, including anyone admitted to a mental health facility prior to that date and not released until after, until it receives specific adjudication that the person is competent. A medical report stating that the person is physically qualified to operate a motor vehicle safely shall also be required.

600.4(4) The department shall not knowingly license any person who suffers from syncope of any cause, any type of periodic or episodic loss of consciousness, or any paroxysmal disturbances of consciousness, including but not limited to epilepsy, until that person has not had an episode of loss of consciousness or loss of voluntary control for six months, and then only upon receipt of a medical report favorable toward licensing.

a. If a medical report indicates a pattern of only syncope, the department may license without a six-month episode-free period after favorable recommendation by the medical advisory board.

b. If a medical report indicates a pattern of such episodes only when the person is asleep or is sequestered for sleep, the department may license without a six-month episode-free period.

c. If an episode occurs when medications are withdrawn by a physician, but the person is episode-free when placed back on medications, the department may license without a six-month episode-free period with a favorable recommendation from a neurologist.

d. If a medical report indicates the person experienced a single nonrecurring episode, the cause has been identified, and the physician is not treating the person for the episode and believes it is unlikely to recur, the department may license without the six-month episode-free period with a favorable recommendation from a physician.

600.4(5) The department shall not license any person who must wear bioptic telescopic lenses to meet the visual acuity standard required for a license.

600.4(6) When a medical report is required, a license shall be issued only if the report indicates that the person is qualified to operate a motor vehicle safely. The department may submit the report to the medical advisory board for an additional opinion.

600.4(7) When the department receives evidence that an Iowa licensed driver has been adjudged incompetent or is not physically or mentally qualified to operate a motor vehicle safely, the department shall suspend the license for incapability, as explained in rule 761—615.14(321), or shall deny further licensing, as explained in rule 761—615.4(321).

600.4(8) The department shall not knowingly issue a license to a person who is the named individual on a certificate of noncompliance that has been received from the child support recovery unit, until the department receives a withdrawal of the certificate of noncompliance or unless an application has been filed pursuant to Iowa Code section 252J.9.

600.4(9) The department shall not knowingly issue a license to a person who is the named individual on a certificate of noncompliance that has been received from the college student aid commission, until the department receives a withdrawal of the certificate of noncompliance or unless an application has been filed pursuant to Iowa Code section 261.127.

This rule is intended to implement Iowa Code sections 252J.8, 252J.9, 261.126, 261.127, 321.13, 321.177, 321.210, and 321.212.

[**ARC 9991B**, IAB 2/8/12, effective 3/14/12]

761—600.5 to **600.11** Reserved.

761—600.12(321) Private and commercial driver education schools. Rescinded IAB 3/31/04, effective 5/5/04.

761—600.13(321) Behind-the-wheel instructor's certification. Rescinded IAB 3/31/04, effective 5/5/04.

761—600.14(321) Payment of fees. Rescinded IAB 3/31/04, effective 5/5/04.

761—600.15 Reserved.

761—600.16(321) Seat belt exemptions.

600.16(1) A person who is unable to wear a safety belt or safety harness for physical or medical reasons may obtain a form to be signed by the person's health care provider licensed under Iowa Code chapter 148 or 151. Form No. 432017, "Iowa Medical Safety Belt Exemption," is available from the office of driver services at the address in rule 761—600.2(17A).

600.16(2) Iowa Code section 321.445, subsections 1 and 2, shall not apply to the front seats and front seat passengers of motor vehicles owned, leased, rented or primarily used by a person with a physical disability who uses a collapsible wheelchair.

This rule is intended to implement Iowa Code section 321.445.

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◊ Two or more ARCs

1 Effective date of 761—600.13(321) delayed 70 days by the Administrative Rules Review Committee at its meeting held December 9, 1998. At its meeting held January 5, 1999, the Committee delayed the effective date until adjournment of the 1999 Session of the General Assembly.

CHAPTER 601
APPLICATION FOR LICENSE

761—601.1(321) Application for license.

601.1(1) *General.* In addition to the information required under Iowa Code sections 321.182 and 321.196, the information in this rule is required from an applicant for a driver's license. Additional requirements for a commercial driver's license are found in 761—Chapter 607.

601.1(2) *Name.* The applicant's full name shall be given on the application. Civilian and military titles and nicknames shall not be used.

601.1(3) *Out-of-state verification.* If a person is licensed in another licensing jurisdiction but does not have a current out-of-state license to surrender, the department may require an official letter from the out-of-state licensing agency before issuing a license. The official letter must verify the person's driving record to assist the department in determining whether it is safe to grant the person a license.

601.1(4) *Disabilities.* The applicant shall indicate and explain any mental or physical disabilities which might affect the applicant's ability to operate a motor vehicle safely.

601.1(5) *Physical description.* Physical description shall include the applicant's weight to the nearest pound.

601.1(6) *Address.* The applicant shall provide the applicant's residential address and mailing address, if different from the residential address.

601.1(7) *Signature.*

a. The applicant's signature shall be without qualification and shall contain only the applicant's usual signature without any other titles, characters or symbols.

b. The applicant's signature certifies that the statements on the application are true and the fee collected was correct.

c. The applicant's signature acknowledges that the applicant is aware of the requirement to notify the department of a change in mailing address within 30 days of the change.

d. A driver's license clerk or examiner will initial the application as witness.

This rule is intended to implement Iowa Code sections 321.182, 321.196 and 321C.1, Article V.

761—601.2(321) Surrender of license and nonoperator's identification card. An applicant for a driver's license shall surrender all other driver's licenses and nonoperator's identification cards. This includes those issued by jurisdictions other than Iowa.

This rule is intended to implement Iowa Code section 321.182.

761—601.3 and **601.4** Reserved.

761—601.5(321) Proofs submitted with application. A person who applies for a new driver's license or nonoperator's identification card or a duplicate license or card to replace one that is lost or destroyed shall submit proof of age, identity and social security number.

601.5(1) *Social security number verification.* One or more of the following documents may be accepted as verification of an applicant's social security number. The documents must be issued in the United States.

a. Social security card issued by the Social Security Administration. A metal version of the card is not acceptable.

b. Letter from the Social Security Administration.

c. Document issued by the Internal Revenue Service or a state tax agency. Form W-2 tax form completed by the employer is acceptable.

d. Financial statement containing the social security number.

e. Payroll stub containing the social security number.

f. Military identification card containing the social security number.

601.5(2) *Proof of age and identity.* An applicant shall submit one primary document and one secondary document from the following lists as proof of age and identity. The documents must be issued in the United States unless otherwise specified.

a. Acceptable primary documents include:

(1) An Iowa photo driver's license.

(2) An Iowa photo identification card.

(3) Birth certificate issued in the United States. It must be a certified copy, have the stamp or raised seal of the issuing authority, and be issued by the state bureau of vital statistics, the state board of health, or a comparable agency. A hospital-issued certificate is not acceptable.

(4) United States Citizenship and Immigration Service document from the following list:

1. Certificate of Naturalization (N-550, N-570 or N-578).
2. Certificate of Citizenship (N-560, N-561 or N-645).
3. Permanent Resident Card (I-551).
4. Record of Arrival and Departure (I-94) with attached photo that is stamped "Temporary Proof of Lawful Permanent Resident."
5. "Processed for I-551" stamp in a valid foreign passport.
6. Travel Document indicating Permit to Re-enter (I-327) or Refugee Travel Document (I-571).
7. Record of Arrival and Departure (I-94) in a Certificate of Identity.
8. Employment Authorization Card (I-688A, I-688B, or I-766).
9. Record of Arrival and Departure (I-94) stamped "Refugee," "Parole," "Parolee," or "Asylee."
10. Record of Arrival and Departure (I-94) coded Section 207 (Refugee), Section 208 (Asylum), Section 209 (Refugees), Section 212d(5) (Parolee), HP (Humanitarian Parolee), or PIP (Public Interest Parolee).

(5) Military identification card. This does not include a military dependent identification card.

(6) Valid United States passport.

(7) Inmate Descriptor Inquiry, Client Information Inquiry or Offender Snapshot document issued by the Iowa department of corrections. The document must contain the full name and date of birth and be notarized.

b. Acceptable secondary documents include:

(1) Any primary document.

(2) Bureau of Indian Affairs or Indian Treaty Card. A tribal identification card is not acceptable.

(3) Photo driver's license or state-issued photo identification card that has not been expired for more than one year.

(4) Court order that does not contain the applicant's date of birth but does contain the full name.

(5) Foreign birth certificate. It must be translated by an approved translator, if translation is necessary.

(6) Military discharge, military orders or separation papers.

(7) Military dependent identification card.

(8) Employer identification card.

(9) Health insurance card.

(10) Document issued by the Internal Revenue Service or a state tax agency. Form W-2 tax form completed by the employer is acceptable.

(11) Marriage certificate.

(12) Gun permit.

(13) Pilot's license.

(14) School record or transcript. It must be certified.

(15) Social security card issued by the Social Security Administration. A metal version of the card is not acceptable.

(16) Social insurance card issued by the Canadian government.

(17) Photo student identification card.

(18) Voter registration card.

(19) Welfare card.

(20) Prison release document.

(21) Parent or guardian affidavit. The parent or guardian must appear in person, submit proof of the parent's or guardian's age and identity, and submit a certified or notarized affidavit regarding the child's identity. This applies only to minors.

c. The department may require additional documentation if the department believes that the documentation submitted is questionable or if the department has reason to believe that the person is not who the person claims to be.

601.5(3) *Name change verification.* The name listed on the license or nonoperator's identification card that is issued shall be identical to the name contained on the primary document submitted unless the applicant submits an affidavit of name change on Form 430043. The affidavit must be accompanied by one of the following documents:

a. Court-ordered name change. It must contain the full name, date of birth, and court seal.

b. Divorce decree.

c. Marriage certificate.

This rule is intended to implement Iowa Code sections 321.182 and 321.189.

[**ARC 7902B**, IAB 7/1/09, effective 8/5/09]

761—601.6(321) Parental consent. An unmarried person under the age of 18 who applies for an Iowa license shall submit parental consent and birth date confirmation on Form 430018, Parent's Written Consent to Issue Privilege to Drive or Affidavit to Obtain Duplicate. The parent's signature must be notarized; however, in lieu of notarization it may be witnessed by a driver's license examiner or clerk. No exception shall be made for parental absence from Iowa. A married person under the age of 18 shall submit an original or certified copy of a marriage certificate to avoid submission of the consent form.

This rule is intended to implement Iowa Code section 321.184.

[**ARC 7902B**, IAB 7/1/09, effective 8/5/09]

761—601.7(321) REAL ID driver's license. A person who seeks a driver's license that is compliant with the REAL ID Act of 2005, 49 U.S.C. § 30301 note, as further defined in 6 CFR Part 37 ("REAL ID driver's license"), must meet and comply with all lawful requirements for an Iowa driver's license, and must also meet and comply with all application and documentation requirements set forth at 6 CFR Part 37, including but not limited to documentation of identity, date of birth, social security number, address of principal residence, and evidence of lawful status in the United States. Documents and information provided to fulfill REAL ID requirements must be verified as required in 6 CFR 37.13. An applicant for a REAL ID driver's license is subject to a mandatory facial image capture that meets the requirements of 6 CFR 37.11(a). A REAL ID driver's license may not be issued, reissued, or renewed except as permitted in 6 CFR Part 37 and may not be issued, reissued, or renewed by any procedure, in any circumstance, to any person, or for any term prohibited under 6 CFR Part 37. The information on the front of any REAL ID driver's license must include all information and markings required by 6 CFR 37.17. Nothing in this rule requires a person to obtain a REAL ID driver's license.

This rule is intended to implement Iowa Code chapter 321, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

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CHAPTER 602
CLASSES OF DRIVER'S LICENSES

761—602.1(321) Driver's licenses.

602.1(1) *Classes.* The department issues the following classes of driver's licenses. All licenses issued, including special licenses and permits, shall carry a class designation. A license shall be issued for only one class, except that Class M may be issued in combination with another class.

Class A—commercial driver's license (CDL)

Class B—commercial driver's license (CDL)

Class C—commercial driver's license (CDL)

Class C—noncommercial driver's license

Class D—noncommercial driver's license (chauffeur)

Class M—noncommercial driver's license (motorcycle)

602.1(2) *Special licenses and permits.* The department issues the following special licenses and permits. More than one type of special license or permit may be issued to an applicant. On the driver's license, a restriction number designates the type of special license or permit issued, as follows:

1 — Motorcycle instruction permit—includes motorcycle instruction permits issued under Iowa Code subsections 321.180(1) and 321.180B(1)

2 — Noncommercial instruction permit (vehicle less than 16,001 gross vehicle weight rating)—includes instruction permits, other than motorcycle instruction permits, issued under Iowa Code subsection 321.180(1) and section 321.180A and subsection 321.180B(1)

3 — Commercial driver's instruction permit

4 — Chauffeur's instruction permit

5 — Motorized bicycle license

6 — Minor's restricted license

7 — Minor's school license

602.1(3) *Commercial driver's license (CDL).* See 761—Chapter 607 for information on the procedures, requirements and validity of a commercial driver's license (Classes A, B and C), a commercial driver's instruction permit, and their restrictions and endorsements.

This rule is intended to implement Iowa Code sections 321.178, 321.180, 321.180A, 321.180B, 321.189, and 321.194.

761—602.2(321) Information and forms. Applications, forms and information about driver's licensing are available at any driver's license examination station. Assistance is also available at the address in rule 761—600.2(17A).

602.2(1) *Certificate of completion.* Form 430036 shall be used to submit proof of successful completion of an Iowa-approved course in driver education, motorcycle rider education or motorized bicycle education.

a. If a student completed a course in another state, a public or licensed commercial or private provider of the Iowa-approved course may issue the form for the student if the provider determines that the out-of-state course is comparable to the Iowa-approved course.

b. If the out-of-state course is comparable but lacks certain components of the Iowa-approved course, the provider may issue the form after the student completes the missing components.

602.2(2) *Affidavit for school license.* Form 430021 shall be used for submitting the required statements, affidavits and parental consent for a minor's school license. See rule 761—602.26(321).

602.2(3) *Waiver of accompanying driver for intermediate licensee.* Form 431170 is the waiver described in Iowa Code subsection 321.180B(2). This form allows an intermediate licensee to drive unaccompanied between the hours of 12:30 a.m. and 5 a.m. and must be in the licensee's possession when the licensee is driving during the hours to which the waiver applies.

a. If the waiver is for employment, the form must be signed by the licensee's employer.

b. If the waiver is for school-related extracurricular activities, the form must be signed by the chairperson of the school board, the superintendent of the school, or the principal of the school if authorized by the superintendent.

c. The form must be signed by the licensee's parent or guardian. However, the parent's or guardian's signature is not required if the licensee is married and the original or a certified copy of the marriage certificate is in the licensee's possession when the licensee is driving during the hours to which the waiver applies.

This rule is intended to implement Iowa Code sections 321.8, 321.178, 321.180B, 321.184, 321.189, and 321.194.

[**ARC 7902B**, IAB 7/1/09, effective 8/5/09]

761—602.3(321) Examination and fee. Rescinded IAB 8/9/00, effective 7/24/00.

761—602.4(321) Definitions of immediate family.

602.4(1) A "member of the permittee's immediate family" as used in Iowa Code subsection 321.180(1) means the permittee's parent or guardian or a brother, sister or other relative of the permittee who resides at the permittee's residence.

602.4(2) A "member of the permittee's immediate family" as used in Iowa Code section 321.180B, subsections 1 and 2, means a brother, sister or other relative of the permittee who resides at the permittee's residence.

This rule is intended to implement Iowa Code sections 321.180 and 321.180B.

761—602.5 to **602.10** Reserved.

761—602.11(321) Class C noncommercial driver's license. This rule describes a noncommercial Class C driver's license that is not a special license or permit.

602.11(1) *Validity and issuance.*

a. The license is valid for operating:

(1) A motor vehicle that does not require a commercial driver's license or a Class D driver's license for its operation.

(2) A motorized bicycle.

(3) A motorcycle only if the license has a motorcycle endorsement.

b. The license is issued for either two years or five years.

(1) A qualified applicant who is at least 17 years, 11 months of age but not yet 70 years of age shall be issued a five-year license.

(2) A two-year license shall be issued to a qualified applicant who is under 17 years, 11 months of age or who is 70 years of age or older.

(3) A two-year license may also be issued, at the discretion of the department, to an applicant whose license is restricted due to vision or other physical disabilities.

602.11(2) *Requirements.*

a. An applicant shall be at least 16 years of age.

b. Except as otherwise provided in Iowa Code subsection 321.178(3), an applicant under 18 years of age must meet the requirements of Iowa Code section 321.180B and submit proof of successful completion of an Iowa-approved course in driver education.

This rule is intended to implement Iowa Code sections 321.177, 321.178, 321.180B, 321.189, and 321.196.

761—602.12(321) Class D noncommercial driver's license (chauffeur). This rule describes a noncommercial Class D driver's license.

602.12(1) *Validity and issuance.*

a. The license is valid for operating:

(1) A motor vehicle as a chauffeur as specified by the endorsement on the license, unless the type of vehicle or type of operation requires a commercial driver's license.

(2) A motor vehicle that may be legally operated under a noncommercial Class C driver's license, including a motorized bicycle.

(3) A motorcycle only if the license has a motorcycle endorsement.

b. The license shall have one endorsement authorizing a specific type of motor vehicle or type of operation, as listed in 761—subrule 605.4(2). The gross vehicle weight rating shall be determined pursuant to rule 761—604.35(321).

c. The license is issued for either two years or five years.

(1) A qualified applicant who is at least 18 years of age but not yet 70 years of age shall be issued a five-year license.

(2) A two-year license shall be issued to a qualified applicant who is 70 years of age or older.

(3) A two-year license may also be issued, at the discretion of the department, to an applicant whose license is restricted due to vision or other physical disabilities.

d. Rescinded IAB 11/8/06, effective 12/13/06.

602.12(2) *Requirements.*

a. An applicant shall be at least 18 years of age.

b. Reserved.

This rule is intended to implement Iowa Code sections 321.1, 321.177, 321.189, and 321.196.

761—602.13(321) Class M noncommercial driver's license (motorcycle). This rule describes a noncommercial Class M driver's license that is not a special license or permit.

602.13(1) *Validity and issuance.*

a. The license is valid for operating:

(1) A motorcycle. However, the license may have a restriction which limits operation to a three-wheel motorcycle.

(2) A motorized bicycle.

b. The license is issued for either two years or five years.

(1) A qualified applicant who is at least 17 years, 11 months of age but not yet 70 years of age shall be issued a five-year license.

(2) A two-year license shall be issued to a qualified applicant who is under 17 years, 11 months of age or who is 70 years of age or older.

(3) A two-year license may also be issued, at the discretion of the department, to an applicant whose license is restricted due to vision or other physical disabilities.

c. An Iowa driver's license issued before March 15, 1968, which is still valid because of an extension, is valid for motorcycles. An Iowa driver's license issued from March 15, 1968, through June 30, 1972, which is still valid because of an extension, is valid for motorcycles unless the back of the license is stamped "Not valid for motorcycles."

602.13(2) *Requirements.*

a. An applicant shall be at least 16 years of age.

b. Except as otherwise provided in Iowa Code subsection 321.178(3), an applicant under 18 years of age must meet the requirements of Iowa Code section 321.180B and submit proof of successful completion of an Iowa-approved course in driver education.

c. An applicant under 18 years of age must submit proof of successful completion of an Iowa-approved course in motorcycle rider education.

This rule is intended to implement Iowa Code sections 321.177, 321.178, 321.180B, 321.189 and 321.196.

761—602.14 Reserved.

761—602.15(321) Minor's restricted license. Renumbered as 761—602.25(321) IAB 1/8/92, effective 2/12/92.

761—602.16(321) Temporary instruction permit. Rescinded IAB 1/8/92, effective 2/12/92.

761—602.17(321) Minor's school license. Renumbered as 761—602.26(321) IAB 1/8/92, effective 2/12/92.

761—602.18(321) Motorcycle instruction permit. This rule describes a motorcycle instruction permit issued under Iowa Code subsection 321.180(1) or 321.180B(1).

602.18(1) *Validity and issuance.*

a. The motorcycle instruction permit is a permit that is added to another driver's license.

b. The permit is valid for operating a motorcycle when the permittee is accompanied by a person specified in Iowa Code subsection 321.180(1) or 321.180B(1), as applicable to the age of the permittee.

c. The permit is not valid for operating a motorized bicycle.

d. The permit is issued for four years and is not renewable.

602.18(2) *Requirement.* An applicant shall be at least 14 years of age.

This rule is intended to implement Iowa Code sections 321.177, 321.180 and 321.180B.

761—602.19(321) Noncommercial instruction permit. This rule describes a noncommercial instruction permit, other than a motorcycle instruction permit, issued under Iowa Code subsection 321.180(1) or 321.180B(1).

602.19(1) *Validity and issuance.*

a. The permit is a restricted, noncommercial Class C driver's license.

b. The permit is valid for operating a motor vehicle that may be legally operated under a noncommercial Class C driver's license when the permittee is accompanied by a person specified in Iowa Code subsection 321.180(1) or 321.180B(1), as applicable to the age of the permittee.

c. The permit is not valid for operating a motorized bicycle.

d. The permit is not valid as a motorcycle instruction permit.

e. The permit is issued for four years.

602.19(2) *Requirement.* An applicant shall be at least 14 years of age.

This rule is intended to implement Iowa Code sections 321.177, 321.180 and 321.180B.

761—602.20 Rescinded IAB 11/18/98, effective 12/23/98.

761—602.21(321) Special noncommercial instruction permit. This rule describes a special noncommercial instruction permit issued under Iowa Code section 321.180A.

602.21(1) *Validity and issuance.*

a. The permit is a restricted, noncommercial Class C driver's license that is issued to a person whose application for driver's license renewal has been denied or whose driver's license has been suspended for incapability due to a physical disability.

b. The permit is valid for operating a motor vehicle that may be legally operated under a noncommercial Class C driver's license when the permittee is accompanied by a person specified in Iowa Code section 321.180A.

c. The permit is not valid for operating a motorized bicycle.

d. The permit is not valid as a motorcycle instruction permit.

e. The permit is valid for six months from the date of issuance. It is invalid after the expiration date on the permit.

f. The permit may be reissued for one additional six-month period.

602.21(2) *Requirement.* An applicant must submit a medical report pursuant to 761—subrule 600.4(6).

This rule is intended to implement Iowa Code section 321.180A.

761—602.22 Reserved.

761—602.23(321) Chauffeur's instruction permit.

602.23(1) *Validity and issuance.*

a. A chauffeur's instruction permit is a permit that is added to a Class D license or a noncommercial Class C license that is not a special license or permit.

b. The license with the permit is valid for operating:

(1) A motor vehicle that may be legally operated under the class of license (and for Class D, the endorsement) held by the licensee, including a motorized bicycle.

(2) A motor vehicle, other than a commercial motor vehicle or a motorcycle, as a chauffeur if accompanied by a person with a valid Class D license or a commercial driver's license valid for the vehicle being operated.

c. The permit is issued for two years.

602.23(2) *Requirements.*

a. An applicant shall be at least 18 years of age.

b. Reserved.

This rule is intended to implement Iowa Code sections 321.1, 321.177 and 321.180.

761—602.24(321) Motorized bicycle license.

602.24(1) *Validity and issuance.*

a. A motorized bicycle license is a restricted, noncommercial Class C license.

b. The license is valid for operating a motorized bicycle.

c. The license is issued for two years.

602.24(2) *Requirements.*

a. An applicant shall be at least 14 years of age.

b. An applicant under 16 years of age must submit proof of successful completion of an Iowa-approved course in motorized bicycle education.

This rule is intended to implement Iowa Code sections 321.177 and 321.189.

761—602.25(321) Minor's restricted license.

602.25(1) *Validity and issuance.*

a. A minor's restricted license is a restricted, noncommercial Class C or Class M driver's license.

b. The license is valid for driving to and from the licensee's place of employment or to transport dependents to and from temporary care facilities, if necessary to maintain the licensee's present employment.

c. The type of motor vehicle that may be operated is controlled by the class of driver's license issued. A Class C minor's restricted license is valid for operating a motorcycle only if the license has a motorcycle endorsement. A minor's restricted license is valid for operating a motorized bicycle only for the purposes specified in paragraph *"b"* of this subrule.

d. The license is issued for two years.

602.25(2) *Requirements.*

a. The applicant shall be at least 16 years of age but not yet 18.

b. The applicant shall submit to the department a statement from the employer confirming the applicant's employment.

c. Proof of nonattendance is required. Proof of nonattendance is receipt of notification from the appropriate school authority that the applicant does not attend school, as set out in 761—subrule 615.23(2).

d. The applicant shall submit proof of successful completion of an Iowa-approved course in driver education.

e. For a Class M minor's restricted license or a motorcycle endorsement, the applicant shall also submit proof of successful completion of an Iowa-approved course in motorcycle rider education.

This rule is intended to implement Iowa Code sections 299.1B, 321.178, 321.180B, 321.189, 321.196 and 321.213B.

761—602.26(321) Minor's school license.

602.26(1) *Validity and issuance.*

a. A minor's school license is a restricted, noncommercial Class C or Class M driver's license.

b. The license is valid for driving unaccompanied from 6 a.m. to 10 p.m. on the most direct route between a licensee's residence and schools of enrollment or the closest school bus stop or public transportation service, and between schools of enrollment, to attend scheduled courses and extracurricular activities within the school district.

c. The license is also valid for driving when the licensee is accompanied by a person specified in Iowa Code subsection 321.180B(1).

d. The type of motor vehicle that may be operated is controlled by the class of driver's license issued. A Class C minor's school license is valid for operating a motorcycle only if the license has a motorcycle endorsement. A minor's school license is valid for operating a motorized bicycle only for the purposes specified in paragraph *"b"* of this subrule.

e. The license is issued for two years.

602.26(2) *Requirements.*

a. An applicant shall be at least 14 years of age but not yet 18 and meet the requirements of Iowa Code section 321.194.

b. An applicant shall submit a statement of necessity signed by the chairperson of the school board, the superintendent of the school, or the principal of the school if authorized by the superintendent. The statement shall be on Form 430021.

c. An applicant shall submit proof of successful completion of an Iowa-approved course in driver education.

d. For a Class M minor's school license or a motorcycle endorsement, an applicant shall also submit proof of successful completion of an Iowa-approved course in motorcycle rider education.

602.26(3) *Exemption.*

a. An applicant is not required to have completed an approved driver education course if the applicant demonstrates to the satisfaction of the department that completion of the course would impose a hardship upon the applicant; however, the applicant must meet all other requirements for a school license. "Hardship" means:

(1) If the applicant is 14 years old, that a driver education course will not begin at the applicant's school(s) of enrollment or at a public school in the applicant's district of residence within one year following the applicant's fourteenth birthday; or

(2) If the applicant is 15 years old, that a driver education course will not begin at the applicant's school(s) of enrollment or at a public school in the applicant's district of residence within six months following the applicant's fifteenth birthday; or

(3) If the applicant is between 16 and 18 years old, that a driver education course is not offered at the applicant's school(s) of enrollment or at a public school in the applicant's district of residence at the time the request for hardship status is submitted to the department; or

(4) That the applicant is permanently handicapped. In this rule, "handicapped" means that, because of a disability or impairment, the applicant is unable to walk in excess of 200 feet unassisted or cannot walk without causing serious detriment or injury to the applicant's health.

b. "Demonstrates to the satisfaction of the department" means that the department has received an affidavit on Form 430021 attesting that completion of the course would impose a hardship upon the applicant. The affidavit shall be signed by the applicant's parent, custodian or guardian and by the superintendent of the applicant's school, the chairperson of the school board, or the principal of the applicant's school if authorized by the superintendent.

This rule is intended to implement Iowa Code sections 321.177, 321.180B, 321.189, 321.194 and 321.196.

761—602.27 to **602.29** Reserved.

761—602.30(321) Special instruction permit. Rescinded IAB 1/8/92, effective 2/12/92.

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CHAPTER 603
Reserved

CHAPTER 604
LICENSE EXAMINATION

[Prior to 6/3/87, see Transportation Department[820]—(07,C)rules 13.3 and 13.17]

761—604.1(321) Authority and scope.

604.1(1) The department is authorized to determine by examination an applicant's ability to operate motor vehicles safely upon the highways and to issue all driver's licenses.

604.1(2) This chapter of rules shall apply to the examination for all driver's licenses. Information on the additional examination procedures and requirements for a commercial driver's license or commercial driver's instruction permit is given in 761—Chapter 607.

This rule is intended to implement Iowa Code sections 321.2, 321.3, 321.13, 321.177, and 321.186.

761—604.2(321) Definitions.

"Binocular field of vision" is the sum of the temporal measurements or the sum of the nasal measurements.

"Monocular field of vision" is the sum of the temporal measurement and the nasal measurement for one eye.

"Representative vehicle" is a vehicle which is characteristic of and requires operating skills comparable to those vehicles that may legally be operated under the class of license or endorsement desired.

This rule is intended to implement Iowa Code sections 321.174 and 321.186.

[**ARC 9991B**, IAB 2/8/12, effective 3/14/12]

761—604.3(17A) Information and forms.

604.3(1) Applications, forms, and information about driver's license examinations are available at any driver's license examination station. Assistance is also available from the office of driver services at the address in 761—600.2(17A).

604.3(2) The "Iowa Driver Manual" and the "Iowa Motorcycle Operator Manual" are also available from the department.

This rule is intended to implement Iowa Code section 17A.3.

761—604.4 to **604.6** Reserved.

761—604.7(321) Examination.

604.7(1) An examination shall include:

a. A vision screening if the person has not filed a vision report.

b. A knowledge test of Iowa traffic laws and highway signs.

c. A driving test of the person's ability to operate a motor vehicle.

604.7(2) The examination required for a driver's license depends upon the class of license requested, applicable endorsements, and the qualifications of the applicant.

This rule is intended to implement Iowa Code sections 321.186 and 321.186A.

761—604.8 and **604.9** Reserved.

761—604.10(321) Vision screening.

604.10(1) *Requirement.* Vision screening or a vision report is required of an applicant for a driver's license.

604.10(2) *Method.* At driver's license examination stations, a vision screening instrument shall be used to screen the applicant's vision. An applicant who has corrective lenses may be screened with or without the corrective lenses.

604.10(3) *Report.* A vision report shall be submitted on Form 430032 signed by a licensed vision specialist and shall report the person's visual acuity level and field of vision as measured within 30 days prior to the date of the application. In lieu of Form 430032, a vision report signed by a licensed vision

specialist on the specialist's letterhead may be accepted if it contains all the information specified on Form 430032.

This rule is intended to implement Iowa Code sections 321.186, 321.186A and 321.196.

[**ARC 9991B**, IAB 2/8/12, effective 3/14/12]

761—604.11(321) Vision standards. The visual acuity and field of vision standards for licensing and the applicable restrictions are as follows.

604.11(1) *Visual acuity standards.*

a. *When the applicant is screened without corrective lenses.* If the visual acuity is 20/40 or better with both eyes or with the better eye, no restriction will be imposed. If the visual acuity is less than 20/40 but at least 20/70 with both eyes or with the better eye, the applicant shall be restricted from driving when headlights are required.

b. *When the applicant is screened with corrective lenses.* If the visual acuity is 20/40 or better with both eyes or with the better eye, the applicant shall be required to wear corrective lenses. If the visual acuity is less than 20/40 but at least 20/70 with both eyes or with the better eye, the applicant shall be required to wear corrective lenses and shall be restricted from driving when headlights are required.

c. *Other standards.* If the visual acuity in the left eye is less than 20/100, the applicant shall be restricted to driving a vehicle with both left and right outside rearview mirrors. However, if the applicant has a visual acuity of 20/40 in the right eye and less than 20/100 in the left eye without corrective lenses and has corrective lenses that improve the vision in the left eye to better than 20/100, the applicant shall have the option of being restricted to driving with corrective lenses or driving a vehicle with both left and right outside rearview mirrors.

604.11(2) *Field of vision standards.*

a. If the binocular field of vision is at least 140 degrees, no restriction will be imposed.

b. If the binocular field of vision is less than 140 degrees but at least 110 degrees, or one eye has a monocular field of vision of at least 100 degrees, the applicant shall be restricted to driving a vehicle with both left and right outside rearview mirrors.

This rule is intended to implement Iowa Code sections 321.186, 321.193, and 321.196.

[**ARC 9991B**, IAB 2/8/12, effective 3/14/12]

761—604.12(321) Vision referrals.

604.12(1) *Referral.*

a. If an applicant on first screening cannot attain 20/40 but can attain 20/70 with at least one eye, the department shall not issue a license to the applicant. Instead, the department shall advise the applicant to consult a licensed vision specialist.

b. A vision report, pursuant to subrule 604.10(3), shall be required before the department will reconsider licensing.

604.12(2) *License.*

a. The department shall affix a sticker to the applicant's license stating: "Renewal or license issuance denied due to vision."

b. If the applicant's license is valid for less than 30 days, the department may issue a temporary driving permit with restrictions appropriate to the applicant's visual acuity level and field of vision. The temporary driving permit is valid for not more than 30 days from the end of the current license validity.

604.12(3) *Report.* If the vision report recommends a restriction, the department shall issue a restricted license even though it would not be required by departmental standards.

604.12(4) *Applicant refusal.* If an applicant refuses to consult a licensed vision specialist, the department shall issue or deny the license based on the results achieved on the vision screening.

This rule is intended to implement Iowa Code sections 321.181, 321.186, 321.186A, 321.193 and 321.196.

761—604.13(321) Vision screening results.

604.13(1) *Two-year license.* An applicant who cannot attain a visual acuity of 20/40 with both eyes or with the better eye shall be issued a two-year license. This restriction may be waived by the department

when a vision report pursuant to subrule 604.10(3) certifies that the vision has stabilized and is not expected to deteriorate.

604.13(2) *License denied.*

a. An applicant who cannot attain a visual acuity of 20/70 with both eyes or with the better eye shall not be licensed, subject to discretionary issuance under subrule 604.13(4).

b. If the applicant's binocular field of vision is less than 110 degrees, or the monocular field of vision is less than 100 degrees, the applicant shall not be licensed, subject to discretionary issuance under subrule 604.13(4).

604.13(3) *Reapplication.* An applicant who cannot meet the vision standards in subrule 604.13(2) may reapply when the vision improves and meets the vision standards. If a suspension or denial notice was served, reapplication must be made to the office of driver services at the address in 761—600.2(17A), and not at a driver's license examination station.

604.13(4) *Discretionary issuance.*

a. An applicant whose license is restricted under rule 761—604.11(321) or who cannot meet the vision standards in subrule 604.13(2) may submit a written request for review by an informal settlement officer.

b. Based upon consideration of the applicant's vision screening results or vision report, driving test and driving record, the written recommendation of the applicant's licensed vision specialist, and traffic conditions in the vicinity of the applicant's residence, the officer may recommend issuing a license with restrictions suitable to the applicant's capabilities. However:

(1) An applicant who cannot attain a visual acuity of 20/100 with both eyes or with the better eye may be considered for licensing only after recommendation by the medical advisory board.

(2) An applicant who cannot attain a visual acuity of 20/199 with both eyes or with the better eye shall not be licensed.

(3) If an applicant's binocular field of vision or monocular field of vision is less than 75 degrees, the applicant may be considered for licensing only after recommendation by the medical advisory board.

(4) An applicant who cannot attain a binocular or monocular field of vision of 21 degrees shall not be licensed.

c. The officer's recommendation denying discretionary issuance or regarding the extent and nature of restrictions is subject to reversal or modification upon review or appeal only if it is clearly characterized by an abuse of discretion.

This rule is intended to implement Iowa Code sections 321.186, 321.186A, 321.193 and 321.196.

[**ARC 9991B**, IAB 2/8/12, effective 3/14/12]

761—604.14 to **604.19** Reserved.

761—604.20(321) Knowledge test.

604.20(1) *Written test.* A knowledge test is a written test to determine an applicant's ability to read and understand Iowa traffic laws and the highway signs that regulate, warn, and direct traffic. A test may be revised at any time but each test states the minimum passing score.

604.20(2) *Three types of tests.* There are three types of knowledge tests: an operator's test, a chauffeur's test, and a motorcycle test. The requirement for a license depends upon the class of license desired, applicable endorsements, and the qualifications of the applicant.

604.20(3) *Oral test.* An applicant who is unable to read or understand a written test may request an oral test. The oral test may be administered by an examiner or by an automated testing device.

604.20(4) *Waiver.* Rescinded IAB 1/8/92, effective 2/12/92.

This rule is intended to implement Iowa Code section 321.186.

761—604.21(321) Knowledge test requirements and waivers.

604.21(1) *Knowledge test requirements.* The knowledge test requirements are as follows:

a. *Operator's test.* An operator's knowledge test is required for all classes of driver's licenses and all types of special driver's licenses and permits.

b. *Motorcycle test.* A motorcycle knowledge test is required for all:

(1) Motorcycle instruction permits.

(2) Class M driver's licenses.

(3) Motorcycle endorsements.

c. *Chauffeur's test.* A chauffeur's knowledge test is required for all:

(1) Chauffeur's instruction permits.

(2) Class D driver's licenses except those with an endorsement for "passenger vehicle less than 16-passenger design."

604.21(2) *Knowledge test waivers.* The department may waive a knowledge test listed in subrule 604.21(1) if the applicant meets one of the following qualifications:

a. The applicant has passed the same type of test for another Iowa driver's license or an equivalent out-of-state license that is still valid.

b. The applicant has a valid, equivalent driver's license issued by a foreign jurisdiction with which Iowa has a nonbinding reciprocity agreement.

c. The applicant has a military extension and is renewing the applicant's Iowa driver's license within six months following separation from active duty.

This rule is intended to implement Iowa Code sections 321.180, 321.180A, 321.180B, 321.186, 321.189, 321.196 and 321.198.

761—604.22(321) Knowledge test results.

604.22(1) *Proof of Passing score.* When necessary, the department shall give the applicant a form, valid for 90 days, which certifies that the applicant has passed the knowledge test.

604.22(2) *Retesting.* An applicant who fails a knowledge test may repeat the test at the discretion of the examiner, but at least two hours shall elapse between tests.

This rule is intended to implement Iowa Code section 321.186.

761—604.23 to **604.29** Reserved.

761—604.30(321) Driving test. A driving test is a demonstration of an applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle under actual traffic conditions. The test is also called a road test, field test, or driving demonstration. A motorcycle skill test is an off-street demonstration of an applicant's ability to control the motorcycle in a set of standard maneuvers, and a motorcycle driving test is an on-street demonstration.

604.30(1) *Vehicle type and safety.*

a. For the driving test, the applicant shall provide a representative vehicle as defined in 761—604.2(321).

b. The examiner or other authorized personnel shall visually inspect the vehicle. If a vehicle is illegal or unsafe, or is not a representative vehicle, the examiner shall refuse to administer the test until corrections are made or an acceptable vehicle is provided.

604.30(2) *Criteria and route.* Form 430024, "Your Driving Test," explains the criteria for passing the test and shall be given to the applicant before any required test, except a motorcycle skill test. The applicant shall be directed over one of the routes which have been preselected by the examiner to test driving skills and maneuvers.

604.30(3) *Test score.* The examiner shall use the standard departmental score sheet and shall enter the test score and the licensing decision in the spaces provided. At the end of the test, the examiner shall explain the test score. The test score result is valid for 90 days.

604.30(4) *Retesting.* If an applicant fails a driving test, the test may be rescheduled at the discretion of the examiner.

This rule is intended to implement Iowa Code sections 321.174 and 321.186.

[**ARC 9991B**, IAB 2/8/12, effective 3/14/12]

761—604.31(321) Driving test requirements and waivers for noncommercial driver's licenses.

604.31(1) *Driving test requirements.* The driving test requirements for noncommercial driver's licenses are as follows:

a. *Instruction permits.* A driving test is not required to obtain an instruction permit.

b. *Class C driver's licenses.* For a Class C driver's license other than an instruction permit or a motorized bicycle license, an operator's driving test in a representative vehicle is required.

c. *Class D driver's licenses.* For a Class D driver's license, a driving test in a representative vehicle for the endorsement requested, as set out in 761—subrule 605.4(2), is required.

d. *Class M driver's licenses and motorcycle endorsements.* The driving test for a Class M driver's license or motorcycle endorsement consists of two parts: an off-street motorcycle skill test and an on-street driving test.

(1) The off-street motorcycle skill test is required. The on-street motorcycle driving test is also required if the applicant does not have another driver's license that permits unaccompanied driving.

(2) A motorcycle shall be used for these tests. If a three-wheeled motorcycle is used, the driver's license shall be restricted: "Not valid for 2-wheel vehicle."

e. *Motorized bicycle licenses.* For a motorized bicycle license, an off-street or on-street driving test may be required. A motorized bicycle shall be used for the test.

604.31(2) *Driving test waivers.* The department may waive a required driving test listed in subrule 604.31(1) if the applicant meets one of the following qualifications:

a. The applicant is applying for the applicant's first Iowa driver's license that permits unaccompanied driving following successful completion of the appropriate Iowa-approved course or courses. The appropriate Iowa-approved courses are the following: driver education for a Class C driver's license other than motorized bicycle, driver education and motorcycle rider education for a Class M driver's license or motorcycle endorsement, and motorized bicycle education for a motorized bicycle license. However:

(1) The department may select dates and require a driving test of applicants whose birth dates fall on the selected dates. The department shall notify the Iowa department of education quarterly of the dates selected.

(2) If an applicant is under the age of 18, a driving test is required if so requested by the applicant's parent, guardian, or instructor.

b. The applicant is renewing a Class C, Class D or Class M Iowa driver's license or endorsement within 14 months after the expiration date.

c. The applicant has passed the same type of driving test for another Iowa driver's license or endorsement that is still valid or has expired within the past 14 months.

d. The applicant has a military extension and is renewing the applicant's Iowa driver's license within six months following separation from active duty.

e. The applicant is applying for a Class C Iowa driver's license that permits unaccompanied driving and has an equivalent out-of-state license that is valid or has expired within the past year.

f. The applicant is applying for a Class D Iowa driver's license and has an equivalent out-of-state license that is valid or has expired within the past year.

g. The applicant is applying for a Class M driver's license or a motorcycle endorsement and has an equivalent out-of-state Class M driver's license or motorcycle endorsement that is valid or has expired within the past year.

h. The applicant has a valid, equivalent driver's license issued by a foreign jurisdiction with which Iowa has a nonbinding reciprocity agreement.

This rule is intended to implement Iowa Code sections 321.174, 321.178, 321.180, 321.180A, 321.180B, 321.186, 321.189, 321.193, 321.196 and 321.198.

[**ARC 7902B**, IAB 7/1/09, effective 8/5/09]

761—604.32(321) Driving tests requirements. Rescinded IAB 1/8/92, effective 2/12/92.

761—604.33 and **604.34** Reserved.

761—604.35(321) Determination of gross vehicle weight rating. For a vehicle that has no legible manufacturer's certification label, the applicant may provide documentation of the gross vehicle weight rating, such as a manufacturer's certificate of origin, a title, a vehicle registration document, or the vehicle identification number information for the vehicle. In the absence of the above documentation, the registered weight of the vehicle shall be presumed to be the gross vehicle weight rating.

This rule is intended to implement Iowa Code section 321.1.

761—604.36 to **604.39** Reserved.

761—604.40(321) Failure to pass examination.

604.40(1) An applicant who fails to pass a required examination or reexamination shall not be licensed.

a. If the applicant does not have a valid Iowa license, the department shall deny the applicant a license.

b. If the applicant has a valid Iowa license, the department shall suspend the license for incapability. However, if the applicant's license is valid for less than 30 days, the department shall deny further licensing. The department shall serve a notice of suspension or denial.

c. See 761—615.4(321) for further information on denials and 761—615.14(321) for further information on suspensions for incapability.

d. An applicant may contest a denial or suspension in accordance with 761—615.38(321).

604.40(2) Limitations on the hearing and appeal process.

a. After a suspension or denial for failure to pass a required knowledge or driving test, a person who contests the suspension or denial shall be deemed to have exhausted the person's administrative remedies after three unsuccessful attempts to pass the required test.

b. After the three unsuccessful attempts, no further testing shall be allowed until six months have elapsed from the date of the last test failure, and then only if the applicant demonstrates a significant change or improvement in those physical or mental factors that resulted in the original decision. A request for further testing must be submitted in writing to the office of driver services at the address in rule 761—600.2(17A).

c. Notwithstanding paragraphs *"a"* and *"b"* of this subrule, no testing shall occur if the director determines that it is unsafe to allow testing.

This rule is intended to implement Iowa Code chapter 17A and sections 321.177, 321.180A and 321.210.

761—604.41 to **604.44** Reserved.

761—604.45(321) Reinstatement. A person whose license has been suspended or denied for failure to pass a required examination or reexamination shall meet the vision standards for licensing, pass the required knowledge examination(s), and pass the required driving test(s) before an Iowa license will be issued.

This rule is intended to implement Iowa Code sections 321.177 and 321.186.

761—604.46 to **604.49** Reserved.

761—604.50(321) Special reexaminations. The department may require a special reexamination consisting of a vision screening, knowledge test and driving test of any licensee.

604.50(1) The department may require a special reexamination when a licensee has been involved in a fatal motor vehicle accident and the investigating officer's report of the accident indicates the licensee contributed to the accident.

604.50(2) The department may require a special reexamination when a licensee has been involved in two accidents within a three-year period and the investigating officer's report of each accident lists one of the following "Driver/Vehicle Related Contributing Circumstances" for the licensee:

a. Ran traffic signal.

b. Ran stop sign.
c. Passing, interfered with other vehicle.
d. Left of center, not passing.
e. Failure to yield right-of-way at uncontrolled intersection.
f. Failure to yield right-of-way from stop sign.
g. Failure to yield right-of-way from yield sign.
h. Failure to yield right-of-way making left turn.
i. Failure to yield right-of-way to pedestrian.
j. Failure to have control.

604.50(3) The department may require a special reexamination when a licensee has been involved in two accidents within a three-year period and the investigating officers' reports for both accidents list a driver condition for the licensee of "apparently asleep."

604.50(4) The department may require a special reexamination when a licensee who is 65 years of age or older has been involved in an accident and information in the investigating officer's or the person's own report of the accident indicates the need for reexamination. A circumstance that may indicate a need for reexamination includes, but is not limited to, any one of the following:

a. The licensee made a left turn that resulted in the accident.
b. The licensee failed to yield the right-of-way at a stop sign.
c. The licensee failed to yield the right-of-way at a yield sign.
d. The licensee failed to yield the right-of-way at an uncontrolled intersection.
e. The licensee failed to yield the right-of-way at a traffic control signal.
f. The licensee's vision may be a contributing factor to a nighttime accident.
g. The licensee has a physical disability-related license restriction other than "corrective lenses" and the accident involved one of the circumstances listed in paragraphs *"a"* to *"f"* above.

604.50(5) The department may require a special reexamination when recommended by a peace officer, a court, or a properly documented citizen's request. A factor that may indicate a need for reexamination includes, but is not limited to, any one of the following:

a. Loss of consciousness.
b. Confusion, disorientation or dementia.
c. Inability to maintain a vehicle in the proper lane.
d. Repeatedly ignoring traffic control devices in a nonchase setting.
e. Inability to interact safely with other vehicles.
f. Inability to maintain consistent speed when no reaction to other vehicles or pedestrians is required.

This rule is intended to implement Iowa Code sections 321.177, 321.186 and 321.210.

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[1] Effective date of 604.11(2) and 604.13(2)*"b"* delayed until adjournment of the 1988 Session of the General Assembly pursuant to Iowa Code section 17A.8(9) by the Administrative Rules Review Committee at its June 1987 meeting.

CHAPTER 605
LICENSE ISSUANCE

761—605.1(321) Scope. This chapter of rules applies to the issuance of all Iowa driver's licenses. Additional information on the issuance of a commercial driver's license or a commercial driver's instruction permit is given in 761—Chapter 607.

This rule is intended to implement Iowa Code section 321.174.

761—605.2(321) Contents of license. In addition to the information specified in Iowa Code subsection 321.189(2), the following information shall be shown on a driver's license.

605.2(1) *Address.* A business address shall be used only when the licensee does not have an Iowa address and will not be able to establish a residence address in Iowa.

605.2(2) *Physical description.* The physical description of the licensee on the face of the driver's license shall include:

a. The licensee's eye color using these abbreviations: Blk-black, Blu-blue, Bro-brown, Gry-gray, Grn-green, Haz-hazel, and Pnk-pink.

b. The licensee's height in inches.

c. Rescinded IAB 11/8/06, effective 12/13/06.

This rule is intended to implement Iowa Code section 321.189.

761—605.3(321) License class. The driver's license class shall be coded on the face of the driver's license using these codes:

Class A—commercial driver's license
Class B—commercial driver's license
Class C—commercial driver's license
Class C—noncommercial driver's license
Class D—noncommercial driver's license, chauffeur
Class M—noncommercial driver's license, motorcycle only

This rule is intended to implement Iowa Code section 321.189.

761—605.4(321) Endorsements. The endorsements shall be coded on the face of the driver's license and explained in text on the back of the driver's license.

605.4(1) *For a commercial driver's license.* The following endorsements may be added to a Class A, B or C commercial driver's license using these letter codes:

H—Hazardous material
P—Passenger
N—Tank
X—Hazardous material and tank
T—Double/triple trailers
S—School bus

605.4(2) *For a Class D driver's license (chauffeur).* The following endorsements may be added to a Class D driver's license using these number codes:

1—Truck-tractor semitrailer combination
2—Vehicle with 16,001 pounds gross vehicle weight rating or more. Not valid for truck-tractor semitrailer combination
3—Passenger vehicle less than 16-passenger design

605.4(3) *Motorcycle endorsement.* A motorcycle endorsement may be added to any driver's license that permits unaccompanied driving, other than a Class M driver's license or a motorized bicycle license, using the following letter code:

L—Motorcycle

This rule is intended to implement Iowa Code section 321.189.

761—605.5(321) Restrictions. Restrictions shall be coded on the face of the driver's license and explained in text on the back of the driver's license.

605.5(1) *For all licenses.* The following restrictions may apply to any driver's license:

B—Corrective lenses required

C—Mechanical aid (as detailed in the restriction on the back of the card)

D—Prosthetic aid (as detailed in the restriction on the back of the card)

E—Automatic transmission

F—Left and right outside rearview mirrors

G—No driving when headlights required

H—Temporary restricted license or permit (work permit)

I—Ignition interlock required

J—Restrictions on the back of card

S—SR required (proof of financial responsibility for the future)

T—Medical report required at renewal

U—Not valid for 2-wheel vehicle

W—Restricted commercial driver's license (CDL)

Y—Intermediate license

605.5(2) *For a noncommercial driver's license.* The following restrictions apply only to a noncommercial driver's license:

P—Special instruction permit

Q—No interstate or freeway driving

605.5(3) *For a commercial driver's license.* The following restrictions apply only to a commercial driver's license:

K—Commercial driver's license intrastate only

L—Vehicle without air brakes

M—Except Class A bus

N—Except Class A and Class B bus

O—Except tractor-trailer

V—Medical Variance document required

605.5(4) *Special licenses.* A numbered restriction will designate a special driver's license using these codes:

1—Motorcycle instruction permit

2—Noncommercial instruction permit (vehicle less than 16,001 gross vehicle weight rating)

3—Commercial driver's instruction permit

4—Chauffeur's instruction permit

5—Motorized bicycle license

6—Minor's restricted license

7—Minor's school license

605.5(5) *Additional information.*

a. Reexamination or report. The department may issue a restriction requiring a person to reappear at a specified time for examination. The department may require a medical report to be submitted. The department shall send Form 430029 as a reminder to appear.

b. Loss of consciousness or voluntary control.

(1) If a person is licensed pursuant to 761—subrule 600.4(4), the department shall issue the first driver's license with a restriction stating: "Medical report to be furnished at the end of six months."

(2) If this medical report shows that the person has been free of an episode of loss of consciousness or voluntary control since the previous medical report and the report recommends licensing, the department shall issue a duplicate driver's license with a restriction stating: "Medical report required at renewal." At each renewal accompanied by a favorable medical report, the department shall issue a two-year driver's license with the same restriction.

(3) If the latest medical report indicates the person experienced only a single nonrecurring episode, the cause has been identified, and the physician is not treating or has not treated the person for the episode

and believes it is unlikely to recur, the department may waive the medical report requirement upon receipt of a favorable recommendation from a physician.

(4) The department may remove the medical report requirement and issue a full-term driver's license if recommended by a physician and if the latest medical information on file with the department indicates the person has not had an episode of loss of consciousness or voluntary control and has not been prescribed medications to control such episodes during the 24-month period immediately preceding application for a license.

(5) The department may remove the medical report requirement and issue a full-term driver's license if recommended by a physician and if the latest medical information on file with the department indicates the person has not had an episode of loss of consciousness or voluntary control during the 10-year period immediately preceding application for a license.

c. *Financial responsibility.* When a person is required under Iowa Code chapter 321A to have future proof of financial responsibility on file, the license restriction will read: "SR required." The license shall be valid only for the operation of motor vehicles covered by the class of license issued and by the proof of financial responsibility filed.

d. *Vision restriction.* Restrictions relating to vision are addressed in 761—Chapter 604.

This rule is intended to implement Iowa Code chapter 321A and sections 321.178, 321.180, 321.180A, 321.180B, 321.189, 321.193, 321.194, 321.215, 321J.4, and 321J.20.

[**ARC 9991B**, IAB 2/8/12, effective 3/14/12]

761—605.6 Reserved.

761—605.7(321L) Handicapped designation. Rescinded IAB 2/11/98, effective 3/18/98.

761—605.8 Reserved.

761—605.9(321) Fees for driver's licenses. Fees for driver's licenses are specified in Iowa Code section 321.191. A license fee may be paid by cash, check, credit card, debit card or money order. If payment is by check, the following requirements apply:

605.9(1) The check shall be for the exact amount of the fee and shall be payable to: Treasurer, State of Iowa. An exception may be made when a traveler's check is presented.

605.9(2) One check may be used to pay fees for several persons, such as members of a family or employees of a business firm. One check may pay all fees involved, such as the license fee and the reinstatement fee.

This rule is intended to implement Iowa Code section 321.191.

[**ARC 9991B**, IAB 2/8/12, effective 3/14/12]

761—605.10(321) Waiver or refund of license fees. Rescinded IAB 2/8/12, effective 3/14/12.

761—605.11(321) Duplicate license.

605.11(1) *Lost or destroyed license.* To replace a valid license that is lost or destroyed, the licensee shall submit Form 430052 and proof of age, identity and social security number. The replacement fee is $3.

605.11(2) *Voluntary replacement.* The department shall issue a duplicate of a valid license to an eligible licensee if the license is surrendered to the department and the $1 voluntary replacement fee is paid. Voluntary replacement includes but is not limited to:

a. Replacement of a damaged license.

b. Replacement to change the address on a license.

c. Replacement to change the name on a license. The licensee shall submit an affidavit of the name change on Form 430043. The affidavit must be accompanied by one of the following documents:

(1) Court-ordered name change. It must contain the full name, date of birth, and court seal.

(2) Divorce decree.

(3) Marriage certificate.

d. Replacement to change the sex on a license. The licensee shall submit court documentation of the sex change.

e. Issuance of a license without the words "under 21" to a licensee who is 21 years of age or older.

f. Issuance of a license without the words "under 18" to a licensee who is 18 years of age or older. (If the licensee is under 21 years of age, the words "under 21" will replace the words "under 18.")

g. Issuance of a noncommercial driver's license to an eligible person who has been disqualified from operating a commercial motor vehicle.

h. Replacement of a valid license before its expiration date to obtain a license issued under the new classification system.

This rule is intended to implement Iowa Code sections 321.189, 321.195, and 321.208.

[**ARC 7902B**, IAB 7/1/09, effective 8/5/09]

761—605.12(321) Address changes.

605.12(1) A licensee shall notify the department of a change in the licensee's mailing address within 30 days of the change. Notice shall be given by:

a. Submitting the address change in writing to the office of driver services, or

b. Appearing in person to change the mailing address at any driver's license examination station.

605.12(2) Parents or legal guardians may provide written notice of a mailing address change on behalf of their minor children.

605.12(3) The department may use U.S. Postal Service address information to update its address records.

This rule is intended to implement Iowa Code sections 321.182 and 321.184.

761—605.13 and **605.14** Reserved.

761—605.15(321) License extension.

605.15(1) *Six-month extension.* An Iowa resident may apply for a six-month extension of a license if the resident:

a. Has a valid license,

b. Is eligible for further licensing, and

c. Is temporarily absent from Iowa or is temporarily incapacitated at the time for renewal.

605.15(2) *Procedure.* The licensee shall apply for an extension by submitting Form 430027 to the department. The form may be obtained from and submitted to a driver's license examination station. The licensee may also apply by letter to the address in 761—600.2(17A).

a. A six-month extension shall be added to the expiration date on the license. When the licensee appears to renew the license, the expiration date of the renewed license will be computed from the expiration date of the original license, notwithstanding the extension.

b. The department shall allow only two six-month extensions.

This rule is intended to implement Iowa Code section 321.196.

761—605.16(321) Military extension.

605.16(1) *Form 430028.* A person who qualifies for a military extension of a valid license should request Form 430028 from the department and carry it with the license for verification to peace officers. Form 430028 explains the provisions of Iowa Code section 321.198 regarding military extensions.

605.16(2) *Request for retention of record.* A person with a military extension may request that the department retain the record of license issuance for the duration of the extension or reenter the record if it has been removed from department records. The request may be made by letter or by using Form 430081. The letter or Form 430081 shall be signed by the person's commanding officer to verify the military service and shall be submitted to the department at the address in 761—600.2(17A).

605.16(3) *Renewal of license after military extension.* When an applicant renews a license after a military extension, the department may require the applicant to provide documentation of both the military service and the date of separation from military service.

605.16(4) *Reinstatement after sanction.* A person with a military extension whose license has been canceled, suspended or revoked shall comply with the requirements of 761—615.40(321) to reinstate the license.

This rule is intended to implement Iowa Code section 321.198.

761—605.17 to **605.19** Reserved.

761—605.20(321) Fee adjustment for upgrading license. The fee for upgrading a driver's license shall be computed on a full-year basis. The fee is charged for each year or part of a year between the date of the change and the expiration date on the license.

605.20(1) The fee to upgrade a driver's license from one class to another is determined by computing the difference between the current license fee and the new license fee as follows:

a. Converting noncommercial Class C to Class D—$4 per year of new license validity.

b. Converting Class M to Class D with a motorcycle endorsement—$4 per year of new license validity.

c. Converting Class M to noncommercial Class C with a motorcycle endorsement—$1 one-time fee.

605.20(2) The fee to add a privilege to a driver's license is computed per year of new license validity as follows:

Noncommercial Class C (full privileges from a restricted Class C)	$4 per year
Motorized bicycle	$4 per year
Minor's restricted license	$4 per year
Minor's school license	$4 per year
Motorcycle instruction permit	$1 per year
Motorcycle endorsement	$1 per year

This rule is intended to implement Iowa Code sections 321.189 and 321.191.

761—605.21 to **605.24** Reserved.

761—605.25(321) License renewal.

605.25(1) A licensee who wishes to renew a license shall apply at a driver's license examination station and, if required, pass the appropriate examination.

605.25(2) A valid license may be renewed 30 days before the expiration date. If this is impractical, the department for good cause may renew a license earlier.

605.25(3) A valid license may be renewed within 60 days after the expiration date, unless otherwise specified.

This rule is intended to implement Iowa Code sections 321.186 and 321.196.

761—605.26(321) License renewal by mail. Rescinded IAB 3/20/02, effective 4/24/02.

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[1] Effective date of December 29, 1993, for 761—605.26(2)*"a"* and *"d,"* delayed 70 days by the Administrative Rules Review Committee at its meeting held December 15, 1993; delay lifted by this Committee on January 5, 1994, effective January 6, 1994.

CHAPTER 606
Reserved

CHAPTER 607
COMMERCIAL DRIVER LICENSING

761—607.1(321) Scope. This chapter applies to licensing persons for the operation of commercial motor vehicles. Unless otherwise stated, the provisions of this chapter are in addition to other motor vehicle licensing rules.

This rule is intended to implement Iowa Code chapter 321.

761—607.2(17A) Information.

607.2(1) *Information and location.* Applications, forms and information about the commercial driver's license (CDL) are available at any driver's license examination station. Assistance is also available by mail from the Office of Driver Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (800)532-1121 or (515)244-8725; or by facsimile at (515)237-3071.

607.2(2) *Manual.* A copy of a study manual for the commercial driver's license tests is available upon request at any driver's license examination station.

This rule is intended to implement Iowa Code section 17A.3.

761—607.3(321) Definitions. The definitions in Iowa Code section 321.1 apply to this chapter of rules. In addition, the following definitions are adopted:

"Air brake system" means a system that uses air as a medium for transmitting pressure or force from the driver's control to the service brake. "Air brake system" shall include any braking system operating fully or partially on the air brake principle.

"Commercial driver's license" or *"CDL"* means a license issued to an individual by a state or other jurisdiction of domicile, in accordance with the standards contained in 49 CFR Part 383, which authorizes the individual to operate a class of a commercial motor vehicle.

"Commercial driver's license downgrade" or *"CDL downgrade"* means either:

1. The driver changes the driver's self-certification of type of driving from non-excepted interstate to excepted interstate, non-excepted intrastate, or excepted intrastate driving, or
2. The department removed the CDL privilege from the driver's license.

"Commercial driver's license information system driver's record" or *"CDLIS driver's record"* means the electronic record of the individual's CDL driver's status and history stored by the state-of-record as part of the commercial driver's license information system established under 49 U.S.C. Section 31309.

"Commercial motor vehicle" as defined in Iowa Code section 321.1 does not include a motor vehicle designed as off-road equipment rather than as a motor truck, such as a forklift, motor grader, scraper, tractor, trencher or similar industrial-type equipment. "Commercial motor vehicle" also does not include self-propelled implements of husbandry described in Iowa Code subsection 321.1(32).

"Controlled substance" as used in Iowa Code section 321.208 means a substance defined in Iowa Code section 124.101.

"Medical examiner" means a person who is licensed, certified or registered, in accordance with applicable state laws and regulations, to perform physical examinations. The term includes but is not limited to doctors of medicine, doctors of osteopathy, physician assistants, advanced registered nurse practitioners, and doctors of chiropractic.

"Medical examiner's certificate" means a certificate completed and signed by a medical examiner under the provisions of 49 CFR Section 391.43.

"Medical variance" means a driver has received one of the following from the Federal Motor Carrier Safety Administration that allows the driver to be issued a medical certificate:

1. An exemption letter permitting operation of a commercial motor vehicle pursuant to 49 CFR Part 381, Subpart C, or 49 CFR Section 391.62, or 49 CFR Section 391.64.
2. A skill performance evaluation certificate permitting operation of a commercial motor vehicle pursuant to 49 CFR Section 391.49.

"Passenger vehicle" means either of the following:

1. A motor vehicle designed to transport 16 or more persons including the operator.

2. A motor vehicle of a size and design to transport 16 or more persons including the operator which is redesigned or modified to transport fewer than 16 persons with disabilities. The size of a redesigned or modified vehicle shall be any such vehicle with a gross vehicle weight rating of 10,001 or more pounds.

"School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. "School bus" does not include a bus used as a common carrier.

"Self-certification" means a written certification of which category of type of driving an applicant for a commercial driver's license engages in or intends to engage in, from the following categories:

1. Non-excepted interstate. The person certifies that the person operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 CFR Part 391, and is required to obtain a medical examiner's certificate by 49 CFR Section 391.45.

2. Excepted interstate. The person certifies that the person operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 CFR Section 390.3(f), 391.2, 391.68 or 398.3 from all or parts of the qualification requirements of 49 CFR Part 391, and is therefore not required to obtain a medical examiner's certificate by 49 CFR Section 391.45.

3. Non-excepted intrastate. The person certifies that the person operates only in intrastate commerce and is subject to state driver qualification requirements.

4. Excepted intrastate. The person certifies that the person operates only in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the state driver qualification requirements as set forth in Iowa Code section 321.449.

"State," as used in "another state" in Iowa Code subsection 321.174(2), "Former state of residence" in Iowa Code subsection 321.188(5), or "any state" in Iowa Code subsection 321.208(1), means one of the United States, the District of Columbia, a Canadian province or a Mexican state unless the context means the state of Iowa.

This rule is intended to implement Iowa Code sections 321.1, 321.174, 321.191, 321.193 and 321.208 and 2011 Iowa Code Supplement sections 321.188 and 321.207.

[**ARC 7902B**, IAB 7/1/09, effective 8/5/09; **ARC 9954B**, IAB 1/11/12, effective 1/30/12; **ARC 0031C**, IAB 3/7/12, effective 4/11/12]

761—607.4 and **607.5** Reserved.

761—607.6(321) Exemptions.

607.6(1) *Persons exempt.* A person listed in Iowa Code section 321.176A is exempt from commercial driver licensing requirements.

607.6(2) *Exempt until April 1, 1992.* Rescinded IAB 6/23/93, effective 7/28/93.

This rule is intended to implement Iowa Code sections 321.1 and 321.176A.

761—607.7(321) Records. The operating record of a person who has been issued a commercial driver's license or a person who has been disqualified from operating a commercial motor vehicle shall be maintained as provided in the department's "Record Management Manual" adopted in 761—Chapter 4.

This rule is intended to implement Iowa Code sections 22.11, 321.12 and 321.199.

761—607.8 and **607.9** Reserved.

761—607.10(321) Adoption of federal regulations.

607.10(1) *Code of Federal Regulations.* The department adopts the following portions of the Code of Federal Regulations which are referenced throughout this chapter of rules:

a. 49 CFR Section 391.11 as adopted in 761—Chapter 520.

b. 49 CFR Section 392.5 as adopted in 761—Chapter 520.

c. The following portions of 49 CFR Part 383 (October 1, 2011):

(1) Section 383.51(b), Disqualification for major offenses, and Section 383.51(a)(5), Reinstatement after lifetime disqualification.

(2) Subpart E—Testing and Licensing Procedures, which contains Sections 383.71-383.77.

(3) Subpart G—Required Knowledge and Skills, which contains Sections 383.110-383.123.

(4) Subpart H—Tests, which contains Sections 383.131-383.135.

607.10(2) *Copies of regulations.* Copies of the federal regulations may be reviewed at the state law library or through the Internet at http://www.fmcsa.dot.gov.

This rule is intended to implement Iowa Code sections 321.187, 321.188, 321.208 and 321.208A and 2011 Iowa Code Supplement section 321.207.

[**ARC 7902B**, IAB 7/1/09, effective 8/5/09; **ARC 9954B**, IAB 1/11/12, effective 1/30/12; **ARC 0031C**, IAB 3/7/12, effective 4/11/12]

761—607.11 to **607.14** Reserved.

761—607.15(321) Application. An applicant for a commercial driver's license shall comply with the requirements of Iowa Code sections 321.182 and 321.188 and 761—Chapter 601.

This rule is intended to implement Iowa Code sections 321.182 and 321.188.

761—607.16(321) Commercial driver's license (CDL).

607.16(1) *Classes.* The department may issue a commercial driver's license only as a Class A, B or C driver's license. The license class identifies the types of vehicles that may be operated. A commercial driver's license may have endorsements which authorize additional vehicle operations or restrictions which limit vehicle operations.

607.16(2) *Validity.*

a. A Class A commercial driver's license allows a person to operate a combination of commercial motor vehicles as specified in Iowa Code paragraph 321.189(1)*"a."* With the required endorsements and subject to the applicable restrictions, a Class A commercial driver's license is valid to operate any vehicle.

b. A Class B commercial driver's license allows a person to operate a commercial motor vehicle as specified in Iowa Code paragraph 321.189(1)*"b."* With the required endorsements and subject to the applicable restrictions, a Class B commercial driver's license is valid to operate any vehicle except a truck-tractor semitrailer combination as a chauffeur (Class D) or a vehicle requiring a Class A commercial driver's license.

c. A Class C commercial driver's license allows a person to operate a commercial motor vehicle as specified in Iowa Code paragraph 321.189(1)*"c."* With the required endorsements and subject to the applicable restrictions, a Class C commercial driver's license is valid to operate any vehicle except a truck-tractor semitrailer combination as a chauffeur (Class D) or a vehicle requiring a Class A or Class B commercial driver's license.

d. A commercial driver's license is valid for operating a motorcycle as a commercial motor vehicle only if the license has a motorcycle endorsement and a hazardous material endorsement. A commercial driver's license is valid for operating a motorcycle as a noncommercial motor vehicle only if the license has a motorcycle endorsement.

e. A commercial driver's license valid for five years shall be issued to a qualified applicant who is at least 18 years of age but not yet 70 years of age.

f. A commercial driver's license valid for two years shall be issued to a qualified applicant 70 years of age or older. A two-year license may also be issued, at the discretion of the department, to an applicant whose license is restricted due to vision or other physical disabilities.

g. A commercial driver's license is valid for 60 days after the expiration date.

h. A person with a commercial driver's license valid for the vehicle operated is not required to obtain a Class D driver's license to operate the vehicle as a chauffeur.

607.16(3) *Requirements.*

a. The minimum age to obtain a commercial driver's license is 18 years.

b. The applicant shall meet the requirements of Iowa Code sections 321.182 and 321.188.

This rule is intended to implement Iowa Code sections 321.177, 321.182, 321.188, 321.189, and 321.196.

761—607.17(321) Endorsements. All endorsements except the hazardous material endorsement continue to be valid without retesting or additional fees when renewing or upgrading a license. The endorsements that authorize additional commercial motor vehicle operations with a commercial driver's license are:

607.17(1) *Hazardous material.* A hazardous material endorsement (Hazmat) is required to transport hazardous material of a type or quantity requiring placarding. Upon license renewal, retesting and fee payment are required. Retesting and fee payment are also required when an applicant upgrades an Iowa license or transfers a commercial driver's license from another state unless the applicant provides evidence of passing the endorsement test within the preceding 24 months. A farmer or a person working for a farmer is not subject to the hazardous material endorsement while operating either a pickup or a special truck within 150 air miles of the farmer's farm to transport supplies to or from the farm.

607.17(2) *Passenger vehicle.* A passenger vehicle endorsement (Pass) is required to operate a passenger vehicle as defined in rule 761—607.3(321).

607.17(3) *Tank vehicle.* A tank vehicle endorsement (Tank) is required to operate a tank vehicle as defined in Iowa Code section 321.1. A commercial motor vehicle upon which is transported an empty storage tank as the vehicle cargo is not a tank vehicle. A vehicle transporting a tank, regardless of the tank's capacity, which does not otherwise meet the definition of a commercial motor vehicle in Iowa Code section 321.1 is not a tank vehicle.

607.17(4) *Double/triple trailer.* A double/triple trailer endorsement (Dbl/Trpl Trlr) is required to operate a commercial motor vehicle with two or more towed trailers when the combination of vehicles meets the criteria for a Class A commercial motor vehicle. Operation of a triple trailer combination vehicle is not permitted in Iowa.

607.17(5) *Hazardous material and tank.* A combined endorsement (Hazmat & Tank) authorizes both hazardous material and tank vehicle operations.

607.17(6) *School bus.* After September 30, 2005, a school bus endorsement is required to operate a school bus as defined in rule 761—607.3(321). An applicant for a school bus endorsement must also qualify for a passenger vehicle endorsement.

607.17(7) *Exceptions for towing operations.*

a. A driver who tows a vehicle in an emergency "first move" from the site of a vehicle malfunction or accident on a highway to the nearest appropriate repair facility is not required to have the endorsement(s) applicable to the towed vehicle. In any subsequent move, a driver who tows a vehicle from one repair or disposal facility to another is required to have the endorsement(s) applicable to the towed vehicle with one exception: A tow truck driver is not required to have a passenger endorsement to tow a passenger vehicle.

b. The double/triple trailer endorsement is not required to operate a commercial motor vehicle with two or more towed vehicles that are not trailers.

This rule is intended to implement Iowa Code sections 321.1, 321.176A, and 321.189.

761—607.18(321) Restrictions. The restrictions that may limit commercial motor vehicle operation with a commercial driver's license are listed in 761—subrule 605.5(3) and are explained below:

607.18(1) *Air brake.* The air brake restriction (Vehicle without air brakes) prohibits the operation of a commercial motor vehicle equipped with an air brake system, as defined in rule 761—607.3(321), until the licensee passes the required air brake tests and pays the fee for upgrading the license. Retesting and fee payment are not required when renewing the license.

607.18(2) *Class B vehicle.* The Class B vehicle restriction (except tractor-trailer) prohibits operation of a motor vehicle that meets the criteria for a Class A commercial motor vehicle.

607.18(3) *Class B passenger vehicle.* The Class B passenger vehicle restriction (except Class A bus) prohibits operation of a passenger vehicle that meets the criteria for a Class A commercial motor vehicle.

607.18(4) *Class C passenger vehicle.* The Class C passenger vehicle restriction (except Class A and Class B bus) prohibits operation of a passenger vehicle that meets the criteria for a Class A or Class B commercial motor vehicle.

This rule is intended to implement Iowa Code sections 321.189 and 321.191.

761—607.19 Reserved.

761—607.20(321) Commercial driver's instruction permit.

607.20(1) *Validity.*

a. A commercial driver's instruction permit allows the permit holder to operate a commercial motor vehicle when accompanied by a person licensed for the vehicle being operated. Examples of permissible vehicle operation include but are not limited to:

(1) Operation of a vehicle requiring a higher class license than the license to which the permit is added.

(2) Operation of a vehicle requiring an endorsement other than a hazardous material endorsement.

(3) Operation of a vehicle equipped with air brakes.

b. A commercial driver's instruction permit is valid for six months and may be renewed once within two years from the date of issuance of the first permit.

c. A commercial driver's instruction permit is invalid after the expiration date of the license to which the permit is added or the expiration date of the permit whichever occurs first.

607.20(2) *Requirements.*

a. An applicant for a commercial driver's instruction permit must be at least 18 years of age and eligible for a commercial driver's license.

b. The applicant must have a valid Class A, B, C, or D license other than an instruction permit, a special instruction permit, a motorized bicycle license or a temporary restricted license.

c. The applicant must successfully pass the general knowledge test for a commercial driver's license.

This rule is intended to implement Iowa Code sections 321.180, 321.186 and 321.188.

761—607.21 to **607.24** Reserved.

761—607.25(321) Examination for a commercial driver's license. In addition to the requirements of 761—Chapter 604, an applicant for a commercial driver's license shall pass the knowledge and skills tests as required in 49 CFR Part 383, Subparts G and H.

This rule is intended to implement Iowa Code section 321.186.

761—607.26(321) Vision screening. An applicant for a commercial driver's license must pass a vision screening test administered by the department. The vision standards are given in 761—604.11(321).

This rule is intended to implement Iowa Code sections 321.186 and 321.186A.

761—607.27(321) Knowledge tests.

607.27(1) *General knowledge test.* The general knowledge test for a commercial driver's license is a written test of topics such as vehicle inspection, operation, safety and control in accordance with 49 CFR Section 383.111.

607.27(2) *Additional tests.* In addition to the general knowledge test for a commercial driver's license, an additional knowledge test is required for each of the following:

a. Class A license for combination vehicle operation as required in 49 CFR Section 383.111.

b. Hazardous material endorsement as required in 49 CFR Section 383.121. The knowledge test for a hazardous material endorsement shall not be administered orally or in a language other than English.

c. Passenger vehicle endorsement as required in 49 CFR Section 383.117.

d. Tank vehicle endorsement as required in 49 CFR Section 383.119.

e. Double/triple trailer endorsement as required in 49 CFR Section 383.115.

f. School bus endorsement as required in 49 CFR Section 383.123. The applicant must also qualify for a passenger vehicle endorsement.

g. Removal of the air brake restriction as required in 49 CFR Section 383.111.

607.27(3) *Oral test.* An oral test shall be offered only at specified locations. Information about the locations is available at any driver's license examination station.

607.27(4) *Waiver.* A waiver of any knowledge test is permitted only as provided in Iowa Code subsection 321.188(5). The burden of proof of having passed the hazardous material endorsement test within the preceding 24 months rests with the applicant.

607.27(5) *Requirement.* An applicant must pass the applicable knowledge test(s) before taking the skills test.

This rule is intended to implement Iowa Code sections 321.186 and 321.188.

761—607.28(321) Skills test.

607.28(1) *Content and order.* The skills test for a commercial driver's license is a three-part test as required in 49 CFR Part 383, Subparts E, G and H. The three parts must be taken in the following order: the pretrip inspection, the basic vehicle control skills, and an on-the-road driving demonstration. Those elements of the skills test that are not applicable to the vehicle being used in the skills test may be waived by the department. The basic vehicle control skills may be accomplished as part of the on-the-road driving demonstration. The department shall terminate the skills test when it is determined that the applicant has failed the test.

607.28(2) *Vehicle.* The applicant shall provide a representative vehicle for the skills test. "Representative vehicle" means a commercial motor vehicle that meets the statutory description for the class of license applied for.

a. To obtain a passenger vehicle endorsement applicable to a specific vehicle class, the applicant must take the skills test in a passenger vehicle, as defined in rule 761—607.3(321), satisfying the requirements of that class, as required in 49 CFR Section 383.117.

b. To obtain a school bus endorsement, the applicant must qualify for a passenger vehicle endorsement and take the skills test in a school bus, as defined in rule 761—607.3(321), in the same vehicle class as the applicant will drive, as required in 49 CFR Section 383.123. Up to and including September 30, 2005, the skills test for a school bus endorsement is waived for an applicant meeting the requirements of 49 CFR Section 383.123(b).

c. To remove an air brake restriction, the applicant must take the skills test in a vehicle equipped with an air brake system, as defined in rule 761—607.3(321) and as required in 49 CFR Section 383.113.

607.28(3) *Locations.* The skills test for a commercial driver's license shall be given only at specified locations where adequate testing facilities are available. An applicant may contact any driver's license examination station for the location of the nearest skills testing station. A skills test by appointment shall be offered only at specified regional test sites.

This rule is intended to implement Iowa Code sections 321.186 and 321.188.

761—607.29(321) Waiver of skills test. Rescinded IAB 6/23/93, effective 7/28/93.

761—607.30 Reserved.

761—607.31(321) Test results.

607.31(1) *Proof of passing score.* When necessary, the department shall issue a form valid for 90 days showing the knowledge test(s) or part(s) of the skills test that the applicant passed. The applicant shall retain the form(s) until all tests are passed and present the form(s) to the department to obtain the license.

607.31(2) *Retesting.* An applicant shall be required to repeat only the knowledge test(s) or part(s) of the skills test that the applicant failed. An applicant who fails a test shall not be permitted to repeat that test the same day.

This rule is intended to implement Iowa Code section 321.186.

761—607.32 to **607.34** Reserved.

761—607.35(321) Issuance of commercial driver's license. A commercial driver's license issued by the department shall be identified by "commercial driver's license" or "CDL" on the face of the license.

This rule is intended to implement Iowa Code section 321.189.

761—607.36(321) Conversion to commercial driver's license. Rescinded IAB 6/23/93, effective 7/28/93.

761—607.37(321) Commercial driver's license renewal.

607.37(1) To renew a commercial driver's license, the licensee shall apply at a driver's license examination station, certify eligibility and, if required, pass the appropriate test(s).

607.37(2) A valid commercial driver's license may be renewed 30 days before the expiration date. If this is impractical, the department for good cause may renew a license earlier, not to exceed one year prior to the expiration date. The department may allow renewal earlier than one year prior to the expiration date for active military personnel being deployed due to actual or potential military conflict.

607.37(3) A valid commercial driver's license may be renewed within 60 days after the expiration date, unless otherwise specified.

This rule is intended to implement Iowa Code sections 321.186 and 321.196.

761—607.38(321) Transfers from another state. Upon initial application for an Iowa license, an Iowa resident who has a valid commercial driver's license from a former state of residence is not required to retest except as specified in Iowa Code subsection 321.188(5) but is required to pay the applicable endorsement and restriction removal fees.

This rule is intended to implement Iowa Code sections 321.188 and 321.191.

761—607.39(321) Disqualification.

607.39(1) *Date.* A disqualifying act, action or offense under Iowa Code section 321.208, that occurred before July 1, 1990, shall not be grounds for disqualification from operating a commercial motor vehicle.

607.39(2) *Notice.* A 30-day advance notice of disqualification shall be served by the department in accordance with rule 761—615.37(321). Pursuant to Iowa Code subsection 321.208(9), a peace officer on behalf of the department may serve the notice of disqualification immediately.

607.39(3) *Hearing and appeal process.* A person who has received a notice of disqualification may contest the disqualification in accordance with 761—615.38(17A,321).

607.39(4) *Reduction of lifetime disqualification.* Reserved.

This rule is intended to implement Iowa Code chapter 17A and section 321.208.

761—607.40(321) Sanctions. When a person's motor vehicle license is denied, canceled, suspended, revoked or barred, the person is also disqualified from operating a commercial motor vehicle.

This rule is intended to implement Iowa Code section 321.208.

761—607.41 to **607.44** Reserved.

761—607.45(321) Reinstatement. To reinstate a commercial driver's license after completion of a period of disqualification, a person shall appear at a driver's license examination station. The person must also meet the vision standards for licensing, pass the applicable knowledge test(s) and the skills test, and pay the required reinstatement fee and the fees for a new license.

This rule is intended to implement Iowa Code sections 321.191 and 321.208.

761—607.46 to **607.48** Reserved.

761—607.49(321) Restricted commercial driver's license.

607.49(1) *Scope.* This rule pertains to the issuance of restricted commercial driver's licenses to suppliers or employees of suppliers of agricultural inputs. Issuance is permitted by 49 CFR 383.3(f). A restricted commercial driver's license shall meet all requirements of a regular commercial driver's license, as set out in Iowa Code chapter 321 and this chapter of rules, except as specified in this rule.

607.49(2) *Agricultural inputs.* The term "agricultural inputs" means suppliers or applicators of agricultural chemicals, fertilizer, seed or animal feeds.

607.49(3) *Validity.*

a. A restricted commercial driver's license allows the licensee to drive a commercial motor vehicle for agricultural input purposes. The license is valid to:

(1) Operate Group B and Group C commercial motor vehicles including tank vehicles and vehicles equipped with air brakes, except passenger vehicles.

(2) Transport the hazardous materials listed in paragraph 607.49(3)*"b."*

(3) Operate only during the current, validated seasonal period.

(4) Operate between the employer's place of business and the farm currently being served, not to exceed 150 miles.

b. A restricted commercial driver's license is not valid for transporting hazardous materials requiring placarding, except as follows:

(1) Liquid fertilizers such as anhydrous ammonia may be transported in vehicles or implements of husbandry with total capacities of 3,000 gallons or less.

(2) Solid fertilizers such as ammonium nitrate may be transported provided they are not mixed with any organic substance.

(3) A hazardous material endorsement is not needed to transport the products listed in the preceding subparagraphs.

c. When not driving for agricultural input purposes, the license is valid for operating a noncommercial motor vehicle that may be legally operated under the noncommercial license held by the licensee.

607.49(4) *Requirements.*

a. The applicant must have two years of previous driving experience. This means that the applicant must have held a license that permits unaccompanied driving for at least two years. This does not include a motorized bicycle license, a minor's school license or a minor's restricted license.

b. The applicant must have a good driving record for the most recent two-year period, as defined in subrule 607.49(5).

c. An applicant who currently holds a commercial driver's license or a commercial driver's instruction permit is not eligible for issuance of a restricted commercial driver's license.

607.49(5) *Good driving record.* A "good driving record" means a driving record showing:

a. No multiple licenses.

b. No driver's license suspensions, revocations, disqualifications, denials, bars, or cancellations of any kind.

c. No convictions in any type of motor vehicle for:

(1) Driving under the influence of alcohol or drugs.

(2) Leaving the scene of an accident.

(3) Committing any felony involving a motor vehicle.

(4) Speeding 15 miles per hour or more over the posted speed limit.

(5) Reckless driving.

(6) Improper or erratic lane changes.

(7) Following too closely.

(8) Accident-connected traffic law violations.

d. No record of at-fault accidents.

607.49(6) *Issuance.*

a. The knowledge and skills tests described in rules 761—607.27(321) and 761—607.28(321) are waived.

b. A restricted commercial driver's license shall be coded with restriction "W" on the face of the driver's license, with the restriction explained in text on the back of the driver's license. In addition, the license shall be issued with a restriction stating the license's validity.

c. The expiration date for a restricted commercial driver's license that is converted to this license from another Iowa license shall carry the same expiration date as the previous license.

d. A restricted commercial driver's license may be renewed for the period of time specified in Iowa Code section 321.196. The licensee's good driving record shall be confirmed at the time of renewal.

e. The fee for a restricted commercial driver's license shall be as specified in Iowa Code section 321.191.

f. There are two periods of validity for commercial motor vehicle operation: March 15 through June 30, and October 4 through December 14. These are referred to as "seasonal periods." Validity shall not exceed 180 days in any 12-month period. Any period of validity authorized previously by another state's license shall be considered a part of the 180-day maximum period of validity.

g. A restricted commercial driver's license must be validated for commercial motor vehicle operation for each seasonal period. This means that the applicant/licensee must appear at a driver's license examination station during the current seasonal period or not more than 30 days before the beginning of the period to have the person's good driving record confirmed. Upon confirmation, the department shall issue a replacement license with a restriction validating the license for that seasonal period, provided the person is otherwise eligible for the license. The fee for a replacement license shall be as specified in Iowa Code section 321.195.

h. The same process must be repeated for each seasonal period.

This rule is intended to implement Iowa Code section 321.176B.

761—607.50(321) Self-certification of type of driving and submission of medical examiner's certificate.

607.50(1) *Applicants for new, transferred, renewed or upgraded CDL.*

a. A person shall provide to the department a self-certification of type of driving if the person is applying for:

(1) An initial commercial driver's license,

(2) A transfer of a commercial driver's license from a prior state of domicile to the state of Iowa,

(3) Renewal of a commercial driver's license, or

(4) A license upgrade for a commercial driver's license or an endorsement authorizing the operation of a commercial motor vehicle not covered by the current commercial driver's license.

b. The self-certification shall be on a form or in a format, which may be electronic, as provided by the department.

607.50(2) *Enrollment of existing CDL holders.* Every person who holds a commercial driver's license on or after January 30, 2012, and up to January 30, 2014, and who has not otherwise made a self-certification of type of driving under subrule 607.50(1) shall make to the department a self-certification of type of driving. The self-certification may be made on or after January 30, 2012, but must be made no later than January 29, 2014.

607.50(3) *Submission of medical examiner's certificate by persons certifying to non-excepted interstate driving.* Every person who self-certifies to non-excepted interstate driving must give the department a copy of the person's current medical examiner's certificate. A person who fails to provide a required medical examiner's certificate shall not be allowed to proceed with an initial issuance, transfer, renewal, or upgrade of a license until the person gives the department a medical examiner's certificate that complies with the requirements of this subrule, or changes the person's self-certification of type of driving to a type other than non-excepted interstate driving. For persons submitting a current medical examiner's certificate, the department shall post a medical certification status of "certified" on the person's CDLIS driver's record. A person who self-certifies to a type of driving other than non-excepted interstate shall have no medical certification status on the CDLIS driver's record.

607.50(4) *Maintaining certified status.* To maintain a medical certification status of "certified," a person who self-certifies to non-excepted interstate driving must give the department a copy of each

subsequently issued medical examiner's certificate valid for the person. The copy must be given to the department at least ten days before the previous medical examiner's certificate expires.

607.50(5) *CDL downgrade.* If the medical examiner's certificate or medical variance for a person self-certifying to non-excepted interstate driving expires or if the Federal Motor Carrier Safety Administration notifies the department that the person's medical variance was removed or rescinded, the department shall post a medical certification status of "not certified" to the person's CDLIS driver's record and shall initiate a downgrade of the person's commercial driver's license. The medical examiner's certificate of a person who fails to maintain a medical certification status of "certified" as required by subrule 607.50(4) shall be deemed to be expired on the date of expiration of the last medical examiner's certificate filed for the person as shown by the person's CDLIS driver's record. The downgrade will be initiated and completed as follows:

a. The department shall give the person written notice that the person's medical certification status is "not certified" and that the commercial driver's license privilege will be removed from the person's driver's license 60 days after the date the medical examiner's certificate or medical variance expired or the medical variance was removed or rescinded unless the person submits to the department a current medical certificate or medical variance or self-certifies to a type of driving other than non-excepted interstate.

b. If the person submits a current medical examiner's certificate or medical variance before the end of the 60-day period, the department shall post a medical certification status of "certified" on the person's CDLIS driver's record and shall terminate the downgrade of the person's commercial driver's license.

c. If the person self-certifies to a type of driving other than non-excepted interstate before the end of the 60-day period, the department shall not remove the commercial driver's license privilege from the person's driver's license, and the person will have no medical certification status on the person's CDLIS driver's record.

d. If the person fails to take the action in either paragraph 607.50(5)*"b"* or *"c"* before the end of the 60-day period, the department shall remove the commercial driver's license privilege from the person's driver's license and shall leave the person's medical certification status as "not certified" on the person's CDLIS driver's record.

607.50(6) *CDL downgrade of existing CDL holders who fail to enroll before January 30, 2014.* Every person subject to subrule 607.50(2) who fails to make a self-certification of type of driving or fails to give the department a copy of the person's medical examiner's certificate as required by subrule 607.50(3) before January 30, 2014, shall be subject to a CDL downgrade. The department shall post a medical certification status of "not certified" to the CDLIS driver's record and shall initiate a downgrade of the driver's commercial driver's license following the procedure set forth in subrule 607.50(5). In such cases, the 60-day period shall begin January 30, 2014, and the person shall be required to make an initial self-certification of type of driving to terminate the CDL downgrade and to avoid removal of the commercial driver's license privilege. The person's status and privilege under subrule 607.50(5) shall be determined according to the certification made or not made.

607.50(7) *Establishment or reestablishment of "certified" status.* A person who has no medical certification status or whose medical certification status has been posted as "not certified" on the person's CDLIS driver's record may establish or reestablish the status as "certified" by submitting a current medical examiner's certificate or medical variance to the department. A person who has failed to self-certify to a type of driving or has self-certified to a type of driving other than non-excepted interstate must also make a self-certification of type of driving to non-excepted interstate driving. The department shall then post a medical certification status of "certified" on the person's CDLIS driver's record.

607.50(8) *Reestablishment of the CDL privilege.* A person whose commercial driver's license privilege has been removed from the person's driver's license under the provisions of paragraph 607.50(5)*"d"* may reestablish the commercial driver's license privilege to the person's driver's license by either of the following methods:

a. Submitting a current medical examiner's certificate or medical variance to the department. A person who has failed to self-certify to a type of driving must also make an initial self-certification of type of driving to non-excepted interstate driving. The department shall then post a medical certification status of "certified" on the person's CDLIS driver's record and reestablish the commercial driver's license privilege to the person's driver's license, provided that the person otherwise remains eligible for a commercial driver's license.

b. Self-certifying to a type of driving other than non-excepted interstate. The department shall then reestablish the commercial driver's license privilege to the person's driver's license, provided that the person otherwise remains eligible for a commercial driver's license; the person will have no medical certification status on the driver's CDLIS driver's record.

607.50(9) *Change of type of driving.* A person may change the person's self-certification of type of driving at any time. As required by subrule 607.50(3), a person certifying to non-excepted interstate driving must give the department a copy of the person's current medical examiner's certificate prepared by a medical examiner.

607.50(10) *Record keeping.* The department shall comply with the medical record-keeping requirements set forth in 49 CFR Section 383.73.

This rule is intended to implement Iowa Code section 321.182 and 2011 Iowa Code Supplement sections 321.188 and 321.207.

[**ARC 9954B**, IAB 1/11/12, effective 1/30/12; **ARC 0031C**, IAB 3/7/12, effective 4/11/12]

761—607.51(321) Determination of gross vehicle weight rating.

607.51(1) *Vehicle other than towed vehicle.* For a vehicle other than a towed vehicle that has no legible manufacturer's certification label, the applicant may provide documentation of the gross vehicle weight rating, such as a manufacturer's certificate of origin, a title, a vehicle registration document, or the vehicle identification number information for the vehicle. In the absence of the above documentation, the registered weight of the vehicle shall be presumed to be the gross vehicle weight rating.

607.51(2) *Towed vehicle.* For a towed vehicle without a gross vehicle weight rating specified by the manufacturer, the gross vehicle weight rating shall be its gross weight.

This rule is intended to implement Iowa Code section 321.1.

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CHAPTERS 608 and 609
Reserved

CHAPTER 610
RELEASE OF COMPUTERIZED DRIVER'S LICENSE AND NONOPERATOR'S IDENTIFICATION CARD RECORDS

[Appeared as Ch 14, Department of Public Safety, July 1974 IDR Supplement.]
[Prior to 6/3/87, Transportation Department[820]—(07,C) Ch 15]

761—610.1(321) Applicability. This chapter applies to the release of computerized records of driver's licenses and nonoperator's identification cards.

761—610.2(321) Definitions.

"Certified abstract of operating record" means the same as described in Iowa Code subsection 321A.3(1).

"Driver's Privacy Protection Act" is defined in 761—Chapter 611.

"Highly restricted personal information" means an individual's photograph or image, social security number, or medical or disability information.

"Person" means an individual, organization or entity.

"Personal information" means the same as defined in 761—Chapter 611.

"Recipient" means an individual who has obtained a certified abstract of operating record from the department.

"Sanction" is defined in rule 761—615.1(321).

[**ARC 7902B**, IAB 7/1/09, effective 8/5/09]

761—610.3(321) Copying files to computer tape cartridges.

610.3(1) Two types of files are available for copying onto blank computer tape cartridges supplied by requesters:

a. Driver's license master file. This file can be sorted by Iowa driver's license number, NDL (no driver's license) number or nonoperator's identification card number. For each individual, the file includes the information that is on the face of the driver's license or nonoperator's identification card: name, address, license or card number, height, weight, gender, eye color, birth date, class of license, restrictions and endorsements. The file does not include the individual's photograph, social security number, or medical or disability information.

b. Driver's license suspension and revocation file. This file can be sorted by Iowa driver's license number, NDL (no driver's license) number or nonoperator's identification card number. For each individual whose privilege to operate motor vehicles or to register vehicles is sanctioned, the file includes the information that is on the face of the driver's license or nonoperator's identification card, plus information on the sanction. The file does not include the individual's photograph, social security number, or medical or disability information. The file is available on a bimonthly basis.

610.3(2) These files may be released only to requesters who are authorized by the Driver's Privacy Protection Act to use the information.

610.3(3) To obtain a copy of either of these files, a requester shall submit a written request to the office of driver services. The blank cartridges needed to copy the files and the appropriate fee for copy preparation and mailing shall accompany the request. The department may require the requester to:

a. Provide proof of identity and authority to secure access to the information.

b. Sign a certified statement or affidavit listing the specific reasons justifying access to the information and provide any proof necessary to establish relevant facts.

610.3(4) Data in a file will be provided only in the sequence currently maintained by the department.

610.3(5) A requested file will be provided within a reasonable period of time but shall not be given priority over other department work.

610.3(6) No warranty is provided concerning the accuracy or completeness of the data. If a copy is unreadable due to the department's negligence or error, the department shall provide a duplicate copy without charge.

761—610.4(321,321A) Certified abstract of operating records.

610.4(1) In accordance with Iowa Code section 321A.3, a printed, certified abstract of the operating record of an individual is available. The record includes the information that is on the face of the individual's driver's license, plus information on the individual's sanctions, reportable vehicle accidents, and convictions. The certified abstract of operating record does not include the individual's photograph, social security number, or medical or disability information.

610.4(2) To obtain a certified abstract of operating record, a requestor shall complete Form 431069, "Privacy Act Agreement for Request of Motor Vehicle Records," and submit it to the office of driver services. Form 431069 must be completed with all required attachments before the department will consider a request for a certified abstract of operating record. A requestor must attach a legible photocopy of the requestor's driver's license or nonoperator's identification card to the form. The statutory fee, if applicable, shall accompany the form.

610.4(3) Personal information and highly restricted personal information protected by Iowa Code section 321.11 and the Driver's Privacy Protection Act may be released only in the following situations:

a. The requestor has complied with each of the following requirements:

(1) Completed Form 431069 and submitted it to the office of driver services;

(2) Included all required attachments with the form, including a photocopy of the requestor's driver's license or nonoperator's identification card; and

(3) Paid the fee, if applicable, for the requested record.

b. The department is satisfied that the requestor provided adequate and truthful information on Form 431069 and in the documents that the requestor attached to Form 431069.

610.4(4) The single-use restriction in Iowa Code subsection 321A.3(8) applies only to the certified abstract of operating records and to persons who are subject to the fee listed in Iowa Code subsection 321A.3(1).

610.4(5) Any person who obtains a certified abstract of operating record from the department is required to comply with Iowa Code section 321.11 and the Driver's Privacy Protection Act.

[**ARC 7902B**, IAB 7/1/09, effective 8/5/09]

These rules are intended to implement Iowa Code sections 22.2, 22.3, 321.11 and 321A.3.

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CHAPTER 611
DRIVER'S PRIVACY PROTECTION—DRIVER'S LICENSE AND NONOPERATOR'S IDENTIFICATION CARD

761—611.1(321) Applicability.

611.1(1) This chapter applies to personal information in records pertaining to drivers' licenses and nonoperators' identification cards. In addition to information on current licensees and cardholders, these records include information on individuals who do not currently hold a driver's license or nonoperator's identification card. Operating records and records of driver sanctions are two examples.

611.1(2) Rules regarding personal information about vehicle owners in records pertaining to certificates of title and vehicle registration are found in 761—Chapter 415.

761—611.2(321) Adoption. The department adopts the Driver's Privacy Protection Act of 1994 (18 U.S.C. § 2721 et seq.) as amended through calendar year 2000 (P.L. 106-346) for driver's license records and nonoperator's identification card records.

761—611.3(321) Definitions.

"Driver's license" is defined in Iowa Code section 321.1.

"Driver's Privacy Protection Act" or *"Act"* means the Act adopted in rule 761—611.2(321).

"Law enforcement agency" includes, but is not limited to, county attorneys, federal district attorneys, attorneys general, and state and federal departments of justice.

"Motor vehicle record" as used in the Act means any record that pertains to a driver's license, nonoperator's identification card, certificate of title, registration receipt, or registration renewal receipt issued by the department or the county treasurer.

"Personal information" means information that identifies an individual, including the items listed in Iowa Code section 321.11 and 18 U.S.C. § 2725 of the Driver's Privacy Protection Act adopted in rule 761—611.2(321). "Personal information" also includes information on an individual's nonoperator's identification card.

[**ARC 7902B**, IAB 7/1/09, effective 8/5/09]

761—611.4(321) Requirements and procedures. Notwithstanding Iowa Code chapter 22 and 761—Chapter 4, the following procedures implement the Driver's Privacy Protection Act and Iowa Code section 321.11 as they pertain to driver's license records and nonoperator's identification card records. The department does not provide the waiver procedure described in the Driver's Privacy Protection Act (codified as Sec. 2721(d)).

611.4(1) The department may require a person who requests personal information about an individual to:

a. Submit the request in writing.

b. Provide proof of identity and authority to secure access to the information.

c. Sign a certified statement or affidavit listing the specific reasons justifying access to the information and provide any proof necessary to establish relevant facts.

611.4(2) Form 431069, "Privacy Act Agreement for Request of Motor Vehicle Records," must be completed by an applicant and approved by the department before the department may disclose personal information to the applicant without the express written consent of the individual to whom such information applies. On the form, the applicant shall indicate the provision of law that allows the release of personal information to that applicant. For the purpose of this subrule, "applicant" means a person who is not an authorized employee of the department.

611.4(3) An individual's signature on the document providing express written consent allowing disclosure of the individual's personal information to another person must be notarized.

[**ARC 7902B**, IAB 7/1/09, effective 8/5/09]

These rules are intended to implement Iowa Code section 321.11.

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CHAPTERS 612 to 614
Reserved

CHAPTER 615
SANCTIONS

[Prior to 6/3/87, Transportation Department[820]—(07,C) Ch 6]

761—615.1(321) Definitions. The definitions in 761—600.1(321) apply to this chapter. In addition:

"Accident free" as used in Iowa Code section 321.180B means the driver has not been involved in a contributive accident. "Involvement in a motor vehicle accident" as used in Iowa Code section 321.180B means involvement in a contributive accident.

"Contributive accident" means an accident for which there is evidence in departmental records that the driver performed an act which resulted in or contributed to the accident, or failed to perform an act which would have avoided or contributed to the avoidance of the accident.

"Conviction free" as used in Iowa Code section 321.180B means the driver has not been convicted of a moving violation.

"Deny" or *"denial"* means a rejection of an application for a license or a refusal to issue, renew or reinstate a license.

"Moving violation," unless otherwise provided in this chapter, means any violation of motor vehicle laws except:

1. Violations of equipment standards to be maintained for motor vehicles.
2. Parking violations as defined in Iowa Code section 321.210.
3. Child restraint and safety belt and harness violations under Iowa Code sections 321.445 and 321.446.
4. Violations of registration, weight and dimension laws.
5. Operating with an expired license.
6. Failure to appear.
7. Disturbing the peace with a motor vehicle.
8. Violations of Iowa Code Supplement section 321.20B for failure to provide proof of financial liability coverage.

"Sanction" means a license denial, cancellation, suspension, revocation, bar or disqualification.

This rule is intended to implement Iowa Code sections 321.1, 321.178, 321.180A, 321.189, 321.194, 321.210, 321.215, 321.445, 321.446 and 321.555.

761—615.2(321) Scope. This chapter of rules applies to any license, as defined in 761—600.1(321). However:

615.2(1) Rules specifically addressing denial, cancellation or disqualification of a commercial driver's license are found in 761—Chapter 607, "Commercial Driver Licensing."

615.2(2) Rules implementing Iowa Code chapter 321J are found in 761—Chapter 620, "OWI and Implied Consent."

615.2(3) Rules implementing Iowa Code chapter 321A are found in 761—Chapter 640, "Financial Responsibility."

This rule is intended to implement Iowa Code chapters 321, 321A and 321J.

761—615.3(17A) Information and address. Applications, forms and information concerning license sanctions are available at any driver's license examination station or at the address in 761—600.2(17A).

This rule is intended to implement Iowa Code section 17A.3.

761—615.4(321) Denial for incapability.

615.4(1) A person who has a valid Iowa license that would otherwise be suspended for incapability shall, in lieu of a suspension, be denied further licensing if there is less than 30 days' validity on the license.

a. The denial shall be effective when the license is no longer valid.

b. The license shall be surrendered to the department. The department shall issue a temporary driving permit which allows the person to drive until the effective date of the denial.

615.4(2) If a person who is denied licensing for incapability does not have a valid Iowa license, the department may refuse orally to issue a license, effective immediately, or may deny licensing in writing, effective on the date the denial notice is served.

This rule is intended to implement Iowa Code sections 321.177 and 321.210.

761—615.5 and **615.6** Reserved.

761—615.7(321) Cancellations.

615.7(1) The department shall cancel the license of an unmarried minor upon receipt of a written withdrawal of consent from the person who consented to the minor's application. The department shall also cancel a minor's license upon receipt of evidence of the death of the person who consented to the minor's application.

615.7(2) The department shall cancel a motorized bicycle license when the licensee is convicted of one moving violation. Reapplication may be made 30 days after the date of cancellation.

615.7(3) The department may cancel a license when the person was not entitled or is no longer entitled to a license, failed to give correct and required information, or committed fraud in applying.

615.7(4) A cancellation shall begin ten days after the department's notice of cancellation is served.

This rule is intended to implement Iowa Code sections 321.184, 321.185, 321.189, 321.201 and 321.215.

761—615.8 Reserved.

761—615.9(321) Habitual offender.

615.9(1) The department shall declare a person to be a habitual offender under Iowa Code subsection 321.555(1) in accordance with the following point system:

a. Points shall be assigned to convictions as follows:

Conviction	Points
Perjury or the making of a false affidavit or statement under oath to the department of public safety	2 points
Driving while under suspension, revocation or denial (except Iowa Code chapter 321J)	2 points
Driving while under Iowa Code chapter 321J revocation or denial	3 points
Driving while barred	4 points
Operating a motor vehicle in violation of Iowa Code section 321J.2	4 points
An offense punishable as a felony under the motor vehicle laws of Iowa or any felony in the commission of which a motor vehicle is used	5 points
Failure to stop and leave information or to render aid as required by Iowa Code sections 321.261 and 321.263	5 points
Eluding or attempting to elude a pursuing law enforcement vehicle in violation of Iowa Code section 321.279	5 points
Serious injury by a vehicle in violation of Iowa Code subsection 707.6A(3)	5 points
Manslaughter resulting from the operation of a motor vehicle	6 points

b. Based on the points accumulated, the person shall be barred from operating a motor vehicle on the highways of this state as follows:

Points	Length of bar
6 – 7	2 years
8 – 9	3 years
10 – 12	4 years
13 – 15	5 years
16+	6 years

615.9(2) A person declared to be a habitual offender under Iowa Code subsection 321.555(2) shall be barred from operating a motor vehicle on the highways of this state for one year.

615.9(3) A person declared to be a habitual offender under Iowa Code Supplement section 321.560, unnumbered paragraph 2, shall be barred from operating a motor vehicle on the highways of this state beginning on the date the previous bar expires.

This rule is intended to implement Iowa Code sections 321.555, 321.556 and 321.560.

761—615.10 Reserved.

761—615.11(321) Periods of suspension.

615.11(1) *Length.* The department shall not suspend a person's license for less than 30 days nor for more than one year unless a statute specifies or permits a different period of suspension.

615.11(2) *Extension of suspension.* The department shall extend the period of license suspension for an additional like period when the person is convicted of operating a motor vehicle while the person's license is suspended, unless a statutory exception applies. If the person's driving record does not indicate what the original grounds for suspension were, the period of license suspension shall not exceed six months.

This rule is intended to implement Iowa Code sections 321.212 and 321.218.

761—615.12(321) Suspension of a habitually reckless or negligent driver.

615.12(1) The department may suspend a person's license if the person is a habitually reckless or negligent driver of a motor vehicle.

a. *"Habitually reckless or negligent driver"* means a person who has accumulated a combination of three or more contributive accidents and convictions for moving violations or three or more contributive accidents within a 12-month period.

b. *"Contributive or contributed"* means that there is evidence in departmental records that the driver performed an act which resulted in or contributed to an accident, or failed to perform an act which would have avoided or contributed to the avoidance of an accident.

615.12(2) In this rule, the speeding violations specified in Iowa Code paragraph 321.210(2)*"d"* are not included.

615.12(3) The suspension period shall be at least 60 days.

This rule is intended to implement Iowa Code section 321.210.

761—615.13(321) Suspension of a habitual violator.

615.13(1) The department may suspend a person's license when the person is a habitual violator of the traffic laws. "Habitual violator" means that the person has been convicted of three or more moving violations committed within a 12-month period.

615.13(2) The minimum suspension periods shall be as follows unless reduced by a driver's license hearing officer based on mitigating circumstances:

3 convictions in 12 months	90 days
4 convictions in 12 months	120 days
5 convictions in 12 months	150 days
6 convictions in 12 months	180 days
7 or more convictions in 12 months	1 year

615.13(3) In this rule, the speeding violations specified in Iowa Code paragraph 321.210(2)*"d"* are not included.

This rule is intended to implement Iowa Code section 321.210.

761—615.14(321) Suspension for incapability. The department may suspend a person's license when the person is incapable of safely operating a motor vehicle.

615.14(1) Suspension for incapability may be based on one or more of the following:

a. Receipt of a medical report stating that the person is not physically or mentally capable of safely operating a motor vehicle.

b. Failure of the person to appear for a required reexamination or failure to submit a required medical report within the specified time.

c. Ineligibility for licensing under Iowa Code subsections 321.177(4) to 321.177(7).

615.14(2) The suspension period shall be indefinite but shall be terminated when the department receives satisfactory evidence that the licensee has been restored to capability.

615.14(3) A person whose license has been suspended for incapability may be eligible for a special noncommercial instruction permit under rule 761—602.21(321).

This rule is intended to implement Iowa Code sections 321.177, 321.210, and 321.212.

761—615.15(321) Suspension for unlawful use of a license.

615.15(1) The department may suspend a person's license when the person has been convicted of unlawful or fraudulent use of the license or if the department has received other evidence that the person has violated Iowa Code section 321.216, 321.216A or 321.216B.

615.15(2) The suspension period shall be at least 30 days.

615.15(3) A suspension for a violation of Iowa Code section 321.216B shall not exceed six months.

This rule is intended to implement Iowa Code sections 321.210, 321.212, 321.216, 321.216A and 321.216B.

761—615.16(321) Suspension for out-of-state offense. The department may suspend a person's license when the department is notified by another state that the person committed an offense in that state which, if committed in Iowa, would be grounds for suspension. The notice may indicate either a conviction or a final administrative decision. The period of the suspension shall be the same as if the offense had occurred in Iowa.

This rule is intended to implement Iowa Code sections 321.205 and 321.210.

761—615.17(321) Suspension for a serious violation.

615.17(1) The department may suspend a person's license when the person has committed a serious violation of the motor vehicle laws.

615.17(2) *"Serious violation"* means that:

a. The person's conviction for a moving violation was accompanied by a written report from the arresting officer, the prosecuting attorney or the court indicating that the violation was unusually serious. The suspension period shall be at least 60 days.

b. The person was convicted of a moving violation which contributed to a fatal motor vehicle accident. "Contributed" is defined in paragraph 615.12(1)*"b."* The suspension period shall be at least 120 days.

c. The person was convicted for speeding 25 miles per hour (mph) or more above the legal limit. The minimum suspension period shall be as follows unless reduced by a driver's license hearing officer based on mitigating circumstances:

25 mph over the legal limit	60 days
26 mph over the legal limit	65 days
27 mph over the legal limit	70 days
28 mph over the legal limit	75 days
29 mph over the legal limit	80 days
30 mph over the legal limit	90 days
31 mph over the legal limit	100 days
32 mph over the legal limit	110 days
33 mph over the legal limit	120 days
34 mph over the legal limit	130 days
35 mph over the legal limit	140 days
36 mph over the legal limit	150 days
37 mph over the legal limit	160 days
38 mph over the legal limit	170 days
39 mph over the legal limit	180 days
40 mph over the legal limit	190 days
41 mph over the legal limit	210 days
42 mph over the legal limit	230 days
43 mph over the legal limit	250 days
44 mph over the legal limit	270 days
45 mph over the legal limit	290 days
46 mph over the legal limit	310 days
47 mph over the legal limit	330 days
48 mph over the legal limit	350 days
49 mph or more over the legal limit	one year

d. The person was convicted of violating Iowa Code subsection 321.372(3). The suspension period shall be:

(1) 30 days for a first conviction under Iowa Code subsection 321.372(3).

(2) 90 days for a second conviction under Iowa Code subsection 321.372(3).

(3) 180 days for a third or subsequent conviction under Iowa Code subsection 321.372(3).

This rule is intended to implement Iowa Code sections 321.210, 321.372 as amended by 2012 Iowa Acts, Senate File 2218, sections 2 and 5, and 321.491.

[**ARC 0250C**, IAB 8/8/12, effective 9/12/12]

761—615.18(321) Suspension under the nonresident violator compact.

615.18(1) The department may suspend a person's license when a report is received from another state under the nonresident violator compact that an Iowa licensee has failed to comply with the terms of a traffic citation.

615.18(2) The suspension shall begin 30 days after the department's notice of suspension is served.

615.18(3) The suspension shall continue until the department issues a notice terminating the suspension. The department shall terminate the suspension when it receives evidence of compliance with the terms of the citation.

This rule is intended to implement Iowa Code sections 321.210 and 321.513.

761—615.19(321) Suspension for a charge of vehicular homicide. In accordance with Iowa Code section 321.210D, the department shall suspend a person's license when the department receives notice from the clerk of the district court that an indictment or information has been filed charging the person with homicide by vehicle under Iowa Code section 707.6A, subsection 1 or 2. The suspension shall begin ten days after the department's suspension notice is issued.

This rule is intended to implement Iowa Code section 321.210D.

761—615.20(321) Suspension for moving violation during probation. The department may suspend the license of a person convicted of a moving violation pursuant to Iowa Code section 321.210C. The suspension period shall not exceed one year.

This rule is intended to implement Iowa Code section 321.210C.

761—615.21(321) Suspension of a minor's school license and minor's restricted license.

615.21(1) *Suspension of a minor's school license.*

a. The department may suspend a minor's school license upon receiving notice of the licensee's conviction for one moving violation or evidence of one or more accidents chargeable to the licensee.

b. The department may also suspend a minor's school license when the department receives written notice from a peace officer, parent, custodian or guardian, school superintendent, or superintendent's designee that the licensee has violated the restrictions of the license.

c. The suspension period under this subrule shall be at least 30 days.

615.21(2) *Suspension of a minor's restricted license.* The department may suspend a minor's restricted license upon receiving notice of the licensee's conviction for one moving violation. The suspension period shall be at least 30 days.

This rule is intended to implement Iowa Code sections 321.178 and 321.194.

761—615.22(321) Suspension for nonpayment of fine, penalty, surcharge or court costs.

615.22(1) *Report to the department.* The department shall suspend a person's privilege to operate motor vehicles in Iowa:

a. When the department is notified by a clerk of the district court on Form No. 431037 that the person has been convicted of violating a law regulating the operation of motor vehicles, that the person has failed to pay the fine, penalty, surcharge or court costs arising out of the conviction, and that 60 days have elapsed since the person was mailed a notice of nonpayment from the clerk of the district court, and

b. When, in accordance with subrule 615.22(2), the person has not timely raised the defense of inability to pay, or the department determines that the person is able to pay the fine, penalty, surcharge and court costs.

615.22(2) *Ability to pay.*

a. The department shall presume that a person is able to pay the fine, penalty, surcharge and court costs when it receives the "Notice to Suspend" copy of Form No. 431037 from the clerk of the district court.

b. The department shall not consider inability to pay as a defense to license suspension unless the person files Form No. 431038 with the department within 45 days after the clerk of the district court mailed notice of nonpayment to the person.

c. If the department determines that the person is unable to pay, the department shall notify the person and the clerk of the district court of that decision and shall take no further action. If the department determines that the person is able to pay, the department shall suspend the person's privilege to operate motor vehicles in Iowa as outlined in subrule 615.22(1).

615.22(3) *Suspension.*

a. The suspension period shall begin 30 days after the notice of suspension is served.

b. The suspension shall continue until the department has issued a notice terminating the suspension. The department shall terminate the suspension when it receives evidence that all appropriate payments have been made.

c. An informal settlement, hearing or appeal to contest the suspension shall be limited to a determination of whether the facts required by Iowa Code section 321.210A and this rule are true. The merits of the conviction shall not be considered.

This rule is intended to implement Iowa Code section 321.210A.

761—615.23(321) Suspensions for juveniles.

615.23(1) *Suspension for juveniles adjudicated delinquent for certain offenses.*

a. Pursuant to Iowa Code section 321.213A, the department shall suspend the license of a person for one year upon receipt of an adjudication and dispositional order from the clerk of the juvenile court.

b. The department may issue to a person suspended under this subrule a temporary restricted license in accordance with rule 761—615.45(321) if issuance is permitted under Iowa Code section 321.215 and the person is otherwise eligible for the license. To obtain a temporary restricted license that is valid for educational purposes, the applicant must meet the requirements for issuance of a minor's school license under Iowa Code section 321.194 and rule 761—602.26(321).

615.23(2) *Suspension for juvenile's failure to attend school.*

a. The department shall suspend the driver's license of a person under the age of 18 upon receipt of notification from the appropriate school authority that the person does not attend school.

b. "School" means a public school, an accredited nonpublic school, competent private instruction in accordance with the provisions of Iowa Code chapter 299A, an alternative school or adult education classes.

c. "Appropriate school authority" means the superintendent of a public school or the chief administrator of an accredited nonpublic school, an alternative school or adult education.

d. The suspension shall continue until the person reaches the age of 18 or until the department receives notification from the appropriate school authority that the person is attending school.

e. The department may issue to the person a minor's restricted license in accordance with Iowa Code section 321.178 and rule 761—602.25(321) if the person is eligible for the license.

This rule is intended to implement Iowa Code sections 232.52(2)*"a"*(4), 299.1B, 321.213, 321.213A, 321.213B, and 321.215.

761—615.24(252J,261) Suspension upon receipt of a certificate of noncompliance.

615.24(1) *From child support recovery unit.*

a. The department shall suspend a person's Iowa-issued driver's license upon receipt of a certificate of noncompliance from the child support recovery unit.

b. The suspension shall begin 30 days after the department's notice of suspension is served.

c. The suspension shall continue until receipt of a withdrawal of the certificate of noncompliance from the child support recovery unit.

d. The filing of an application pursuant to Iowa Code section 252J.9 stays the suspension pending the outcome of the district court hearing.

615.24(2) *From college student aid commission.*

a. The department shall suspend a person's Iowa-issued driver's license upon receipt of a certificate of noncompliance from the college student aid commission.

b. The suspension shall begin 30 days after the department's notice of suspension is served.

c. The suspension shall continue until receipt of a withdrawal of the certificate of noncompliance from the college student aid commission.

d. The filing of an application pursuant to Iowa Code section 261.127 stays the suspension pending the outcome of the district court hearing.

615.24(3) *From department of revenue.* Rescinded IAB 2/8/12, effective 3/14/12.

This rule is intended to implement Iowa Code sections 252J.1, 252J.8, 252J.9, 261.126 and 261.127.

[**ARC 7902B**, IAB 7/1/09, effective 8/5/09; **ARC 9991B**, IAB 2/8/12, effective 3/14/12]

761—615.25(321) Suspension—driver's license indebtedness clearance pilot project. Rescinded IAB 11/8/06, effective 12/13/06.

761—615.26(321) Suspension or revocation for violation of a license restriction. The department may suspend or revoke a person's license when the department receives satisfactory evidence of a violation of a restriction imposed on the license. The suspension or revocation period shall be at least 30 days.

This rule is intended to implement Iowa Code section 321.193.

761—615.27 and **615.28** Reserved.

761—615.29(321) Mandatory revocation.

615.29(1) The department shall revoke a person's license upon receipt of a record of the person's conviction for an offense listed under Iowa Code section 321.209 or upon receipt of an order issued pursuant to Iowa Code subsection 901.5(10).

615.29(2) The department shall revoke a person's license under Iowa Code subsection 321.209(2) upon receipt of a record of the person's conviction for a felony:

a. Which provides specific factual findings by the court that a motor vehicle was used in the commission of the offense,

b. Which is accompanied by information from the prosecuting attorney indicating that a motor vehicle was used in the commission of the crime, or

c. Where the elements of the offense actually required the use of a motor vehicle.

615.29(3) The revocation period shall be at least one year except:

a. The revocation period for two convictions of reckless driving shall be at least five days and not more than 30 days.

b. The revocation period for a first offense for drag racing shall be six months if the violation did not result in personal injury or property damage.

c. The revocation period for an order issued pursuant to Iowa Code subsection 901.5(10) is 180 days.

This rule is intended to implement Iowa Code sections 321.209, 321.212, 321.261 and 707.6A.

761—615.30(321) Revocation for out-of-state offense.

615.30(1) The department may revoke an Iowa resident's license when the department is notified by another state that the person committed an offense in that state which, if committed in Iowa, would be grounds for revocation. The notice may indicate either a conviction or a final administrative decision. The period of the revocation shall be the same as if the offense had occurred in Iowa.

615.30(2) Rescinded IAB 11/20/96, effective 12/25/96.

This rule is intended to implement Iowa Code section 321.205.

761—615.31(321) Revocation for violation of a license restriction. Rescinded IAB 11/18/98, effective 12/23/98.

761—615.32(321) Extension of revocation period. The department shall extend the period of license revocation for an additional like period when the person is convicted of operating a motor vehicle while the person's license is revoked.

This rule is intended to implement Iowa Code sections 321.218 and 321J.21.

761—615.33(321) Revocation of a minor's license.

615.33(1) The department shall revoke a minor's restricted license upon receiving a record of the minor's conviction for two or more moving violations.

615.33(2) The department shall revoke a minor's school license upon receiving a record of the minor's conviction for two or more moving violations.

This rule is intended to implement Iowa Code subsection 321.178(2) and section 321.194.

761—615.34(321J) Other revocations. Rescinded IAB 11/18/98, effective 12/23/98.

761—615.35 Reserved.

761—615.36(321) Effective date of suspension, revocation, disqualification or bar. Unless otherwise specified by statute or rule, a suspension, revocation, disqualification or bar shall begin 30 days after the department's notice of suspension, revocation, disqualification or bar is served.

This rule is intended to implement Iowa Code sections 321.208, 321.209, 321.210, and 321.556.

761—615.37(321) Service of notice.

615.37(1) The department shall send a notice of denial, cancellation, suspension, revocation, disqualification or bar by first-class mail to the person's mailing address as shown on departmental records.

615.37(2) In lieu of service by mail, the notice may be delivered by a peace officer, a departmental employee, or any person over 18 years of age.

a. The person serving the notice shall prepare a certificate of personal service certifying delivery, specifying the name of the receiver, the address and the date, or certifying nondelivery.

b. The department shall pay fees for personal service of notice by a sheriff as specified in Iowa Code section 331.655. The department may also contract for personal service of notice when the department determines that it is in the best interests of the state.

615.37(3) The denial, cancellation, suspension, revocation, disqualification or bar shall become effective on the date specified in the notice.

615.37(4) The department may prepare an affidavit of mailing verifying the fact that a notice was mailed by first-class mail. To verify the mailing of a notice, the department may use its records in conjunction with U.S. Postal Service records available to the department.

615.37(5) The department shall prepare an affidavit of mailing if the department determines, under Iowa Code section 321.211A, that it failed to serve a notice of suspension or revocation. The department shall send the affidavit to the court that rendered the conviction.

This rule is intended to implement Iowa Code sections 321.16, 321.211, 321.211A, 321.556, 321J.9, 321J.12, and 331.655.

761—615.38(17A,321) Hearing and appeal process.

615.38(1) *Applicability.* This rule applies to:

a. License denials, cancellations and suspensions under Iowa Code sections 321.177 to 321.215 and 321A.4 to 321A.11 except denials under Iowa Code subsection 321.177(10) and suspensions under Iowa Code sections 321.210B, 321.210D, 321.213A and 321.213B.

b. License suspensions and revocations under Iowa Code sections 321.218 and 321J.21.

c. License revocations under Iowa Code sections 321.193 and 321.205.

d. Disqualifications from operating a commercial motor vehicle under Iowa Code section 321.208.

e. License bars under Iowa Code section 321.556.

615.38(2) *Submission of request or appeal.*

a. A person subject to a sanction listed in subrule 615.38(1) may contest the action by following the provisions of 761—Chapter 13 as supplemented by this rule.

b. A request for an informal settlement, a request for a contested case hearing, or an appeal of a presiding officer's decision shall be submitted to the director of the office of driver services at the address in 761—600.2(17A).

c. The request or appeal shall include the person's name, date of birth, driver's license or permit number, complete address and telephone number, and the name, address and telephone number of the person's attorney, if any.

615.38(3) *Informal settlement or hearing.*

a. The person may request an informal settlement. Following an unsuccessful informal settlement procedure, or instead of that procedure, the person may request a contested case hearing.

b. Notwithstanding paragraph *"a"* of this subrule, a request received from a person who has participated in a driver improvement interview on the same matter shall be deemed a request for a contested case hearing.

c. A request for an informal settlement or a request for a contested case hearing shall be deemed timely submitted if it is delivered to the director of the office of driver services or postmarked within the time period specified in the department's notice of the sanction.

(1) Unless a longer time period is specified in the notice or another time period is specified by statute or rule, the time period shall be 20 days after the notice is served.

(2) If the department fails to specify a time period in the notice, the request may be submitted at any time.

615.38(4) *Appeal.* An appeal of a presiding officer's decision shall be submitted in accordance with 761—13.7(17A).

615.38(5) *Stay of sanction.*

a. When the department receives a properly submitted, timely request for an informal settlement, request for a contested case hearing or appeal of a presiding officer's proposed decision regarding a sanction listed in subrule 615.38(1), it shall, after a review of its records to determine eligibility, stay (stop) the sanction pending the outcome of the settlement, hearing or appeal unless prohibited by statute or rule or unless otherwise specified by the requester/appellant.

(1) If the stay is granted, the department shall issue and send to the person a notice granting the stay. The stay is effective on the date of issuance. The notice allows the person to drive while the sanction is stayed if the license is valid and no other sanction is in effect.

(2) A person whose stay authorizes driving privileges shall carry the notice of stay at all times while driving.

b. Of the sanctions listed in subrule 615.38(1), the department shall not stay the following, and the person's driving privileges do not continue:

(1) A suspension for incapability.

(2) A denial.

(3) A disqualification from operating a commercial motor vehicle.

(4) A suspension under Iowa Code section 321.180B.

(5) A suspension or revocation under Iowa Code section 321.218 or 321J.21.

This rule is intended to implement Iowa Code chapter 17A and sections 321.177 to 321.215, 321.218, 321.556, 321A.4 to 321A.11, and 321J.21.

761—615.39(321) Surrender of license. A person whose Iowa license has been canceled, suspended, revoked or barred or who has been disqualified from operating a commercial motor vehicle shall surrender the license to the designated representative of the department on or before the effective date of the sanction.

This rule is intended to implement Iowa Code sections 321.201, 321.208, 321.212, 321.216, 321.556, and 321A.31.

761—615.40(321) License reinstatement or reissue. A person who becomes eligible for a license after a denial, cancellation, suspension, revocation, bar or disqualification shall be notified by the department to appear before a driver license examiner to obtain or reinstate the license. The license may be issued if the person has:

615.40(1) Filed proof of financial responsibility under Iowa Code chapter 321A, when required, for all vehicles to be operated. The class of license issued will depend on the examinations passed and other qualifications of the applicant. Regardless of the class of license issued, the license shall be valid only for the operation of the motor vehicles covered under the proof of financial responsibility filed by the applicant.

615.40(2) Paid the civil penalty when required. The civil penalty is specified in Iowa Code Supplement section 321.218A or 321A.32A.

615.40(3) Complied with the specific instructions given in the department's notice terminating the sanction.

615.40(4) Successfully completed the required driver license examination.

615.40(5) Paid the reinstatement fee when required. The reinstatement fee is specified in Iowa Code section 321.191.

615.40(6) Paid the appropriate license fee or duplicate license fee. These fees are specified in Iowa Code sections 321.191 and 321.195.

This rule is intended to implement Iowa Code sections 321.186, 321.191, 321.195, 321.208, 321.212, and 321A.17 and Iowa Code Supplement sections 321.218A and 321A.32A.

[**ARC 7902B**, IAB 7/1/09, effective 8/5/09]

761—615.41 Reserved.

761—615.42(321) Remedial driver improvement action under Iowa Code section 321.180B.

615.42(1) The department shall require remedial driver improvement action when a person holding an instruction permit, an intermediate license or a full-privilege driver's license under Iowa Code section 321.180B is convicted of a moving violation or has a contributive accident and the violation or accident occurred during the term of the instruction permit or intermediate license.

615.42(2) Completion of remedial driver improvement action means any or all of the following as determined by the department: suspension, safety advisory letter, additional restriction(s), vision screening, knowledge examination, and driving examination.

615.42(3) A suspension period under this rule shall be for no less than 30 days nor longer than one year. A person whose driving privilege has been suspended under this rule is not eligible for a temporary restricted license.

615.42(4) Remedial driver improvement action or suspension under this rule terminates when a person attains the age of 18.

This rule is intended to implement Iowa Code section 321.180B.

[**ARC 7902B**, IAB 7/1/09, effective 8/5/09]

761—615.43(321) Driver improvement program.

615.43(1) *When required.*

a. In lieu of suspension, the department may require the following persons to attend and successfully complete, at the person's own expense, a driver improvement program approved by the department:

(1) A habitual violator.

(2) A person who is convicted for speeding at least 25 but not more than 29 miles per hour over the legal limit.

(3) A person whose license is subject to suspension under Iowa Code section 321.210C.

b. However, a person shall not be assigned to a driver improvement program more than once within a two-year period.

615.43(2) *Scheduling.* The department shall schedule attendance at a program nearest the person's last known address.

a. One request for rescheduling may be granted if the program begins within 30 days of the originally scheduled date and if space is available.

b. A request to attend a program in another state may be granted if the curriculum is approved by the department.

615.43(3) *Probation.* When a person is required to attend and successfully complete a driver improvement program, the department shall also require the person to complete a probationary driving period not to exceed one year. One conviction for a moving violation committed during probation may result in suspension of the person's license. The suspension period shall be at least 90 days, unless reduced by a driver's license hearing officer based on mitigating circumstances.

615.43(4) *Failure to attend.* The department shall suspend the license of a person who is required to attend a driver improvement program and who does not attend, or does not successfully complete, the program. The suspension period shall be at least 90 days.

This rule is intended to implement Iowa Code sections 321.210 and 321.210C.

761—615.44(321) Driver improvement interview.

615.44(1) The department may require a person whose license is subject to suspension to appear for a driver improvement interview.

615.44(2) The department may take one or more of these remedial actions following the interview:

a. Suspend the person's license and issue a temporary driving permit which will allow the person to drive until the effective date of the suspension.

b. Place the person on probation. One conviction for a moving violation committed during probation may result in suspension of the person's license.

c. Restrict the person's license to specified vehicles, times, routes, locations, or other conditions.

d. Order the person to successfully complete a driver improvement program in accordance with rule 615.43(321).

e. Take no further action.

615.44(3) The department shall suspend the license of a person who is required to appear for a driver improvement interview and fails to appear.

This rule is intended to implement Iowa Code sections 321.193 and 321.210.

761—615.45(321) Temporary restricted license (work permit).

615.45(1) *Ineligibility.* The department shall not issue a temporary restricted license under Iowa Code subsection 321.215(1) to an applicant:

a. Whose license has been denied or canceled.

b. Whose license has been suspended for incapability.

c. Whose license has been suspended for noncompliance with the financial responsibility law.

d. Whose minor's school license or minor's restricted license has been suspended or revoked.

e. Whose license has been suspended for failure to pay a fine, penalty, surcharge or court costs.

f. Whose period of suspension or revocation has been extended for operating a motor vehicle while under suspension or revocation.

g. Whose license has been mandatorily revoked under Iowa Code section 321.209, subsections 1 to 5 or subsection 7, or for a second or subsequent conviction for drag racing.

h. Whose license has been suspended under the nonresident violator compact.

i. Who is barred under Iowa Code section 321.560.

j. Whose license has been suspended or revoked for a drug or drug-related offense.

k. Whose license has been suspended due to receipt of a certificate of noncompliance from the child support recovery unit.

l. Whose license has been suspended due to receipt of a certificate of noncompliance from the college student aid commission.

m. Whose license has been suspended for a charge of vehicular homicide.

n. Who has been suspended under Iowa Code subsection 321.180B(3).

615.45(2) *Application.*

a. To obtain a temporary restricted license, an applicant shall submit a written request for an interview with a driver's license hearing officer. The request shall be submitted to the office of driver services at the address in 761—600.2(17A).

b. If the driver's license hearing officer approves the issuance of a temporary restricted license, the officer shall furnish to the applicant application Form 430100, which is to be completed and submitted to the office of driver services.

c. A temporary restricted license issued for employment may include permission for the licensee to transport dependent children to and from a location for child care when that activity is essential to continuation of the licensee's employment.

615.45(3) *Statements.* A person applying for a temporary restricted license shall submit all of the following statements that apply to the person's situation. Each statement shall explain the need for the license and shall list specific places and times for the activity which can be verified by the department.

a. A statement from the applicant.

b. A statement from the applicant's employer unless the applicant is self-employed including, when applicable, verification that the applicant's use of a child care facility is essential to the applicant's continued employment.

c. A statement from the health care provider if the applicant or the applicant's dependent requires continuing health care.

d. A statement from the educational institution in which the applicant is enrolled.

e. A statement from the substance abuse treatment program in which the applicant is participating.

f. A copy of the court order for community service and a statement describing the assigned community service from the responsible supervisor.

g. A statement from the child care provider.

615.45(4) *Additional requirements.* An applicant for a temporary restricted license shall also:

a. Provide a description of all motor vehicles to be operated under the temporary restricted license.

b. File proof of financial responsibility under Iowa Code chapter 321A, if required, for all motor vehicles to be operated under the temporary restricted license.

c. Pay the required civil penalty specified in Iowa Code Supplement section 321.218A or 321A.32A.

615.45(5) *Issuance and restrictions.*

a. When the application is approved and all requirements are met, the applicant shall be notified by the department to appear before a driver's license examiner. The applicant shall pass the appropriate examination for the type of vehicle to be operated under the temporary restricted license. An Iowa resident shall also pay the reinstatement and license fees.

b. The department shall determine the restrictions to be imposed by the temporary restricted license. The licensee shall apply to the department in writing with a justification for any requested change in license restrictions.

615.45(6) *Denial.* An applicant who has been denied a temporary restricted license or who contests the license restrictions imposed by the department may contest the decision in accordance with rule 761—615.38(321).

These rules are intended to implement Iowa Code chapter 321A and sections 252J.8, 321.177, 321.178, 321.184, 321.185, 321.186, 321.189, 321.191, 321.193, 321.194, 321.201, 321.205, 321.209, 321.210, 321.210A, 321.212, 321.213A, 321.213B, 321.215, 321.218, 321.513, and 321.560 and Iowa Code Supplement sections 321.218A and 321A.32A.

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◊ Two or more ARCs

CHAPTERS 616 to 619
Reserved

CHAPTER 620
OWI AND IMPLIED CONSENT

[Prior to 6/3/87, Transportation Department[820]—(07,C)Ch 11]

761—620.1(321J) Definitions. Rescinded IAB 1/8/92, effective 2/12/92.

761—620.2(321J) Information and location. Applications, forms, information, assistance, and answers to questions relating to this chapter are available by mail from the Office of Driver Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (800)532-1121; or by facsimile at (515)237-3071.

761—620.3(321J) Issuance of temporary restricted license.

620.3(1) *Eligibility and application.*

a. The department may issue a temporary restricted license to a person who is eligible under Iowa Code section 321J.4 (except subsection 8), 321J.9, 321J.12 or 321J.20. The department shall not issue a temporary restricted license to a person who has a current suspension or revocation for any other reason, or who is otherwise ineligible.

b. To apply for a temporary restricted license, an applicant shall, at any time before or during the revocation period, submit application Form 430100 to the office of driver services at the address in 761—620.2(321J). The application form should be furnished by the arresting officer. It may also be obtained upon oral or written request to the office of driver services or by submitting Form 432018 to driver services with the appropriate box checked.

c. A temporary restricted license issued for employment may include permission for the licensee to transport dependent children to and from a location for child care when that activity is essential to continuation of the licensee's employment.

620.3(2) *Statements.* A person applying for a temporary restricted license shall submit all of the following statements that apply to the person's situation. Each statement shall explain the need for the license and shall list specific places and times for the activity which can be verified by the department.

a. A statement from the person's employer unless the person is self-employed including, when applicable, verification that the person's use of a child care facility is essential to the person's continued employment.

b. A statement from the person.

c. A statement from the health care provider if the person or the person's dependent requires continuing health care.

d. A statement from the educational institution in which the person is enrolled.

e. A statement from the substance abuse treatment program in which the person is participating.

f. A copy of the court order for community service and a statement describing the assigned community service from the responsible supervisor.

g. A statement from the child care provider.

620.3(3) *Additional requirements.* A person applying for a temporary restricted license shall also comply with all of the following requirements:

a. Provide a description of all motor vehicles to be operated under the temporary restricted license.

b. Submit proof of financial responsibility under Iowa Code chapter 321A for all motor vehicles to be operated under the temporary restricted license.

c. Provide certification of installation of an approved ignition interlock device on every motor vehicle operated.

d. Pay the $200 civil penalty.

620.3(4) *Issuance and restrictions.*

a. When the application is approved and all requirements are met, the applicant shall be notified by the department to appear before a driver's license examiner. The applicant shall pass the appropriate

examination for the type of vehicle to be operated under the temporary restricted license. An Iowa resident shall also pay the reinstatement and license fees.

b. The department shall determine the restrictions to be imposed by the temporary restricted license. The licensee shall apply to the department in writing with a justification for any requested change in license restrictions.

620.3(5) *Denial.* A person who has been denied a temporary restricted license or who contests the restrictions imposed by the department may request an informal settlement conference by submitting a written request to the director of the office of driver services at the address given in 761—620.2(321J). Following an unsuccessful informal settlement or instead of that procedure, the person may request a contested case hearing in accordance with rule 761—620.4(321J).

620.3(6) *Issuance of temporary restricted license to repeat offender whose driving privilege is revoked under Iowa Code section 321J.4(2).*

a. It is the opinion of the department that the amendment to Iowa Code section 321J.4(2) by 2009 Iowa Acts, Senate File 419, section 13, was undertaken in response to changes to 23 U.S.C. § 164, "Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence," effected by the SAFETEA-LU Technical Corrections Act of 2008, Public Law No. 110-244, § 115, 122 Stat. 1572 (June 6, 2008), and that Iowa Code section 321J.4(2) as amended by 2009 Iowa Acts, Senate File 419, section 13, is intended to remain and be interpreted in conformance with the requirements of 23 U.S.C. § 164, including the requirements for restricted driving privileges after 45 days.

b. Accordingly, any provision in subrules 620.3(1) to 620.3(5) notwithstanding, any temporary restricted license issued to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) shall be limited during the first year of the two-year revocation period to driving to and from work when necessary to maintain the person's present employment, and shall not be allowed for any other purpose, including but not limited to transporting dependent children to and from a location for child care. After the first year of the two-year revocation period, a temporary restricted license issued to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) may permit the person to drive to and from work as well as for any other work purpose when necessary to maintain the person's present employment and may permit the person to transport dependent children to and from a location for child care when that activity is essential to continuation of the person's employment.

c. All pleadings and orders submitted by the department under Iowa Code section 321J.4(9) in regard to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) will be in accord with the requirements of this subrule, and the department shall enforce any order authorizing the department to issue a temporary restricted license to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) according to the requirements of this subrule.

d. The department interprets 2009 Iowa Acts, Senate File 419, section 13, as applying to convictions entered on or after July 1, 2009, and accordingly this subrule shall apply to revocations arising from convictions entered on or after July 1, 2009.

[**ARC 8024B**, IAB 8/12/09, effective 7/14/09; **ARC 8203B**, IAB 10/7/09, effective 11/11/09]

761—620.4(321J) Hearings and appeals.

620.4(1) *Contested case hearing.*

a. A person may request a contested case hearing by checking the appropriate box on Form 432018 and submitting it to the department or by submitting a written request to the director of the office of driver services at the address given in 761—620.2(321J). The request shall include the person's name, date of birth, driver license number, complete address and telephone number.

b. A request for a hearing to contest the denial of a temporary restricted license or to contest the restrictions may be submitted at any time.

c. A request for a hearing to contest a revocation shall be submitted within ten days after receipt of the revocation notice. The request shall be deemed timely submitted if it is delivered to the director of the office of driver services or properly addressed and postmarked within this time period.

d. Failure to timely request a hearing on a revocation is a waiver of the right to a hearing under Iowa Code chapter 321J, and the revocation shall become effective on the date specified in the revocation notice.

e. After a hearing, a written decision will be issued by the presiding officer.

620.4(2) *Appeal.* A decision by a presiding officer shall become the final decision of the department and shall be binding on the department and the person who requested the hearing unless either appeals the decision in accordance with this subrule.

a. The appeal shall be decided on the basis of the record made before the presiding officer in the contested case hearing and no additional evidence shall be presented.

b. The appeal shall include a statement of the specific issues presented for review and the precise ruling or relief requested.

c. An appeal of the presiding officer's decision shall be submitted in writing by sending the original and one copy of the appeal to the director of the office of driver services at the address given in 761—620.2(321J).

d. An appeal shall be deemed timely submitted if it is delivered to the director of the office of driver services or properly addressed and postmarked within ten days after receipt of the presiding officer's decision.

e. The director of the office of driver services shall forward the appeal to the director of transportation. The director of transportation may affirm, modify or reverse the decision of the presiding officer, or may remand the case to the presiding officer.

f. Failure to timely appeal a decision shall be considered a failure to exhaust administrative remedies.

620.4(3) *Final agency action.* The decision of the director of transportation shall be the final decision of the department and shall constitute final agency action for purposes of judicial review. No further steps are necessary to exhaust administrative remedies.

620.4(4) *Default.*

a. If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no continuance is granted, either enter a default decision or proceed with the hearing and render a decision in the absence of the party.

b. Any party may move for default against a party who has requested the contested case proceeding and who has failed to appear after proper service.

c. A default decision or a decision rendered on the merits after a party has failed to appear or participate in a contested case proceeding becomes final agency action unless, within ten days after receipt of the decision, either a motion to vacate is filed and served on the presiding officer and the other parties or an appeal of a decision on the merits is timely submitted in accordance with subrule 620.4(2). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate.

d. The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

e. Timely filed motions to vacate shall be granted only for good cause shown. The burden of proof is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate.

f. "Good cause" for the purpose of this rule means surprise, excusable neglect or unavoidable casualty.

g. A decision denying a motion to vacate is subject to further appeal in accordance with subrule 620.4(2).

h. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party in accordance with subrule 620.4(2).

i. If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case shall proceed accordingly.

620.4(5) *Petition to reopen a hearing.*

a. A petition to reopen a hearing pursuant to Iowa Code section 17A.16 shall be submitted in writing to the director of the office of driver services at the address in 761—620.2(321J). If a petition is

based on a court order, a copy of the court order shall be submitted with the petition. If a petition is based on new evidence, the petitioner shall submit a concise statement of the new evidence and the reason(s) for the unavailability of the evidence at the original hearing.

b. A petition to reopen a hearing may be submitted at any time even if a hearing to contest the revocation was not originally requested or held.

c. A person may appeal a denial of the petition to reopen. The appeal shall be deemed timely if it is delivered to the director of the office of driver services at the address in 761—620.2(321J) or properly addressed and postmarked within 20 days after issuance of the decision denying the petition to reopen.

761—620.5(321J) Reinstatement. When the revocation period has ended, a person shall be notified by the department to appear before a driver's license examiner to obtain a motor vehicle license. The license may be issued if the person has:

620.5(1) Filed proof of financial responsibility under Iowa Code chapter 321A for all motor vehicles to be operated.

620.5(2) Paid the $200 civil penalty.

620.5(3) Provided proof of satisfactory completion of a course for drinking drivers and proof of completion of substance abuse evaluation and treatment or rehabilitation services on a form and in a manner approved by the department.

620.5(4) Successfully completed the required driver license examination.

620.5(5) Paid the specified reinstatement fee.

620.5(6) Paid the appropriate license or permit fee.

620.5(7) Provided proof of deinstallation of the ignition interlock device if one was installed for a temporary restricted license.

761—620.6(321J) Issuance of temporary restricted license after revocation period has expired. The department may issue a temporary restricted license to a person whose period of revocation under Iowa Code chapter 321J has expired but who has not met all the requirements for license reinstatement. The period of issuance shall be determined by the department, but it shall not exceed six months from the end of the original revocation period.

620.6(1) An applicant for a temporary restricted license under this rule must meet one of the following two conditions:

a. The applicant must demonstrate to the satisfaction of the department that a course for drinking drivers was not readily available to the person during the revocation period and that the applicant has enrolled in a course for drinking drivers. The applicant must furnish the dates the class will begin and end.

b. The applicant must demonstrate to the satisfaction of the department that substance abuse evaluation and treatment or rehabilitation services have not been completed because of an inability to schedule them or because they are ongoing.

620.6(2) An applicant for a temporary restricted license under this rule must meet all other conditions for issuance of a temporary restricted license under rule 761—620.3(321J) and Iowa Code section 321J.20, including installation of an ignition interlock device.

761—620.7 to **620.9** Reserved.

761—620.10(321J) Revocation for deferred judgment. The revocation period under Iowa Code subsection 321J.4(3) shall be 90 days.

761—620.11 to **620.14** Reserved.

761—620.15(321J) Substance abuse evaluation and treatment or rehabilitation services. When the department revokes a person's license under Iowa Code chapter 321J, the department shall also order the person to submit to substance abuse evaluation and, if recommended, treatment or rehabilitation services.

A provider of substance abuse evaluation and treatment or rehabilitation programs shall be licensed by the Iowa department of public health, division of substance abuse.

620.15(1) *Reporting.*

a. A provider of a substance abuse program shall report to the department on a form and in a manner approved by the department when a person who has been ordered to attend the program has satisfactorily completed the program.

b. Reporting to the department shall be in accordance with Iowa Code sections 125.37, 125.84 and 125.86 and the federal confidentiality regulations, "Confidentiality of Alcohol and Drug Abuse Patient Records," 42 CFR Part 2, effective June 9, 1987.

620.15(2) *Payment.* Payment of substance abuse evaluation and treatment or rehabilitation costs shall be in accordance with Iowa department of public health rules.

761—620.16(321J) Drinking drivers course. When the department revokes a person's license under Iowa Code chapter 321J, the department shall order the person to enroll, attend and satisfactorily complete a course for drinking drivers, as provided in Iowa Code section 321J.22.

620.16(1) *Reporting.*

a. A community college conducting a drinking drivers course shall report to the department on a form and in a manner approved by the department when a person who has been ordered to attend the course has successfully completed it.

b. Reserved.

620.16(2) *Payment.* A person ordered to complete a drinking drivers course is responsible for payment of course fees and expenses in accordance with Iowa Code section 321J.22.

These rules are intended to implement Iowa Code chapters 17A and 321J and sections 321.376 and 707.6A.

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CHAPTERS 621 to 624
Reserved

CHAPTER 625
DRIVER'S LICENSES FOR UNDERCOVER LAW ENFORCEMENT OFFICERS

761—625.1(321) Purpose. This chapter addresses the issuance of undercover driver's licenses.

761—625.2(321) Application.

625.2(1) The application for an undercover driver's license must:

a. Be in writing.

b. Include a fictitious name as well as the applicant's true identity.

c. Include a statement of need.

d. Be signed by both the applicant and the head of the law enforcement agency employing the applicant.

e. Be submitted to the office of driver services at the address in rule 761—600.2(17A).

625.2(2) All applications shall be investigated by the department. An investigation shall include, but not be limited to, a 50-state check of the fictitious name and, if provided, fictitious social security number.

625.2(3) The department shall determine if the undercover license is necessary.

625.2(4) The department shall approve or disapprove the application, based on the results of the investigation and the determination of necessity.

761—625.3(321) Issuance.

625.3(1) To obtain an undercover license after the application is approved, the applicant must appear at a driver's license examination station that has record capabilities, with all applicable documents necessary for the issuance of an undercover license.

625.3(2) A two-year license will be issued. The applicant must pay all fees and meet all requirements for the class of license applied for, except that 761—subrule 601.5(2) (proof of age and identity), is waived.

761—625.4(321) Renewal not permitted. An undercover license may not be renewed. The applicant must reapply for a new undercover license.

761—625.5(321) Cancellation. When the need for an undercover license no longer exists or if the licensee ceases to be employed by the sponsoring law enforcement agency, the licensee shall surrender the undercover license to the department for cancellation.

761—625.6(321) Records.

625.6(1) Applications, forms and other records of the department that establish the true identity of an applicant or licensee under this chapter are confidential public records under Iowa Code sections 22.7 and 321.189A. The fictitious license information itself is not confidential, except as provided in Iowa Code section 321.11.

625.6(2) The open public records of the department shall contain no information or indicator that would distinguish any undercover license issued under this chapter from any other driver's license issued by the department.

625.6(3) An undercover license issued under this chapter will appear on the driver's license record system.

These rules are intended to implement Iowa Code sections 22.7 and 321.189A.

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CHAPTERS 626 to 629
Reserved

CHAPTER 630
NONOPERATOR'S IDENTIFICATION

[Prior to 6/3/87, see Transportation Department[820]—(07,C)Ch 12]

761—630.1(321) General information.

630.1(1) The department shall issue a nonoperator's identification card only to an Iowa resident who does not have a driver's license. However, a card may be issued to a person holding a temporary permit under Iowa Code section 321.181.

630.1(2) Information concerning the nonoperator's identification card is available at any driver's license examination station, or at the address in 761—600.2(17A).

761—630.2(321) Application and issuance.

630.2(1) An applicant for a nonoperator's identification card shall complete and sign an application form at a driver's license examination station. The signature shall be without qualification and shall contain only the applicant's usual signature without any other titles, characters or symbols.

630.2(2) The applicant shall present proof of age, identity and social security number as required by rule 761—601.5(321). Submission of parental consent is also required in accordance with rule 761—601.6(321).

630.2(3) The nonoperator's identification card shall be coded for identification only, as explained on the reverse side of the card. The county number shall indicate the county of residence. The card shall expire five years from the date of issue if the applicant is under the age of 70.

630.2(4) Upon the request of the cardholder, the department shall indicate on the nonoperator's identification card the presence of a medical condition, that the cardholder is a donor under the uniform anatomical gift law, or that the cardholder has in effect a medical advance directive.

630.2(5) The issuance fee is $5. However, no issuance fee shall be charged for a person whose license has been suspended for incapability pursuant to rule 761—615.14(321) or who has been denied further licensing in lieu of a suspension for incapability pursuant to rule 761—615.4(321).

630.2(6) Rescinded IAB 2/8/12, effective 3/14/12.

630.2(7) A person who seeks a nonoperator's identification card that is compliant with the REAL ID Act of 2005, 49 U.S.C. § 30301 note, as further defined in 6 CFR Part 37 ("REAL ID nonoperator's identification card"), must meet and comply with all lawful requirements for an Iowa nonoperator's identification card, and must also meet and comply with all application and documentation requirements set forth at 6 CFR Part 37, including but not limited to documentation of identity, date of birth, social security number, address of principal residence, and evidence of lawful status in the United States. Documents and information provided to fulfill REAL ID requirements must be verified as required in 6 CFR 37.13. An applicant for a REAL ID nonoperator's identification card is subject to a mandatory facial image capture that meets the requirements of 6 CFR 37.11(a). A REAL ID nonoperator's identification card may not be issued, reissued, or renewed except as permitted in 6 CFR Part 37 and may not be issued, reissued, or renewed by any procedure, in any circumstance, to any person, or for any term prohibited under 6 CFR Part 37. The information on the front of any REAL ID nonoperator's identification card must include all information and markings required by 6 CFR 37.17. Nothing in this subrule requires a person to obtain a REAL ID nonoperator's identification card.

[**ARC 8339B**, IAB 12/2/09, effective 12/21/09; **ARC 8514B**, IAB 2/10/10, effective 3/17/10; **ARC 9991B**, IAB 2/8/12, effective 3/14/12]

761—630.3(321) Duplicate card.

630.3(1) *Lost or destroyed card.* To replace a nonoperator's identification card that is lost or destroyed, the cardholder shall submit Form 430052 and proof of age, identity and social security number. The replacement fee is $3.

630.3(2) *Voluntary replacement.* To voluntarily replace a nonoperator's identification card, the cardholder shall surrender to the department the card to be replaced. The reasons a card may be voluntarily replaced and any additional supporting documentation required are the same as those listed in subrule 761—605.11(2), paragraphs *"a"* to *"f."* The fee for voluntary replacement is $1.

761—630.4(321) Cancellation. The department shall cancel a nonoperator's identification card upon receipt of evidence that the person was not entitled or is no longer entitled to a card, failed to give correct information, committed fraud in applying or used the card unlawfully.

These rules are intended to implement Iowa Code sections 321.189, 321.190, 321.192, 321.195, 321.216, 321.216A, 321.216B and 321.216C, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note) and 6 CFR Part 37.

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CHAPTERS 631 to 633
Reserved

CHAPTER 634
DRIVER EDUCATION

761—634.1(321) Information and location. Applications, forms and information regarding this chapter are available by mail from the Office of Driver Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3153; or by facsimile at (515)237-3071.

761—634.2(321) Definition.

"Laboratory instruction" includes instruction received by a student while the student is in the driver education vehicle or adjacent to it as referred to in paragraphs 634.4(2)*"c"* and 634.4(2)*"d"* and may also include range or simulation as referred to in paragraphs 634.4(2)*"h"* and 634.4(2)*"i."*

761—634.3 Reserved.

761—634.4(321) Driver education course standards and requirements.

634.4(1) *Course approval.* Any school district, area education agency, merged area school, other agency or individual planning to offer a driver education course must receive course approval from the department prior to the beginning of the first class that is offered and annually thereafter. The agency or institution or individual shall complete a form provided by the department to apply for course approval. Course approval will be issued for a calendar year or remainder of a calendar year. The approval expires on December 31 and must be renewed annually.

634.4(2) *Course requirements.* Driver education courses must comply with the following:

a. Schools shall provide for each student a minimum of 1800 minutes in classroom instruction, plus 360 minutes in supervised laboratory instruction, exclusive of observation time, in a dual-control motor vehicle.

b. Each student shall be scheduled to receive classroom and laboratory instruction each week of the course but in no case shall laboratory instruction conclude later than 30 days after classroom instruction is completed.

c. Behind-the-wheel instruction shall be limited to a maximum of 30 minutes per student per session and a maximum of 60 minutes in a single day.

d. Two or more students shall be scheduled for all behind-the-wheel instruction to ensure that appropriate observation time is experienced.

e. Routine maintenance of motor vehicles to maximize energy efficiency and safety shall be included in classroom instruction.

f. Operation of motor vehicles to maximize energy efficiency and safety shall be included in classroom instruction.

g. Each school district shall provide students who are absent from instruction an opportunity to make up a reasonable amount of time and coursework.

h. When driving simulators are used for part of the behind-the-wheel driving experience, four hours of simulator experience shall be considered equal to one hour of behind-the-wheel driving in the car. However, in addition to simulator time, a minimum of three hours of on-street, behind-the-wheel driving must be completed.

i. When driving ranges are used in driver education courses, two hours of range experience shall be considered equal to one hour of on-street, behind-the-wheel driving. However, in addition to range time, a minimum of three hours of on-street, behind-the-wheel driving must be completed.

j. Motor vehicles which are designed primarily for carrying nine or fewer occupants, excluding motorcycles and mopeds, are the only motor vehicles approved for use in driver education courses, and each shall be equipped with a dual control. In addition, all driver education vehicles shall have an inside rearview mirror and an outside rearview mirror mounted on each side of the vehicle.

k. The driver education teacher shall verify at the beginning of each course that each student possesses a valid instruction permit or driver's license. Each student shall be responsible for possessing

an instruction permit or driver's license throughout all laboratory instruction and report any suspension, revocation or cancellation of the instruction permit or driver's license to the driver education teacher prior to attending laboratory instruction.

634.4(3) *Experimental program.* Approval of an experimental program may be granted by the department if based on student or school district need for improved instruction. The maximum duration of an experimental program shall be three years. Annual documentation of the effectiveness of instruction is required and must be submitted to the department subsequent to program completion.

761—634.5 Reserved.

761—634.6(321) Teacher qualifications. To qualify to be a driver education teacher, the teacher must:

634.6(1) Hold a valid driver's license that permits unaccompanied driving, other than a motorized bicycle license or a temporary restricted license.

634.6(2) Have a clear driving record for the previous two years. A clear driving record means the individual has:

a. Not been identified as a candidate for driver's license suspension under the habitual violator provisions of rule 761—615.13(321) or the serious violation provisions of rule 761—615.17(321).

b. No driver's license suspensions, revocations, denials, cancellations, disqualifications or bars.

c. Not committed an offense that would result in driver's license suspension, revocation, denial, cancellation, disqualification or bar.

d. No record of an accident for which the individual was convicted of a moving traffic violation.

761—634.7(321) Behind-the-wheel instructor's certification. The following applies to departmental certification of a person who is qualified to provide the street or highway driving component of an approved driver education course.

634.7(1) *Qualifications.* To qualify for the behind-the-wheel driving instructor certification, the applicant must:

a. Be at least 25 years of age.

b. Hold a valid driver's license that permits unaccompanied driving, other than a motorized bicycle license or a temporary restricted license.

c. Have a clear driving record for the previous two years. A clear driving record means the individual has:

(1) Not been identified as a candidate for driver's license suspension under the habitual violator provisions of rule 761—615.13(321) or the serious violation provisions of rule 761—615.17(321).

(2) No driver's license suspensions, revocations, denials, cancellations, disqualifications or bars.

(3) Not committed an offense that would result in driver's license suspension, revocation, denial, cancellation, disqualification or bar.

(4) No record of an accident for which the individual was convicted of a moving traffic violation.

d. Have successfully completed the instructor preparation requirements of this rule, as evidenced by written attestations on a form provided by the department from both the classroom instructor and behind-the-wheel observer.

634.7(2) *Disqualifications.* An individual shall be disqualified for the behind-the-wheel driving instructor certification for any of the following reasons:

a. The individual has been convicted of child abuse or sexual abuse of a child.

b. The individual has been convicted of a felony.

c. The individual's application is fraudulent.

d. The individual's teaching license or behind-the-wheel instructor's certification from another state is suspended or revoked.

634.7(3) *Investigation.* The department may investigate an applicant for a behind-the-wheel instructor's certification to determine if the applicant meets the requirements for certification. The investigation may include but is not limited to an inquiry into the applicant's criminal history from the department of public safety.

634.7(4) *Certification.*

a. To obtain a behind-the-wheel instructor's certification, an individual meeting the qualifications shall apply to the department on a form provided by the department. The certification shall be issued for a calendar year or remainder of a calendar year. The certification expires on December 31 but remains valid for an additional 30 days after the expiration date. The certification shall be renewed within 30 days of the expiration date.

b. To renew a behind-the-wheel instructor's certification, a person meeting the qualifications must:

(1) Provide behind-the-wheel instruction for a minimum of 12 clock hours during the previous calendar year.

(2) Participate in at least one state-sponsored or state-approved behind-the-wheel instructor refresher course.

634.7(5) *Instructor preparation requirements.* The department shall develop the curriculum in consultation with the Iowa driver education teacher preparation programs approved by the board of educational examiners and in consultation with the American Driver and Traffic Safety Education Association. Instructor preparation shall meet the following requirements:

a. Instructor preparation shall consist of 24 clock hours of classroom instruction and 12 clock hours of observed behind-the-wheel instruction.

b. At a minimum, classroom instruction shall focus on topics such as the psychology of the young driver, behind-the-wheel teaching techniques, and route selection. Classroom instruction shall be delivered by staff from a driver education teacher preparation program approved by the board of educational examiners. The duration of a classroom session shall not exceed four hours. Video conferencing may be used for course delivery.

c. Observation of behind-the-wheel instruction shall be provided by a person licensed to teach driver education who is specially trained by a driver education teacher preparation program approved by the board of educational examiners to observe, coach, and evaluate behind-the-wheel instructor candidates. The duration of a behind-the-wheel session shall not exceed four hours. A dual-control motor vehicle must be used.

d. The individual seeking a behind-the-wheel certification must apply to the department within 12 months of the completion of the course.

634.7(6) *Cancellation.* The department shall cancel the behind-the-wheel instructor's certification of an individual who no longer qualifies under paragraph 634.7(1)*"c"* or who no longer meets the qualifications for a behind-the-wheel instructor's certification.

634.7(7) *Approved driver education course.* To provide the street or highway driving component of an approved driver education course, an individual holding a behind-the-wheel instructor's certification must be employed by a public or licensed commercial or private provider of the approved driver education course and work under the supervision of a person licensed to teach driver education.

761—634.8(321) Private and commercial driver education schools. The department licenses private and commercial driver education schools as follows:

634.8(1) *Instructor and course approval.* Prior to licensing a driver education school, the department shall approve the school's course, classroom instructors and laboratory instructors. Street or highway driving instruction must be provided by a person qualified as a classroom driver education instructor or a person certified by the department and authorized by the board of educational examiners. Written evidence of these approvals and certifications must be submitted to the department upon application for a license, upon renewal of a license, and upon reinstatement of a license following cancellation.

634.8(2) *Application and fees.* Application for license issuance or renewal shall be made to the department on forms provided by the department. The fee for a license or the renewal of a license is $25. The fee must be paid by cash, money order or check. A money order or check must be for the exact amount and should be made payable to the Treasurer, State of Iowa, or the Department of Transportation.

634.8(3) *Issuance and renewal.* A license to teach driver education shall be issued for a calendar year or remainder of a calendar year. The license expires on December 31 but remains valid for an

additional 30 days after the expiration date. The license shall be renewed within 30 days of the expiration date.

634.8(4) *Cancellation.* A license to teach driver education shall be canceled if the course or instructor is no longer approved or the person providing only behind-the-wheel instruction for driver education is no longer certified by the department and authorized by the board of educational examiners.

These rules are intended to implement Iowa Code sections 321.178, 321.180B and 321.194.

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CHAPTER 635
MOTORCYCLE RIDER EDUCATION (MRE)

761—635.1(321) Definitions.

"Approved course" means the motorcycle rider education course approved by the department.

"MRE" means motorcycle rider education.

"Sponsor" means an entity that delivers the approved course.

761—635.2(321) Approved course in motorcycle rider education.

635.2(1) Any entity providing motorcycle rider education to persons under the age of 18 for purposes of early licensing or seeking reimbursement under Iowa Code subsection 321.180B(6) for providing motorcycle rider education to persons aged 18 and older must teach the motorcycle rider education course approved by the department.

635.2(2) A sponsor must receive approval from the department prior to the beginning of the first class offered and annually thereafter. Private or commercial sponsors must also be licensed by the department prior to the beginning of the first class that is offered and annually thereafter. Application for license issuance or renewal shall be made to the department on forms provided by the department. The fee for a license or the renewal of a license is $25 for a private or a commercial sponsor. The fee must be paid by cash, money order or check. A money order or check must be for the exact amount and should be made payable to the Treasurer, State of Iowa, or the Department of Transportation.

635.2(3) The approved course uses a nationally recognized, research-based curriculum. Only persons successfully completing all elements of the approved course shall be issued an Iowa certificate of completion for motorcycle rider education. Issuance of an Iowa certificate of completion to persons who do not successfully complete the approved course is cause for revocation of the instructor's license and denial of reimbursement to the sponsor for each student involved.

635.2(4) Prior to the beginning of on-cycle instruction, a student enrolled in the approved course must be at least 14 years of age, possess a valid driver's license as defined in Iowa Code section 321.1, be able to touch the ground with the balls of both feet while sitting astride the training motorcycle, and complete the motorcycle safety course waiver form, including the signature of a parent or legal guardian if the student is under the age of 18.

635.2(5) The scheduled time for instruction—classroom, on-cycle, or a combination of both—shall not exceed eight hours in any one calendar day. During on-cycle instruction, a student shall wear a U.S. DOT-approved helmet, an eye-protective device, and protective clothing, including gloves, a long-sleeved shirt or jacket, long pants, and shoes or boots that cover the feet and ankles.

635.2(6) The student-instructor ratio for classroom instruction shall not exceed 36 to 1. No more than 12 students may receive on-cycle instruction at one time on a single full-size range. The student-instructor ratio for on-cycle instruction shall not exceed 6 to 1.

635.2(7) A driving range used for on-cycle instruction must be paved, free of hazards to motorcycle travel, and have an unobstructed, paved runoff of at least 20 feet in all directions.

a. and *b.* Rescinded IAB 9/4/02, effective 10/9/02.

635.2(8) The sponsor shall provide for each student engaged in on-cycle instruction one fully operational motorcycle manufactured for highway use. Each motorcycle must meet two of the following three criteria:

a. Have an engine displacement that does not exceed 500 cubic centimeters.

b. Have an unladen weight that does not exceed 400 pounds.

c. Have a seat height that does not exceed 30 inches.

635.2(9) The driving test for a Class M driver's license or a motorcycle endorsement may be waived under 761—subrule 604.31(2) provided the applicant has successfully completed the approved course.

761—635.3(321) Instructors.

635.3(1) *License.* An instructor of the approved course must be licensed by the department. However, an individual who meets the qualifications for a license except for paragraph 635.3(2)*"d"* or

who is suspended under paragraph 635.3(3)*"c"* may teach the approved course as provided in those paragraphs.

a. and *b.* Rescinded IAB 9/4/02, effective 10/9/02.

635.3(2) *Licensing provisions.* To obtain and retain an MRE instructor's license, an individual must:

a. Possess a valid Class M driver's license or a motorcycle endorsement or equivalent license or endorsement that is valid for a two-wheel motorcycle.

b. Successfully complete a nationally recognized, research-based instructor preparation course approved by the department.

c. Possess a current instructor certification from a nationally recognized motorcycle safety organization approved by the department.

d. Before a license is granted, teach one class of the approved course under the guidance of an experienced, licensed instructor approved by the department.

e. After the year in which a license is granted, teach at least one class in Iowa each calendar year.

f. After the year in which a license is granted, complete at least one state-sponsored or state-approved instructor update each calendar year. The update must be completed in Iowa every other year.

g. Possess a high school diploma or equivalent. This is not required for a licensed instructor who trained as an MRE instructor before July 1, 1998, and who has taught for an Iowa sponsor after January 1, 1996.

635.3(3) *License suspension.*

a. The department shall suspend the MRE license of an MRE instructor whose driving privilege is suspended, revoked, canceled, denied or barred. The suspension shall remain in effect until the individual's driving privilege is restored.

b. The department shall suspend the MRE license of an MRE instructor who fails to maintain a current instructor certification from a nationally recognized motorcycle safety organization approved by the department. The suspension shall remain in effect until the certification is current.

c. Each January, the department shall review each MRE instructor's teaching activity and update completion. The department shall suspend the MRE license of an MRE instructor who fails to meet these licensing provisions. The suspension shall remain in effect until the individual has done one of the following:

(1) Taught two classes of the approved course under the guidance of an experienced, licensed instructor approved by the department.

(2) Attended the first instruction component of an instructor preparation weekend.

(3) Completed an Iowa technical assistance review with an instructor trainer.

761—635.4(321) Responsibilities of sponsors.

635.4(1) Sponsors shall:

a. Comply with all teaching and instructor provisions of the approved course.

b. Use only instructors licensed by the department to teach the approved course. However, an individual who meets the qualifications for a license except for paragraph 635.3(2)*"d"* or who is suspended under paragraph 635.3(3)*"c"* may teach the approved course as provided in those paragraphs.

c. Maintain liability insurance in an amount of not less than $1 million, combined single limit, with an aggregate limit of not less than $2 million, and file a certificate of this insurance with the department. The certificate shall verify coverage for scheduled courses of instruction. The certificate shall name the department and its officers, agents, representatives and employees as additional insureds with respect to all work, deliveries or services performed for them by the named insured, and shall specify that the department of transportation, office of driver services, shall be given at least 30 days' prior notice of any material change in or cancellation of the insurance.

A sponsor who is a state agency or public educational institution shall provide written verification of self-insurance to the department.

d. Maintain complete instructional accident report files and furnish this information to the department on forms provided by the department.

e. Maintain a record of costs incurred in providing the approved course.

f. Allow the department to audit any class of the approved course, either announced or unannounced.

g. Involve a program administrator in an annual department-sponsored, in-service seminar.

h. Participate in the department's centralized motorcycle rider education master schedule.

i. Provide and maintain adequate instructional facilities and equipment to accommodate all components—lecture, audio-visual, and on-cycle—of the approved course.

635.4(2) The department shall deny approval to a sponsor applying for initial or annual approval from the department under subrule 635.2(2) if the sponsor fails to comply with all of the provisions of subrule 635.4(1).

761—635.5(321) Use of motorcycle rider education fund. The motorcycle rider education fund may be used for the following purposes:

635.5(1) *Course development.* New or current sponsors may apply to the department for funds to establish delivery of the approved course at an unserved site. Current sponsors may apply for funds to expand delivery at an existing site.

a. Expenditures eligible for funding are limited to:

(1) Acquisition of necessary classroom furnishings and audio-visual systems if used exclusively to deliver the approved course.

(2) Required curriculum materials including necessary audio and visual components.

(3) Range development and maintenance excluding land acquisition, surfacing and resurfacing.

(4) Training motorcycles and motorcycle maintenance equipment if the equipment is to be used exclusively for the upkeep of the motorcycles.

(5) On-cycle safety equipment limited to helmets, eye-protective devices and gloves.

b. Application for funds shall be on forms provided by the department. Departmental approval shall be based on the geographical area, the number of students to be served and the availability of moneys in the motorcycle rider education fund. The number of students to be served is determined by range size, the number of courses to be offered, and the number of sponsors providing the course.

c. Payment to the sponsor for course development expenditures shall be on a cost-reimbursement basis and shall be made after claims under subrule 635.5(5) are paid.

635.5(2) *Instructor preparation.* The department shall sponsor beginning instructor preparation courses.

a. An instructor preparation course is open to any individual who:

(1) Possesses a valid Class M driver's license or a motorcycle endorsement or equivalent license or endorsement that is valid for a two-wheel motorcycle.

(2) Submits verification from an approved sponsor of employment as an instructor of the approved course to be offered within the next 12 months.

b. Upon proof of successful completion of the instructor preparation course, an individual may be reimbursed for course tuition.

c. Applications for enrollment shall be made on forms provided by the department.

635.5(3) *Instructor updates.* The department shall sponsor and fund instructor updates held in Iowa. Instructor updates shall be open to all state-licensed MRE instructors and instructor trainers.

635.5(4) *Instructor trainer preparation.*

a. An experienced, state-licensed MRE instructor may apply to the department for funding assistance on forms provided by the department if both the following occur:

(1) The instructor is accepted for enrollment in a nationally recognized instructor trainer preparation course approved by the department.

(2) The instructor agrees to be an instructor trainer in a department-sponsored instructor preparation course within 12 months following successful completion of the instructor trainer preparation course.

b. The department may approve the application if the department determines there is a need for additional instructor trainers.

c. If the department approves the application, then all the following shall apply:

(1) Funding assistance shall be limited to course tuition, travel, and subsistence (meals and lodging).

(2) Upon approval of the application, the department shall pay for course tuition and travel to the training site.

(3) Upon receipt by the department of evidence of successful completion accompanied by documentation of subsistence expenses incurred, the department shall reimburse the instructor for food and lodging based on the in-state reimbursement limits established for state employees by the department of administrative services.

(4) If the instructor fails to attend the training, the instructor must repay the department both the course tuition and the travel purchased.

(5) If the instructor fails to successfully complete the course, the instructor must repay the department one-half the course tuition and one-half the travel purchased. Meal and lodging expenses shall not be reimbursed.

635.5(5) *Reimbursement of per pupil costs.* The department shall reimburse a sponsor for each student who completes the approved course contingent upon the availability of moneys in the motorcycle rider education fund.

a. Reimbursement shall be paid twice each calendar year, once for training provided from January to June and once for training provided from July to December.

b. The reimbursement will be based on a per pupil rate determined semiannually by the department. The rate will be based on the amount of moneys available in the motorcycle rider education fund, less the administrative and instructor training costs, and will be distributed to sponsors based on the total number of students who complete the approved course.

c. Claims for reimbursement shall include a summary of courses taught with site, date, and instructor information, and a report for each class taught that provides the name, age, driver's license number and gender of each student. Claims for reimbursement shall be submitted on forms provided by the department.

d. Failure to provide course, instructor and student information, failure to meet instructor certification and licensure requirements, or failure to meet prescribed instructor-student ratios shall result in the forfeiture of reimbursement for those courses and students involved.

761—635.6(321) Information and location. Applications, forms and information regarding this chapter are available by mail from the Office of Driver Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3153; or by facsimile at (515)237-3071.

761—635.7(321) License issuance. To be licensed to teach MRE, the sponsor's course and instructors must be approved by the department in accordance with this chapter.

635.7(1) *Issuance and renewal.* A license to teach MRE shall be issued for a calendar year or remainder of a calendar year. The license expires on December 31 and must be renewed annually.

635.7(2) *Cancellation.* A license to teach MRE shall be canceled if the course or instructors are no longer approved. Also, a license to teach MRE shall be canceled if the sponsor does not comply with this chapter.

These rules are intended to implement Iowa Code subsections 321.180B(5) and 321.180B(6).

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CHAPTER 636
MOTORIZED BICYCLE RIDER EDUCATION

761—636.1(321) Information and location. Applications, forms and information regarding this chapter are available by mail from the Office of Driver Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3153; or by facsimile at (515)237-3071.

761—636.2(321) Definitions.

"Approved course" means the motorized bicycle rider education course approved by the department.

"Sponsor" means an entity that delivers the approved course.

761—636.3 Reserved.

761—636.4(321) Agencies or institutions. Any school district, area education agency, merged area school, other agency or individual planning to offer a motorized bicycle rider education course must receive course approval from the department prior to the beginning of the first class that is offered and annually thereafter. The agency or institution or individual shall complete a form provided by the department to apply for course approval. Course approval will be issued for a calendar year or remainder of a calendar year. The approval expires on December 31 and must be renewed annually.

761—636.5(321) Private or commercial sponsors. The department licenses private and commercial sponsors offering motorized bicycle rider education.

636.5(1) *Instructor and course approval.* The department must approve the sponsor's course and instructors prior to the beginning of the first class that is offered and annually thereafter.

636.5(2) *Application and fees.* Application for authorization or renewal shall be made to the department on forms provided by the department. The fee for an authorization or a renewal is $25 for a private or a commercial sponsor. The fee must be paid by cash, money order or check. A money order or check must be for the exact amount and should be made payable to the Treasurer, State of Iowa, or the Department of Transportation.

636.5(3) *Issuance and renewal.* Authorization to offer motorized bicycle rider education shall be issued for a calendar year or remainder of a calendar year. The authorization expires on December 31 and must be renewed annually.

636.5(4) *Cancellation.* The authorization to teach motorized bicycle rider education shall be canceled if the course or instructors are no longer approved.

761—636.6 Reserved.

761—636.7(321) Course requirements.

636.7(1) *Classroom instruction.* An approved course shall consist of a minimum of six clock hours of classroom instruction which includes the instructional components contained in subrule 636.7(3).

636.7(2) *Driving instruction.* Motorized bicycle rider driving experiences in addition to classroom instruction are permissible, but not required.

636.7(3) *Course content.* The following instructional components shall be incorporated in every motorized bicycle rider education course.

a. *Operator and motorized bicycle preparation.*

(1) Knowledge of Iowa driving laws.

(2) Knowledge of vehicle registration requirements.

(3) Vehicle inspection.

(4) Protective clothing and devices.

(5) Risk assessment.

(6) Route selection.

b. *Basic control skills.*

(1) Starting procedures.
(2) Speed control.
(3) Turning.
(4) Stopping.
c. Safe driving practices.
(1) Use of lights and warning devices.
(2) Signaling.
(3) Maintaining directional control.
(4) Perception skills and observation.
(5) Use of mirrors.
(6) Recognition of hazards.
(7) Speed control.
(8) Lane positioning.
(9) Concerns and conflicts regarding intersections.
(10) Following distances.
(11) Lateral separation.
d. Complex situations.
(1) Limited visibility.
(2) Adverse weather.
(3) Critical situations.
(4) Malfunctions.
e. Motorized bicycle care.
(1) Inspection.
(2) Maintenance.

761—636.8(321) Teacher qualifications. A teacher of an approved motorized bicycle rider education course shall possess a valid license allowing unaccompanied driving other than a temporary restricted license and shall be able to operate a motorized bicycle. A teacher must also have a clear driving record for the previous two years. A clear driving record means the teacher has:

636.8(1) Not been identified as a candidate for driver's license suspension under the habitual violator provisions of rule 761—615.13(321) or the serious violation provisions of rule 761—615.17(321).

636.8(2) No driver's license suspensions, revocations, denials, cancellations, disqualifications or bars.

636.8(3) Not committed an offense that would result in driver's license suspension, revocation, denial, cancellation, disqualification or bar.

636.8(4) No record of an accident for which the individual was convicted of a moving traffic violation.

761—636.9(321) Evaluation. Each student shall be evaluated to determine successful completion of the course.

These rules are intended to implement Iowa Code section 321.189.

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CHAPTERS 637 to 639
Reserved

CHAPTER 640
FINANCIAL RESPONSIBILITY

[Prior to 6/3/87, Transportation Department[820]—(07,C)Ch l4]

761—640.1(321A) General provisions.

640.1(1) *Definitions.* The definitions contained in Iowa Code section 321A.1 are hereby adopted. In addition:

a. *"Department"* means the Iowa department of transportation.

b. Reserved.

640.1(2) *Exceptions.* Except for accident reporting requirements, this chapter of rules does not apply to the owners or operators of motor vehicles excepted by Iowa Code section 321A.33. To establish availability of an exception, the person required to show proof shall submit to the department a letter from the owner of the motor vehicle authorizing the person to use the motor vehicle.

640.1(3) *Submissions and information.* All required submissions shall be either mailed to the Office of Driver Services, Iowa Department of Transportation, P.O. Box 9235, Des Moines, Iowa 50306-9235; delivered in person to 6310 SE Convenience Blvd., Ankeny, Iowa; or sent by facsimile to (515)237-3071. Information about the financial responsibility law is available from these sources or by telephone at (800)532-1121.

This rule is intended to implement Iowa Code sections 17A.3, 321A.1 and 321A.33.

761—640.2(321A) Hearing and appeal process. A person who is aggrieved by an action of the department implementing Iowa Code sections 321A.4 to 321A.11 may contest the action in accordance with 761—615.38(17A,321). The administrative law judge in a contested case hearing may subpoena witnesses and conduct any investigation deemed necessary to:

640.2(1) Determine if the person is properly identified with the accident.

640.2(2) Determine if there is any reasonable possibility that judgment could be rendered against the person.

640.2(3) Determine if the person is entitled to any exceptions provided by law.

640.2(4) Determine if the security required following an accident is reasonable and make adjustments deemed necessary or proper.

This rule is intended to implement Iowa Code chapter 17A and section 321A.2.

761—640.3(321A) Accident reporting requirements. Accident reporting requirements are specified in Iowa Code section 321.266 and on Form 433002, "Iowa Accident Report Form," which is available from law enforcement officers, driver's license examination stations, or from the office of driver services at the address in subrule 640.1(3).

This rule is intended to implement Iowa Code sections 321.266 and 321A.4.

761—640.4(321A) Security required following accident. Following an accident, security is required pursuant to Iowa Code section 321A.5.

640.4(1) *Suspension.*

a. If the security requirements of Iowa Code section 321A.5 are not met, the department shall suspend all licenses of the driver and all registrations of the owner.

b. The suspension shall become effective 30 days after a suspension notice is served pursuant to rule 761—615.37(321). The notice shall inform the person of the amount of security required. The duration of the suspension is provided in Iowa Code section 321A.7. When the suspension ends, the department shall issue a suspension termination notice to the person.

640.4(2) Reserved.

640.4(3) *Security—amounts and type.*

a. The amount of security required of the uninsured driver and owner shall be determined from reports of the drivers involved in the accident, reports of investigating officers and from supplemental information obtained from persons involved in the accident concerning amounts of damage and injury sustained. Form 431020 may be mailed to parties to the accident for supplemental information. The

security required shall not be increased after the suspension notice has been served, but may be reduced if evidence of exact costs is submitted to the department. The amount of security shall not exceed the minimum limits of liability for death or injury specified in Iowa Code chapter 321A.

b. The security shall be deposited with the office of driver services at the address in subrule 640.1(3). The department shall issue to the depositor a receipt when the security is received. The depositor shall surrender the receipt when a refund is requested. Security shall be one of the following types:

(1) Cash.

(2) Cashier's check, certified check, bank draft, or postal money order payable to: Treasurer, State of Iowa.

(3) Surety bond issued by a company authorized to transact insurance business in Iowa.

640.4(4) *Security disposition.*

a. Security is held by the state treasurer and can be released only for payment of a judgment or as otherwise provided in Iowa Code section 321A.10 or by a court "Order for Release of Security," Form 431097, or by "Assignment and Release," Form 433010.

b. The security can be refunded at any time as follows:

(1) When compliance as provided in 640.4(5) is presented to the office of driver services; or

(2) When Form 433007, "District Court Affidavit," is completed by the clerk of the district court of the county where the accident occurred, the form indicates that no action has been initiated or judgment rendered, and the form is submitted to the office of driver services.

640.4(5) *Exceptions to requirement of security.* Compliance can be shown as follows: general releases, agreement releases, confession of judgment, accord and satisfaction, covenant not to sue, no-fault or no reasonable possibility of judgment, adjudication nonliability, and bankruptcy.

a. *General release.* Form 431036, "General Release," may be obtained from the office of driver services at the address in subrule 640.1(3). The signature of the party giving the release shall be notarized or witnessed by a disinterested person. The release shall be accompanied by a power of attorney or subrogation authority if signed by a person other than the party sustaining damage or injury.

b. *Agreement release.* Form 181301, "Agreement Release," may be obtained from the office of driver services at the address in subrule 640.1(3). Complete information shall be provided on the form including the total amount of settlement agreed upon by the parties involved and a release of liability upon fulfillment of payments. The signatures of all parties to the agreement shall be notarized. The release shall be accompanied by a power of attorney or subrogation authority if signed by a person other than a party sustaining damage or injury. Compliance shall be credited only to a party who has agreed to make payment and whose signature appears on the agreement release.

c. *Confession of judgment.* A court certified copy of a confession of judgment including the payment schedule agreed to by the parties is acceptable compliance. No specific form is provided by the office of driver services.

d. *Accord and satisfaction.* Accord and satisfaction may be shown by documentation that one party to an accident or the party's insurance carrier has accepted liability for the accident and has compensated the other party to the accident for damages and injuries. This documentation does not serve as compliance for a third party.

e. *Covenant not to sue.* A covenant not to sue can be given to a party to an accident as compliance by another party to the accident when a release would damage any claim against a third party.

f. *No-fault or no reasonable possibility of judgment.* Security cannot be required of a person if there is no reasonable possibility that judgment could be rendered against such person. Freedom from fault or immunity from judgment is acceptable compliance when presented in the following manner:

(1) The investigating officer's report of the accident indicates the other driver caused the accident.

(2) The other driver admits causing the accident.

(3) Witness statements indicate the other driver caused the accident.

(4) The other driver is convicted of a violation which caused the accident.

g. *Adjudication.* Adjudication of nonliability may be shown by a certified copy of a final court judgment that is rendered in a civil damage action resulting from the accident and that relieves the uninsured of any obligation to pay damages.

h. *Bankruptcy.* Security is not required of a person when all possible claims against the person arising from the accident have been scheduled in the bankruptcy petition. To establish this exception, the person shall submit a copy of the petition for bankruptcy to the office of driver services at the address in subrule 640.1(3).

640.4(6) *Owner exceptions—requirements.*

a. An owner can be excepted from the security requirements if the vehicle was being used at the time of an accident without the owner's consent. The owner may qualify for this exception if the police report indicates the vehicle was stolen, or if the driver was convicted of operating without the owner's consent. In the absence of such police report or conviction, the owner may furnish a sworn affidavit that the vehicle was operated without permission or the owner may furnish affidavits of witnesses that the driver had been denied use of the vehicle.

b. A person may be exempted from the security requirements applicable to an owner if the motor vehicle had been sold but the title had not been transferred when the accident occurred.

(1) The person who sold the motor vehicle may qualify for this exemption by submitting to the department an "Affidavit of Buyer-Seller," Form 431125. This form must be completed by both the buyer and seller with signatures notarized or attested to by an officer of the department.

(2) A sworn affidavit by the seller and witnesses to the sale that the vehicle had been sold may be furnished in lieu of Form 431125. The affidavit must include a description of the vehicle, the date of the sale, the monetary consideration, facts concerning the assignment of title and delivery of possession, and the names of witnesses to the sale.

c. Ownership transferred by operation of law can be shown by furnishing certified copies of any court order by which ownership of a vehicle was awarded to another party.

This rule is intended to implement Iowa Code sections 321A.4 to 321A.11 and 321A.31.

761—640.5(321A) Judgments. A suspension of license and registrations is required when the department receives a certified copy of a judgment which has remained unsatisfied for at least 60 days.

640.5(1) *Suspension.* The suspension becomes effective on the date Form 431010, a suspension notice, is served pursuant to 761—615.37(321). The notice shall inform the person that the privilege to operate and register motor vehicles in Iowa is suspended until the judgment is satisfied and proof of financial responsibility is shown. The duration of the suspension is provided in Iowa Code section 321A.14. When the suspension ends, the department shall issue to the person Form 431009, a suspension termination notice.

640.5(2) *Suspension—exceptions.*

a. *Creditor's consent.* The judgment debtor may request consent from the judgment creditor for issuance of the debtor's license and registrations while paying the judgment. If the creditor consents in writing and the debtor provides proof of financial responsibility, the suspension shall be terminated. If this consent is withdrawn, a new suspension is required in accordance with subrule 640.5(1).

b. *Satisfaction of judgment.* The judgment suspension will be terminated when the debtor obtains from the clerk of court a certificate of satisfaction or receipt for payment of the judgment and presents the certificate or receipt to the department and files proof of financial responsibility.

c. *Bankruptcy.* If the debtor submits to the department a copy of the petition for bankruptcy which includes the judgment debt, the department shall terminate the suspension.

d. *Court order for installment payments.* If the debtor submits to the department a court order authorizing payment of the judgment in installments and files proof of financial responsibility, the department shall terminate the suspension. A new suspension, as provided in subrule 640.5(1), is required when the department receives notice of a default in the payments. The default suspension continues until the judgment is satisfied.

e. *Insurance coverage exception.* The debtor can be relieved of the suspension if there was liability insurance coverage in effect at the time of the accident from which the judgment was rendered. The

requirements are the same as provided in Iowa Code section 321A.13. The department will accept a letter from the insurance carrier confirming that they were authorized to issue liability insurance and that they did provide coverage for the debtor in amounts required by the financial responsibility law.

This rule is intended to implement Iowa Code sections 321A.12 to 321A.29 and 321A.31.

761—640.6(321A) Proof of financial responsibility for the future. Proof of financial responsibility for the future is required pursuant to Iowa Code sections 321A.13, 321A.14, 321A.16 and 321A.17. Unless the person has filed proof of financial responsibility for all motor vehicles registered to that person, the department shall also suspend the person's motor vehicle registrations.

640.6(1) *Duration of proof.* Proof of financial responsibility is required for two years starting on the effective date of the person's last suspension or revocation. The requirement terminates if the person required to give proof dies or becomes incapable of operating a motor vehicle, or surrenders license and plates to the department. Reinstatement within the two-year requirement is possible only if the person refiles such proof.

640.6(2) *Methods of giving proof.*

a. Proof of financial responsibility may be shown by a liability insurance certificate pursuant to Iowa Code section 321A.19. Form SR-22, "AAMVA Uniform Financial Responsibility Form," is required as the form of the certificate. The form may describe an owner's or operator's policy and shall identify the policyholder by name, address, driver license number, and birth date. The effective date of the policy shall be the same as the effective date on the form. The vehicles covered shall be identified by year, make, model and vehicle identification number. The form shall be certified in accordance with the Iowa financial responsibility law by an insurance carrier authorized to transact insurance business in Iowa or by a company authorized by power of attorney. The policy shall be canceled only as provided in Iowa Code section 321A.22. Certification of coverage for an owner's policy authorizes the policyholder to have registrations for the described vehicles. Certification of coverage for an operator's policy does not authorize registrations.

(1) In lieu of Form SR-22, the department shall accept a copy of the form if the copy is no larger than 8½ by 11 inches and is generated by a process that produces an unaltered image or reproduction, except for size and color, of Form SR-22.

(2) In lieu of Form SR-22, the department shall accept an electronic record if the format of the record is approved by the department.

b. Proof may be given for a person who is an operator in the employ of the owner of the motor vehicle, or who is a member of the immediate family or household of the owner pursuant to Iowa Code section 321A.26, if the owner's insurance company certifies Form SR-22 for the person required to show proof. The requirements are given in paragraph 640.6(2)*"a"* except that the form shall identify both the policyholder and the person for whom proof is given. This certification does not authorize the person required to give proof to register a motor vehicle.

c. Proof may be given for a person who is an operator in the employ of an owner of a fleet of motor vehicles on Form SR-23, "AAMVA Uniform Financial Responsibility Form." The form shall identify the policyholder's name and address, policy number, policy dates and effective date. This certification does not authorize the person required to give proof to register a motor vehicle.

d. Proof may be given for a person who is an operator in the employ of an owner who has qualified as a self-insurer pursuant to Iowa Code section 321A.34. A certificate of self-insurance may be issued by the department to a person in whose name more than 25 vehicles are registered and who submits a financial statement which is found to be satisfactory to the department. Form SR-1, "Application for Self Insurance," shall be completed and submitted to the department with a list of all the owner's motor vehicles registered in Iowa identified by make, year, model, and vehicle identification number. When the application is approved, the department shall issue Form SR-2, "Self Insurance Certificate." Failure to pay a judgment pursuant to Iowa Code section 321A.34 or failure to submit an annual financial statement shall be reasonable grounds for cancellation of the certificate.

640.6(3) Rescinded, effective 1/26/83.

640.6(4) *Terminating the suspension upon filing of proof.* When future proof of financial responsibility is shown and the person is otherwise eligible for licensing, the department shall issue Form 431009, a suspension termination notice, to the person whose privileges were suspended under Iowa Code sections 321A.13, 321A.14, 321A.16 or 321A.17 or rules 640.5(321A) and 640.6(321A). To regain operating privileges, the person shall appear before an Iowa driver license examiner, pass the required examinations, and pay the required fees. The person's operating and registration privileges are restricted to the motor vehicles covered under the proof of financial responsibility filed by the applicant.

640.6(5) *Cancellation of future proof.* An insurance carrier shall only cancel or terminate a certificate of insurance pursuant to Iowa Code section 321A.22. The cancellation shall be certified by an authorized company representative on Form SR-26, "AAMVA Uniform Financial Responsibility." The Form SR-26 shall identify the SR-22 or SR-23 certificate to be canceled by name and address of the person, social security number, birth date, driver license number, number of the policy to be canceled and the effective date of cancellation.

640.6(6) *Suspension when future proof is canceled.*

a. When a person's future proof is canceled, the person shall immediately refile future proof or surrender the license and registrations to the department.

b. If the person fails to refile, Form 431010, a suspension notice, shall be served in accordance with 761—615.37(321). The effective date of the suspension shall be the date the notice is served. The notice shall inform the person that the privilege to operate and register motor vehicles in Iowa is suspended until future proof is refiled. When the person refiles future proof, the department shall issue to the person Form 431009, a suspension termination notice.

640.6(7) *Terminating the two-year proof requirement.* Form 431009, a suspension termination notice, shall be issued to a person who has completed future proof requirements. The form shall notify the person that proof is no longer required and that the person may operate and register motor vehicles without the proof restrictions. If the person's license is still valid, the person shall appear before an Iowa driver license examiner to obtain a duplicate license without the proof restrictions. If the license has expired or has not been reinstated and the person is otherwise eligible for licensing, the person shall pass the required examinations and pay the required fees. The suspension termination notice may also be presented to the county treasurer to obtain a new registration.

This rule is intended to implement Iowa Code sections 321A.12 to 321A.29, 321A.31 and 321A.34.
[**ARC 7902B**, IAB 7/1/09, effective 8/5/09]

761—640.7(321A) Transfer of suspended registration. A person whose motor vehicle registration privileges have been suspended may make a bona fide sale pursuant to Iowa Code sections 321.493 and 321A.30. The department shall release the suspended registration to permit the registration of the motor vehicle by the purchaser when presented with either the seller's sworn statement on Form 433015, "Affidavit of Bona Fide Sale," or confirmation from the county treasurer that the sale has been made and release of the registration is necessary to complete the transfer of title.

This rule is intended to implement Iowa Code sections 321.493 and 321A.30.

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CHAPTER 641
FINANCIAL LIABILITY COVERAGE CARDS

761—641.1(321) Purpose and applicability.

641.1(1) The purpose of this chapter is to establish requirements for financial liability coverage cards.

641.1(2) This chapter applies to motor vehicles registered in Iowa or subject to registration in Iowa.

641.1(3) This chapter does not address proof of financial responsibility under Iowa Code chapter 321A except for the issuance of financial liability coverage cards.

641.1(4) Proof of financial liability coverage for motor vehicle dealers is addressed in 761—subrule 425.10(8).

761—641.2(321) Definitions.

"Fleet" means five or more motor vehicles covered under an insurance policy, or one or more motor vehicles covered by a bond filed under Iowa Code section 321A.24, a security certificate issued under section 321A.25, or a self-insurance certificate issued under section 321A.34.

"Registration number" as used in Iowa Code Supplement section 321.20B, Iowa Code subsection 321A.24(1) and Iowa Code subsection 321A.25(1) means vehicle identification number.

761—641.3(321) Content of financial liability coverage card.

641.3(1) A financial liability coverage card issued by an insurance company for a motor vehicle that is not insured as a part of a fleet shall contain the following information:

a. Either one of the following:

(1) Name and address of insurer.

(2) Name of insurer and name and address of insurance agency.

b. Name of insured.

c. Policy number.

d. Vehicle identification number of the insured motor vehicle.

e. Year and make of the insured motor vehicle.

f. The statement, "Coverage provided by this policy meets the minimum liability limits prescribed by law," or a statement that is substantially similar.

g. Effective and expiration dates of coverage.

h. The statement, "This card must be carried in the insured motor vehicle at all times," or a statement that is substantially similar.

i. An emergency telephone number of either the insurer or the insurance agency.

641.3(2) An insurance company shall issue a financial liability coverage card for each motor vehicle insured as a part of a fleet. The fleet owner shall maintain a card in each fleet vehicle. The card shall contain the following information:

a. Either one of the following:

(1) Name and address of insurer.

(2) Name of insurer and name and address of insurance agency.

b. Name of insured.

c. Policy number.

d. Either the vehicle identification number or the words "all owned vehicles" or the word "fleet."

e. The statement, "Coverage provided by this policy meets the minimum liability limits prescribed by law," or a statement that is substantially similar.

f. Effective and expiration dates of coverage.

g. The statement, "This card must be carried in the insured motor vehicle at all times," or a statement that is substantially similar.

h. An emergency telephone number of either the insurer or the insurance agency.

641.3(3) One financial liability coverage card shall be issued by the department for each fleet covered by a bond filed under Iowa Code section 321A.24, a security certificate issued under section 321A.25,

or a self-insurance certificate issued under section 321A.34. The fleet owner shall maintain a copy of the card in each fleet vehicle. The card shall contain the following information:

a. Name, address and telephone number of person to whom the card is issued.

b. Number assigned by the department.

c. Either the vehicle identification number or the words "all owned vehicles" or the word "fleet."

d. The statement, "This card must be carried in the covered motor vehicle at all times."

761—641.4(321) Responsibilities of insurer.

641.4(1) Each insurer issuing financial liability coverage in this state shall furnish a financial liability coverage card that complies with these rules to the named insured for each motor vehicle insured. The card shall be provided with every new policy and every policy renewal issued.

641.4(2) The insurer shall file a true and correct, sample copy of its financial liability coverage card with the Iowa insurance division.

761—641.5(321) Acquisition of additional or replacement motor vehicles.

641.5(1) A financial liability coverage card that provides coverage for a replacement motor vehicle may be used temporarily in a replacement motor vehicle for 30 days if ownership evidence as described in 761—subrule 400.19(3) is carried in the motor vehicle.

641.5(2) A copy of a financial liability coverage card that provides coverage for an additionally acquired motor vehicle may be used temporarily in an additionally acquired motor vehicle for 30 days if ownership evidence as described in 761—subrule 400.19(3) is carried in the motor vehicle.

761—641.6(321) New policies. On new policy applications, a binder of liability coverage issued by an insurance agent authorized to conduct insurance business in this state is acceptable proof of financial liability coverage for a period of 30 days from date of issue of the binder.

These rules are intended to implement Iowa Code sections 321.1, 321.20B, 321A.24, 321A.25, and 321A.34.

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CHAPTERS 642 to 699
Reserved

AERONAUTICS

CHAPTER 700
AERONAUTICS ADMINISTRATION

761—700.1(328) Definitions. The definitions in Iowa Code section 328.1 and the following definitions shall apply to 761—Chapters 700 to 799.

FAA. The Federal Aviation Administration.

Sponsor. The person or governmental subdivision responsible for improving, maintaining and operating aviation facilities.

This rule is intended to implement Iowa Code section 328.1.

761—700.2(17A) Location and submission of documents. Requests for information, assistance or forms and all submissions shall be sent to: Office of Aviation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1691. Information and forms are also available through the Internet at http://www.iawings.com.

This rule is intended to implement Iowa Code section 17A.3.

761—700.3(17A) Hearing and appeal process. A person who has been aggrieved by a decision of the department and who is entitled to a hearing may contest the decision in accordance with 761—Chapter 13, Iowa Administrative Code.

This rule is intended to implement Iowa Code chapter 17A.

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CHAPTERS 701 to 709
Reserved

CHAPTER 710
AIRPORT IMPROVEMENT PROGRAM

[Prior to 6/3/87, Transportation Department [820]—(04,B) Ch 1]

761—710.1(328) Purpose. These rules establish the procedures for a governmental subdivision to apply for state or federal funds for the improvement of airports and air navigation facilities.

This rule is intended to implement Iowa Code sections 328.12 and 330.13.

761—710.2(328) Definitions. The definitions in Iowa Code sections 328.1, 330.1, and 330A.2 apply to this chapter of rules.

This rule is intended to implement Iowa Code sections 328.1, 330.1, and 330A.2.

761—710.3(17A) Location and information. Requests for information, forms or assistance in completing the forms, and all submissions shall be sent to: Office of Aviation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1875. Information and forms are also available through the Internet at http://www.iawings.com.

This rule is intended to implement Iowa Code section 17A.3.

761—710.4(330) Federal airport improvement funds.

710.4(1) *Applicant eligibility.* A governmental subdivision owning a public airport that is listed in the Federal Aviation Administration's (FAA) National Plan of Integrated Airport Systems (NPIAS) is eligible to apply for federal funds. The NPIAS published report is available at the FAA Web site: www.faa.gov/arp/planning/npias. An airport that receives federal primary commercial service entitlement funds is not required to submit preapplications through the department.

710.4(2) *Project eligibility.* Projects must meet the FAA eligibility guidelines for federal airport improvement projects. Federal airport improvement program guidelines are available at the FAA Web site: www.faa.gov/arp/ace/aip/aip-guide.cfm.

710.4(3) *Preapplication.*

a. The department shall distribute preapplication instructions and forms annually to each eligible applicant.

b. The completed preapplication for federal airport improvement funds shall be sent to the department at the address in rule 710.3(17A) according to the time frame specified in the instructions.

710.4(4) *Project prioritization.*

a. The department shall review each completed preapplication for project eligibility and consistency with the state aviation system plan. The department shall review and prioritize projects based on the goals and objectives in the state aviation system plan.

b. The commission is responsible for approving the prioritization of the preapplications.

c. The department shall send the preapplications with priorities identified to the FAA and the FAA will contact the applicant directly concerning all subsequent action on the preapplication.

This rule is intended to implement Iowa Code section 330.13.

761—710.5(328) State airport improvement funds.

710.5(1) *Applicant eligibility.* A governmental subdivision owning or establishing a public airport is eligible to apply to the department for state airport improvement funds.

710.5(2) *Project eligibility.*

a. An airport improvement project must benefit and be accessible to the public.

b. Airport projects may include, but are not limited to: runway, taxiway, and apron surfaces; lighting and navigational aids; obstruction removal; grading, drainage, and surfacing airfield surfaces and protection areas; signage, security access control and lighting; and planning. A project that involves airfield infrastructure shall comply with the airport master plan or airport layout plan as adopted by the governmental subdivision.

710.5(3) *Application for funding.*

a. The department shall distribute the application instructions and forms annually to each publicly owned airport in Iowa.

b. Project applications shall be submitted to the office of aviation by the due date specified in the instructions.

c. Emergency operations project applications may be submitted at any time during the year to the office of aviation.

d. The department shall send applications for any special projects to all eligible airports. Airport sponsors shall submit applications for special projects to the department as specified in the application instructions.

710.5(4) *Review and approval.* The department shall review each completed application and evaluate the impact of the project on the aviation system considering the following factors: state system plan airport roles, goals and objectives; justification provided in the application; and ability to enhance aeronautical activity for the airport and system. The department shall recommend projects to the transportation commission for approval. The commission is responsible for approving the projects to be funded.

710.5(5) *Project agreement and responsibilities.*

a. After a project has been approved by the commission, the department shall enter into an agreement with the airport sponsor that specifies the responsibilities of the sponsor.

b. The agreement shall specify the amount of state funds, the contract period, and the responsibilities for project planning, development, and the payment process.

c. The department may inspect the improvement for compliance with the agreement and may audit all project costs incurred before sending the final payment to the governmental subdivision.

710.5(6) *Contract payments.*

a. Payments to the airport sponsor for eligible project costs shall be made on a cost reimbursement basis.

b. Engineering fees are an eligible project expense and shall be reimbursed in compliance with the agreement.

This rule is intended to implement Iowa Code chapters 328 and 329 and sections 384.95 to 384.103 and 573.12.

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CHAPTERS 711 to 714
Reserved

CHAPTER 715
COMMERCIAL AIR SERVICE MARKETING PROGRAM

761—715.1(328) Purpose. The purpose of the commercial air service marketing program is to provide funding for marketing, advertising and public relations programs to improve scheduled air service and increase passenger traffic at Iowa's commercial service airports.

761—715.2(328) Definitions. The definitions in Iowa Code section 328.1 and rule 761—700.1(328) shall apply to this chapter of rules.

761—715.3(328) Program administration.

715.3(1) Participation in the commercial air service marketing program shall be limited to airports currently receiving scheduled commercial air service and designated as Level I airports in the Iowa Aviation System Plan.

715.3(2) The transportation commission shall establish annually:

a. The maximum amount of funds to be allocated to the air service marketing program for the program year.

b. The amount to be allocated to each commercial service airport.

c. The funding ratio to be used to reimburse airport sponsors for eligible project costs.

715.3(3) The program shall be administered by the department's office of aviation. Information, instructions and application forms may be obtained from: Office of Aviation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1691; or through the Internet at http://www.iawings.com.

715.3(4) Allocated program funds shall be available to each commercial service airport until the end of the state's fiscal year.

761—715.4(328) Eligible project activities. Activities that are eligible for reimbursement include, but are not limited to, the following:

715.4(1) Advertising.

715.4(2) Public relations activities.

715.4(3) Service improvement activities—including, but not limited to, route analyses, service studies, airline presentations and other activities targeted at increasing air service from an existing or new entry airline.

761—715.5(328) Ineligible project activities. Activities that are not eligible for reimbursement include, but are not limited to, the following:

715.5(1) Rescinded IAB 1/7/04, effective 2/11/04.

715.5(2) Rescinded IAB 1/7/04, effective 2/11/04.

715.5(3) Rescinded IAB 1/7/04, effective 2/11/04.

715.5(4) Administrative costs associated with the commercial air service marketing program or with daily operation of the airport.

715.5(5) Equipment purchases associated with the commercial air service marketing program or with daily operation of the airport.

761—715.6(328) Project selection criteria. Projects at each commercial service airport that meet the eligibility criteria will be funded up to the limit of each airport's allocation.

761—715.7(328) Application. Completed applications shall be submitted to the office of aviation and shall contain:

715.7(1) General information, including the airport sponsor's name, contact person, mailing address and telephone number.

715.7(2) A detailed description of the project, including its purpose.

715.7(3) Cost information, including the estimated total cost of the project and an itemized breakdown of project components.

715.7(4) The amount of funds requested for the project.

715.7(5) Rescinded IAB 1/7/04, effective 2/11/04.

715.7(6) A resolution from the airport sponsor endorsing the proposal and stating that local matching funds are or will be available.

761—715.8(328) Project administration.

715.8(1) *Agreement.* After a funding commitment has been made for a project, the department shall enter into a project agreement with the airport sponsor.

715.8(2) *Project payments.* Payments to the airport sponsor for eligible project costs shall be made on a cost reimbursement basis.

715.8(3) *Remedies for noncompliance with project agreement.* The department may revoke the funding commitment and require repayment of funds if the terms of the project agreement are not fulfilled.

715.8(4) *Cost overruns.* Funds committed for a project are for a maximum dollar amount. Cost overruns shall be the responsibility of the airport sponsor.

These rules are intended to implement Iowa Code section 328.12.

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CHAPTER 716
COMMERCIAL AIR SERVICE VERTICAL INFRASTRUCTURE PROGRAM

761—716.1(328) Purpose. The purpose of the commercial air service vertical infrastructure program is to provide funding for improvements to the vertical infrastructure at Iowa's commercial air service airports. The source of funds is an appropriation from the Iowa general assembly.

761—716.2(328) Definitions. The definitions in Iowa Code section 328.1 and rule 761—700.1(328) apply to these rules. Also, "Vertical infrastructure" is defined in Iowa Code section 8.57, subsection 5.

761—716.3(328) Information. Program information, instructions, and forms may be obtained from the Office of Aviation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1691; or through the Internet at http://www.iawings.com.

761—716.4(328) Eligible airports. Eligible airports are those Iowa airports currently receiving scheduled commercial air service.

761—716.5(328) Eligible project activities. Activities that are eligible for reimbursement include, but are not limited to, the following:

716.5(1) Terminal building construction or renovation including associated design, land acquisition, grading and foundation work.

716.5(2) Hangar construction or renovation including associated design, land acquisition, grading and foundation work.

716.5(3) Maintenance facility building construction or renovation including, but not limited to, associated design, land acquisition, grading and foundation work.

761—716.6(328) Ineligible project activities. Rescinded IAB 1/7/04, effective 2/11/04.

761—716.7(328) Work plan.

716.7(1) Each airport shall develop a work plan of projects it intends to accomplish under the program. A work plan shall contain:

a. General information, including the airport sponsor's name, contact person, mailing address and telephone number.

b. A brief description of each project, including its purpose.

c. Cost information for each project, including total project cost and an itemized breakdown of project components.

d. A resolution from the airport sponsor endorsing the work plan.

716.7(2) Completed work plans shall be submitted to the office of aviation.

716.7(3) The transportation commission shall determine the eligibility of projects contained in work plans.

761—716.8(328) Project administration.

716.8(1) *Agreement.* After the eligibility of projects in a work plan has been determined, the department shall enter into an agreement with the airport sponsor.

716.8(2) *Payments.* Payments to the airport sponsor for eligible project costs shall be made on a cost reimbursement basis.

716.8(3) *Cost overruns.* Rescinded IAB 1/7/04, effective 2/11/04.

These rules are intended to implement Iowa Code sections 8.57 and 328.12.

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CHAPTER 717
GENERAL AVIATION AIRPORT VERTICAL INFRASTRUCTURE PROGRAM

761—717.1(328) Purpose. The purpose of the general aviation airport vertical infrastructure program is to provide funding for improvements to the vertical infrastructure at Iowa's general aviation airports.

761—717.2(328) Definitions. The definitions in Iowa Code section 328.1 and rule 761—700.1(328) apply to these rules. In addition:

"Vertical infrastructure" is defined in Iowa Code section 8.57, subsection 6.

761—717.3(328) Information and forms. Information, instructions, and application forms may be obtained from the Office of Aviation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1875.

761—717.4(328) Applicant eligibility. Eligible airports are those general aviation airports that are in compliance with minimum state safety standards (see 761—Chapter 720). The applicant must be the governmental subdivision charged with managing the general aviation airport.

761—717.5(328) Eligible project activities. Activities that are eligible for reimbursement include, but are not limited to, the following:

717.5(1) Hangar renovation or construction including associated design, land acquisition, grading and foundation work.

717.5(2) Fuel facilities including associated design, land acquisition, grading and foundation work.

717.5(3) Terminal building renovation or construction including associated design, land acquisition, grading and foundation work.

717.5(4) Relocating an existing hangar, terminal building or fuel facility to correct violations of federal safety or design standards. Work shall include all associated design, land acquisition, grading and foundation work.

761—717.6(328) Ineligible project activities. Rescinded IAB 11/14/01, effective 12/19/01.

761—717.7(328) Funding. The department may fund up to 85 percent of an eligible project.

761—717.8(328) Project priorities. The department shall consider the following in project selection: airport role and objectives defined in the state aviation system plan; demonstration of increased aeronautical activity; and justification showing the ability to produce additional income for the airport.

761—717.9(328) Project applications.

717.9(1) Project applications shall be submitted to the office of aviation.

717.9(2) Each application shall contain:

a. General information, including the airport sponsor's name, contact person, mailing address and telephone number.

b. A capital improvement program (CIP) data sheet. The CIP data sheet shall include a sketch of the project, a brief description of the project and its purpose, and cost information including total project cost and an itemized breakdown of project components.

c. A resolution from the airport sponsor endorsing the project and authorizing the necessary local match funding.

761—717.10(328) Review and approval. Department staff shall review project applications and submit recommendations to the transportation commission. The commission is responsible for approving the projects to be funded.

761—717.11(328) Project agreement and administration.

717.11(1) *Agreement.* After a project has been approved by the commission, the department shall enter into an agreement with the airport sponsor.

717.11(2) *Payments.* Payments to the airport sponsor for eligible project costs shall be made on a cost reimbursement basis.

717.11(3) *Cost overruns.* Rescinded IAB 11/14/01, effective 12/19/01.

These rules are intended to implement Iowa Code sections 8.57 and 328.12.

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CHAPTER 718
GENERAL AVIATION HANGAR REVOLVING LOAN FUND

Rescinded IAB 1/7/04, effective 2/11/04

CHAPTER 719
Reserved

CHAPTER 720
IOWA AIRPORT REGISTRATION

[Prior to 6/3/87, Transportation Department [820]—(04,C)Ch 1]

761—720.1(328) Scope. This chapter establishes site approval, registration and registration renewal requirements and minimum safety standards for airports open for use by the public. It also establishes site approval requirements for airports maintained for private use.

761—720.2(328) Definitions. The definitions in Iowa Code section 328.1 and rule 761—700.1(328) shall apply to this chapter. In addition:

"Obstruction" means any structure, object of natural growth, or use of land that impedes the airspace required for the takeoff or landing of aircraft at an airport.

"Private use" means available for use by the owner or by the owner and other persons authorized by the owner.

"Public use" means available for use by the general public without prior approval from the owner or operator.

761—720.3(328) Airport site approval required. A person or governmental subdivision planning to construct or establish an airport shall obtain a certificate of airport site approval from the department before the site is acquired or before the airport is constructed or established.

761—720.4(328) Public-use airport. The site approval requirements of this rule apply to proposed public-use airports. The remaining requirements apply to existing public-use airports.

720.4(1) *Application for site approval.* The sponsor shall complete Iowa Department of Transportation Form 300025, "Airport Site Approval and New Registration Application," and submit it to the office of aviation. This form is available from the Office of Aviation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1691; or through the Internet at http://www.iawings.com.

a. and *b.* Rescinded IAB 7/4/07, effective 8/8/07.

720.4(2) *Site requirements.* Before issuing a certificate of airport site approval, the department shall:

a. Review the application and, if necessary, inspect the site. The sponsor shall ensure access to the site for the inspection at a reasonable time convenient for department personnel.

b. Require a current airspace determination issued by the FAA which concludes that the proposed site will not adversely affect the safe and efficient use of airspace.

720.4(3) *Certificate of site approval.*

a. After the application, inspection and FAA approval requirements have been met, the department shall issue a certificate of site approval for the airport if it complies with the minimum airport safety standards established by the department.

b. The certificate of site approval shall locate the proposed airport by geographical coordinates; section, township and range; and distance and direction from an established nearby community.

c. The certificate of site approval shall be valid for two years from the date of issuance.

d. Aircraft operations shall not be permitted at the proposed site prior to airport registration.

720.4(4) *Registration.* When construction is complete, the sponsor shall notify the department. The department shall inspect the airport and, if the airport is in compliance with the minimum safety standards designated by the department, shall issue the airport registration certificate.

720.4(5) *Registration renewal.* Each airport shall apply annually for a registration renewal on a form provided by the department. The department shall issue a registration certificate to a public-use airport if the airport is in compliance with the minimum safety standards designated by the department.

720.4(6) *Airport inspection.* Each registered public-use airport is subject to inspection by the department at any reasonable time. If the inspection by the department reveals an unsafe condition or a failure to meet the minimum safety standards, the department shall record that fact and shall notify the airport sponsor in writing with necessary corrective actions. Failure to implement corrective actions

may result in airport registration revocation or denial. An FAA inspection of an airport certified under 14 CFR Part 139 may be accepted in lieu of an inspection by the department.

720.4(7) *Posting.* The airport registration certificate shall be posted in a prominent place available to the public at the airport. If there are no buildings at the airport, the registration shall be displayed at the office of the airport manager or caretaker.

720.4(8) *Revocation.* Rescinded IAB 7/4/07, effective 8/8/07.

761—720.5(328) Private-use airport. This rule applies to a proposed, new airport to be maintained for private use. The sponsor shall complete an application for a certificate of site approval on Form 300025 and submit it to the office of aviation. In the application, the sponsor shall certify that the airport, when completed, will be safe and adequate for the sponsor's intended use.

761—720.6(328) Revocation or denial. The department may revoke or deny a certificate of registration or certificate of site approval pursuant to Iowa Code section 328.19.

761—720.7 to **720.9** Reserved.

761—720.10(328) Minimum safety standards. The minimum safety standards for a public-use airport are as follows:

720.10(1) *Obstruction-free area.*

a. The following areas of the airport shall be free of any obstructions with the exception of operational and frangible equipment that is essential for operation of the airport:

(1) Within 30 feet of runway edge markers along the entire length of a nonpaved runway.

(2) Within 125 feet of the centerline of a paved runway.

(3) Within 200 feet of the end of any paved runway.

(4) In no case shall a building be closer than 50 feet from a prepared runway surface. If buildings are on both sides of a runway, they shall be no closer than 125 feet from the runway centerline.

b. An object of natural growth, terrain, or permanent or temporary construction within the areas listed in paragraph *"a"* of this subrule shall be removed by the sponsor.

c. The following areas of the airport shall be free of all agricultural activities (i.e., crops or farm equipment) in excess of 8 inches in height:

(1) Within 50 feet of paved runway surfaces and 200 feet from paved runway ends.

(2) Within 60 feet of a nonpaved runway centerline.

(3) Within a 100-foot radius of automated weather observing system equipment.

720.10(2) *Runway.*

a. *Width.* The minimum usable prepared runway width shall be 50 feet.

b. *Marking.*

(1) Paved runways. Paved runways shall be marked in accordance with FAA Circular 150/5340-1J as amended through April 29, 2005.

(2) Nonpaved runways. Airport markers shall be approved by the office of aviation. Markers shall be placed 200 feet apart outlining the length of the landing surface. Thresholds shall be marked using six markers placed perpendicular to the runway heading.

c. *Line of sight.* The runway sight distance shall provide an unobstructed line of sight from any point 5 feet above the runway surface to any other point 5 feet above the runway surface for the entire length of the runway; or the sponsor shall post in a conspicuous location a warning about the obstruction in the line of sight.

d. *Temporary warning.* Any part of the runway environment other than the runway which has become temporarily unsafe, or for any reason is not available for use, shall be marked by suitable flags, barriers or flares clearly showing the boundaries of the unsafe or unusable area.

e. *Building location.* Rescinded IAB 7/4/07, effective 8/8/07.

720.10(3) *Approach zones.*

a. Approaches shall be clear of obstructions above a glide path of 20:1 from the ends of each usable runway. If an obstruction exists in an approach zone, the runway threshold on a paved runway shall be displaced in accordance with FAA Advisory Circular 150/5340-1J as amended through April 29, 2005. On a nonpaved runway, the runway end markers shall be relocated to provide the prescribed obstruction clearance. The runway length remaining between the displaced threshold and the departure end of the runway is the landing distance available.

b. When the approach zone to any runway crosses a road or railroad, the glide path on a 20:1 ratio shall pass at least 17 feet above an interstate highway, 15 feet above any other public roadway, 10 feet above a private road, and 23 feet above a railroad.

720.10(4) *Facilities.* The airport shall provide all of the following facilities:

a. *Wind indicator.* The airport shall be equipped with a wind sock, blaze orange in color, which shall be clearly visible from the traffic pattern altitude within one mile of the airport during daylight hours. If the airport is lighted for night operation, the wind sock shall also be lighted.

b. *Lighting.* If an airport is lighted for night operation, the system shall be lighted from dusk to dawn. An operable air-to-ground controller for the lighting system will meet this requirement.

c. *Telephone.* A telephone shall be available for public use.

d. *Fire extinguisher.* At least one operational class B and class C fire extinguisher capable of extinguishing all classes of fires shall be readily accessible to aircraft fueling or ramp areas.

761—720.11 to **720.14** Reserved.

761—720.15(328) Airport closing.

720.15(1) *Notice.* When an airport ceases operation for any reason, the sponsor shall notify the department, return the registration certificate and mark the landing area to clearly indicate that the airport is closed to air traffic.

720.15(2) *Marking.* All marking indicating a usable runway shall be obliterated. The sponsor shall place at a central location a yellow X in accordance with FAA Advisory Circular 150/5340-1J as amended through April 29, 2005.

720.15(3) *Temporary closing.* When conditions require the temporary closing of a runway, it shall be marked on both ends with a yellow X in accordance with FAA Advisory Circular 150/5340-1J as amended through April 29, 2005.

These rules are intended to implement Iowa Code sections 328.1, 328.12, 328.19 and 328.35.

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CHAPTERS 721 to 749
Reserved

CHAPTER 750
AIRCRAFT REGISTRATION

[Prior to 6/3/87, Transportation Department [820]—(04,C)Ch 2]

761—750.1(328) Purpose. This chapter establishes the procedures for registration of civil aircraft pursuant to Iowa Code chapter 328.

761—750.2(328) Definitions. The definitions in Iowa Code section 328.1 apply to this chapter of rules.

This rule is intended to implement Iowa Code section 328.1.

761—750.3(17A) Information and forms. Information, instructions and forms are available from the office of aviation or on the department's Web site at http://www.iawings.com. Application forms may also be obtained from aircraft dealers. The mailing address for aircraft registration is: Iowa Department of Transportation, Office of Aviation, Aircraft Registration, 800 Lincoln Way, Ames, Iowa 50010.

This rule is intended to implement Iowa Code section 17A.3.

761—750.4 to **750.8** Reserved.

761—750.9(328) Registration. When a used aircraft is registered in Iowa, the model year of the aircraft shall be used to determine the number of times the aircraft was previously registered, and a reduction of the registration fee shall be computed accordingly. "Model year," except where otherwise specified, means the year of original manufacture or the year certified by the manufacturer. For the purpose of registration, the model year shall advance one year each January 1.

This rule is intended to implement Iowa Code section 328.21.

761—750.10(328) First registration procedure.

750.10(1) *Registration requirement.* A civil aircraft which has an FAA-assigned N number is subject to registration in Iowa unless it is exempt by statute.

750.10(2) *Application.*

a. The owner of an unregistered aircraft shall submit to the department an application for aircraft registration on a form prescribed by the department.

b. The owner shall submit with the application the registration fee and the required use tax or evidence of tax exemption.

c. The department shall review the application and may request additional information or documents from the owner.

d. Upon receipt of the completed application, registration fee, and use tax or evidence of tax exemption, the department shall issue to the applicant an aircraft registration certificate for the aircraft.

750.10(3) *Fee.* The aircraft registration fee shall be computed according to Iowa Code section 328.21.

This rule is intended to implement Iowa Code sections 328.20, 328.21, 328.25 to 328.27, 328.35, 328.37, 328.42, 328.44 to 328.46 and 328.56A.

761—750.11 to **750.14** Reserved.

761—750.15(328) Aircraft not airworthy. An aircraft that is not airworthy is not subject to registration fees if the owner submits with the registration application a written, signed explanation of the aircraft's condition and an estimate of the date when the aircraft will be airworthy. The department shall issue a certificate and shall mark the record of the aircraft until the owner notifies the department that the aircraft is airworthy or until the aircraft is no longer subject to registration in Iowa.

This rule is intended to implement Iowa Code section 328.21.

761—750.16 to **750.19** Reserved.

761—750.20(328) Renewal notice. Thirty days before the end of the registration year, the department shall send a renewal notice to the owner of each registered aircraft as shown on department records. The renewal notice shall state the registration fee due for the upcoming registration year and the descriptive data recorded for the aircraft.

This rule is intended to implement Iowa Code sections 328.20, 328.21, 328.26, 328.27, 328.37, and 328.56A.

761—750.21 to **750.28** Reserved.

761—750.29(328) Penalty on registration fees.

750.29(1) *Amount of penalty.* The penalty on the delinquent payment of a registration fee shall be computed on a monthly basis and is 5 percent per month.

750.29(2) *Aircraft purchased.* The penalty on the registration fee shall accrue from the first day of the month following 30 days from the date of purchase.

750.29(3) *Aircraft moved into Iowa.* The penalty on the registration fee shall accrue from the first day of the month following 30 days from the date the aircraft is moved into Iowa.

750.29(4) *When delinquency extends beyond the current year.* When the penalty on a delinquent registration fee extends beyond the current year, the penalty shall continue to accrue until paid. The penalty shall accrue only on the fee applicable at the time the delinquency accrued and shall not be applicable to subsequent registration fees which have not been paid.

750.29(5) *Specific penalty date.* When a specific penalty date is provided by statute or rule, the penalty shall accrue from that date, even if the day is a Saturday, Sunday or holiday.

This rule is intended to implement Iowa Code sections 328.50 to 328.52.

761—750.30(328) Lien. The department has the authority to record a lien against the federal aircraft title and sue to collect unpaid fees and penalties.

This rule is intended to implement Iowa Code sections 328.47 to 328.49.

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CHAPTERS 751 to 799
Reserved

RAILROADS

CHAPTER 800
ITEMS OF GENERAL APPLICATION FOR RAILROADS

[Prior to 6/3/87, Transportation Department [820]—(10,A)Ch 1]

761—800.1(307) Definitions. The following terms when used in this division of rules shall have the following meanings:

Crossing. The point where the railroad tracks and highway meet at the same location.

Department. The state department of transportation.

Railroad. Persons who own rail facilities or who are responsible for their operation and maintenance.

This rule is intended to implement Iowa Code sections 307.1 and 307.26.

761—800.2(17A) Location and submission of documents. All documents concerning railroad matters which, according to statute or rule, must be submitted to the department shall be submitted to the following address: Office of Rail Transportation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

This rule is intended to implement Iowa Code section 17A.3.

761—800.3(327C) Accounts. All railroads operating in Iowa, except those whose accounts are regulated by the Surface Transportation Board, shall maintain accounts using the generally accepted accounting principles of the financial standards accounting board. The accrual method of accounting shall be used.

This rule is intended to implement Iowa Code section 327C.42.

761—800.4(327C) Annual reports.

800.4(1) A railroad company submitting an annual report to the Surface Transportation Board under 49 CFR Part 1241 shall submit a copy of this report to the department no later than March 31 following the close of the calendar year. Included with this report shall be a "State Statistics" report which shall include the following: annual data on additions and deletions of mileage within the state; mileage operated within the state at the end of the year; railway operating revenues earned within the state; statistics on rail line operations within the state including locomotive unit-miles, car-miles and ton-miles; revenue freight carried within the state by commodity class; and a freight density map showing gross ton-miles for the railroad company's system within the state.

800.4(2) A railroad company not required to submit an annual report to the Surface Transportation Board under 49 CFR Part 1241 shall submit an annual report to the department on Form 010030 no later than March 31 following the close of the calendar year.

This rule is intended to implement Iowa Code sections 327C.28, 327C.38, 327C.41 and 327C.43.

761—800.5 to **800.14** Reserved.

761—800.15(327F) Train speed ordinances. An ordinance or resolution adopted by a political subdivision which relates to the speed of a train in an area within the jurisdiction of the political subdivision is subject to department approval according to the following procedure:

800.15(1) The political subdivision shall submit the ordinance/resolution to the department supported by information or reasons that justify its approval by the department.

800.15(2) The department shall notify the affected railroads.

800.15(3) The political subdivision and the affected railroads shall have 30 days in which to submit position papers to the department before the department issues an order approving or disapproving the ordinance/resolution.

800.15(4) The department shall issue an order approving or disapproving the ordinance/resolution in accordance with the following:

a. The department may approve the proposed ordinance/resolution only if the proposal satisfies the requirements of 49 U.S.C. 20106: (1) it is necessary to eliminate or reduce a local safety hazard; (2)

it is not incompatible with a federal law, regulation or order; and (3) it does not unreasonably burden interstate commerce.

b. Generally, the department does not consider highway-railroad grade crossings or rail lines located near schools, residences, or commercial activities to be local safety hazards that can be remedied by train speed restrictions.

c. In making its decision, the department may also consider the following factors:

(1) Traffic density and speed.

(2) Accident frequency.

(3) Causes of accidents.

(4) Obstructions to visibility.

(5) Traffic controls at crossings.

(6) Population density.

(7) Resulting burden on the rail transportation system.

(8) Resulting benefit to residents of the political subdivision.

800.15(5) The department shall mail notice of its order approving or disapproving the ordinance/resolution by certified mail, return receipt requested, to the political subdivision and the affected railroads.

800.15(6) If the department issues an order approving the ordinance/resolution, it shall go into effect 25 days after the notice is mailed unless the order is contested pursuant to subrule 800.15(7).

800.15(7) Within 20 days after the notice is mailed, the political subdivision or an affected railroad may submit to the department a written statement contesting the department's order approving or disapproving the ordinance/resolution.

a. If the order is contested, 761—Chapter 13 applies.

b. If an order approving an ordinance/resolution is contested, the order shall be stayed pending the outcome of the contested case.

800.15(8) A submission to the department under this rule shall be deemed timely submitted if it is delivered or postmarked within the time period specified.

This rule is intended to implement Iowa Code section 327F.31 and 2002 Iowa Op.Att'yGen. _____ (#01-5-2).

761—800.16 to **800.19** Reserved.

761—800.20(327G) Removal of tracks from crossings.

800.20(1) 49 CFR Part 1152 contains the regulations governing the abandonment and discontinuance of railroad lines and rail transportation under 49 U.S.C. 10903 et seq. This part also contains the regulations and procedures for the acquisition or use of railroad rights-of-way proposed for abandonment for interim trail use and rail banking pursuant to 16 U.S.C. 1247(d).

For the purpose of this rule, this part is adopted as of October 1, 2002.

800.20(2) A railroad corporation or its successor in interest having received authority to remove its tracks from a rail line pursuant to abandonment or interim trail use under 49 CFR Part 1152 shall, at the same time it removes its tracks from the railroad rights-of-way, remove its tracks from the crossings of highways, streets and alleys along the rail line and restore the surface of these crossings. A crossing shall be restored in a manner specified by the agency having jurisdiction over the highway, street or alley at the crossing.

800.20(3) If a railroad corporation or its successor in interest fails to remove its tracks from and restore the surface of a crossing as specified in subrule 800.20(2), then the agency having jurisdiction over the highway, street or alley at the crossing may, at the expense of the railroad corporation or its successor in interest, remove the tracks and restore the surface 120 days after the tracks adjacent to the crossing have been removed.

This rule is intended to implement Iowa Code section 327G.24.

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CHAPTER 801
RELATIONSHIP WITH IOWA RAILWAY FINANCE AUTHORITY

[Prior to 6/3/87, Transportation Department[820]—(10,C)Ch 2]

Rescinded IAB 7/1/09, effective 7/1/09

CHAPTER 802
REPORTING OF RAILROAD ACCIDENTS/INCIDENTS

[Prior to 6/3/87, Transportation Department [820]—(10,B)Ch 6]

761—802.1(327C) Written reports.

802.1(1) *When required.* A railroad filing with the Federal Railroad Administration any of the forms listed in subrule 802.1(2) shall, at the same time, file a copy with the department at the following address if the accident or incident occurred in Iowa: Office of Rail Transportation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

802.1(2) *Forms.* This rule applies to the following Federal Railroad Administration forms:

FRA F 6180.54 — Rail Equipment Accident/Incident Report

FRA F 6180.55 — Railroad Injury and Illness Summary

FRA F 6180.57 — Rail-Highway Grade Crossing Accident/Incident Report

This rule is intended to implement Iowa Code section 327C.41.

761—802.2(327C) Immediate reporting of personal injury or death. Any accident/incident involving train movement which results in personal injury requiring hospitalization or in death shall be reported immediately to the department.

802.2(1) *Content of immediate report.* The immediate report of an accident/incident shall provide the date and time it occurred, the nearest city, the location as accurately as possible, the number of fatalities or injuries, the train(s) involved, the nature and cause insofar as known, the name of the individual filing the report, and the name of the railroad involved.

802.2(2) *Method of immediate reporting.* During normal business hours the immediate report shall be filed with the office of rail transportation by telephone at (515)239-1140. At other times, the report shall be filed with the office of motor carrier services of the motor vehicle division of the department by telephone at (515)243-2478.

This rule is intended to implement Iowa Code section 327C.37.

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CHAPTERS 803 to 809
Reserved

CHAPTER 810
RAILROAD SAFETY STANDARDS

[Prior to 6/3/87, Transportation Department [820]—(10,B)Ch 1]

761—810.1(327C) Track standards. The department adopts the railroad track safety standards contained in 49 CFR Part 213 (October 1, 2002).

This rule is intended to implement Iowa Code sections 307.26, 327C.2, and 327C.4.

761—810.2(327C) Track inspection.

810.2(1) *Credentials required.* Authorized departmental employees shall be admitted to any railroad property to conduct safety inspections of the track and track structures and shall present state identification cards upon request.

810.2(2) *Measurement tools and vehicles.* Rescinded IAB 8/6/03, effective 9/10/03.

This rule is intended to implement Iowa Code section 327C.4.

761—810.3 Reserved.

761—810.4(327F) First aid and medical treatment for railroad employees.

810.4(1) Railroad employees who are injured in the course of employment shall have reasonable and adequate access to first aid or medical treatment. A railroad or railroad employee shall not:

a. Deny, delay or interfere with first aid or medical treatment for any railroad employee who is injured in the course of employment.

b. Discipline or threaten to discipline any railroad employee for requesting first aid or medical treatment when the employee is injured in the course of employment.

810.4(2) All railroads operating in the state must make reasonable efforts to have emergency first-aid kits available at locations where railroad employees perform their employment duties.

810.4(3) Nothing in this rule shall be construed to require a railroad or railroad employee to perform first aid or medical care.

This rule is intended to implement Iowa Code section 327F.38.

761—810.5(327F) Worker transportation.

810.5(1) *Heater requirement.* Pursuant to Iowa Code subsection 327F.39(4), a motor vehicle used to transport railroad workers shall be equipped with a heating system that maintains a reasonable comfort level in the vehicle spaces where the workers are required to ride. The heating system shall comply with the safety standards established in 49 CFR 393.77, as adopted in rule 761—520.1(321).

810.5(2) *Report procedure.*

a. A person shall report an alleged violation in writing to the responsible railroad company at its corporate headquarters. If within 30 days the railroad company does not respond or if the response is unsatisfactory, the person may report the alleged violation to the department at the following address: Office of Rail Transportation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

b. The report shall be written and shall include the date, time, weather conditions and all facts pertinent to the alleged violation. The report shall also include a copy of the railroad's response or, if the railroad failed to respond, proof of the date the report was submitted to the railroad.

c. The department may request additional information from the person or the railroad. The director of the office of rail transportation or the director's designee shall issue a decision within 20 days after the report is received by the department or after the additional information is received. The department shall notify the person and the railroad of the decision, which is the final decision of the department.

This rule is intended to implement Iowa Code section 327F.39.

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CHAPTER 811
HIGHWAY-RAILROAD GRADE CROSSING WARNING DEVICES

[Prior to 6/3/87, Transportation Department [820]—(10,B)Ch 2]

761—811.1(307) Standards. All highway-railroad grade crossing warning devices installed shall conform to Part 8, "Traffic Controls for Highway-Rail Grade Crossings," of the "Manual on Uniform Traffic Control Devices" as adopted in 761—Chapter 130.

This rule is intended to implement Iowa Code paragraph 307.26(5)*"b"* and sections 321.252 and 327G.2.

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CHAPTER 812
CLASSIFICATIONS AND STANDARDS FOR HIGHWAY-RAILROAD GRADE CROSSINGS

[Substance formerly in (06,A)Ch 1]
[Prior to 6/3/87, Transportation Department [820]—(10,B)Ch 3]

761—812.1(307) Purpose. This chapter implements Iowa Code paragraph 307.26(5)*"c."* This statute requires the department to classify highway-railroad grade crossings based upon their characteristics, conditions and hazards and to adopt standards for warning devices for each classification.

761—812.2(307) Classification. Crossings shall be classified using the Federal Railroad Administration's predicted accident methodology.

812.2(1) The following formula is used to calculate an initial accident prediction for a crossing:

$a = K \times EI \times DT \times MS \times MT \times HP \times HL$

where:

a = initial accident prediction, in accidents per year at the crossing
K = formula constant
EI = factor for exposure index based on product of highway and train traffic
DT = factor for number of through trains per day during daylight
MS = factor for maximum timetable speed
MT = factor for number of main tracks
HP = factor for highway paved (yes or no)
HL = factor for number of highway lanes

812.2(2) A final predicted accident rate is then calculated from the initial prediction using the most recent five years of accident data for that crossing.

812.2(3) On or before October 1 of each year, the department shall furnish to each highway authority and railroad in Iowa a list of its crossings ranked by final predicted accident rate.

761—812.3(307) Warning device standards and their implementation.

812.3(1) A crossing with a final predicted accident rate of .075 or above is a candidate for upgrading. The following are recommended minimum improvements, subject to the considerations set out in the remainder of this rule.

Number Tracks	Current Installation	Proposed Upgrade To
1	Crossbucks	Flashers
1	Flashers	Gate Arms
2 or more	Crossbucks	Gate Arms
2 or more	Flashers	Gate Arms
2 or more	Gate Arms	4 Quadrant Gate Arms or Raised Medians

812.3(2) The highway authority (governmental unit(s) having jurisdiction of the highway or street at the crossing) and the railroad shall jointly conduct a field review of a crossing they propose to upgrade.

a. Variations of warning devices or warning device circuitry including, but not limited to, prediction circuitry, motion sensor circuitry and cantilever assemblies shall be determined by conditions at the crossing site.

b. Site conditions shall determine whether safety improvements to correct these conditions should be made in lieu of the upgrades listed in subrule 812.3(1). Safety improvements are generally recommended if they would be less expensive than the upgrades and would result in a final predicted accident rate lower than .075. Safety improvements to consider include, but are not limited to,

luminaires, pavement markings, sight distance improvement, signing modifications, rail signal/traffic signal interconnections, surveillance systems and crossing surface extensions.

812.3(3) The highway authority shall consider crossing consolidation or closure in lieu of upgrading the warning devices at a crossing. A grade separation may also be considered, but the decision to construct a separation is based on factors beyond the scope of this chapter.

812.3(4) When planning a highway improvement project encompassing or adjacent to a crossing, the highway authority shall consider the effects of the project on the crossing.

812.3(5) An agreement between the highway authority and the railroad is required for warning device installations at a new crossing location and warning device upgrades on a detour.

761—812.4(307) Effect of rules.

812.4(1) In accordance with Iowa Code paragraph 307.26(5)*"c,"* the department of transportation is not liable for the development or adoption of the classifications or standards. A government agency, department, or political subdivision is not liable for failure to implement the standards.

812.4(2) Nothing in this chapter shall preclude a highway authority and railroad from upgrading the warning devices at any crossing under their jurisdiction.

These rules are intended to implement Iowa Code paragraph 307.26(5)*"c."*

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CHAPTER 813
CLOSE-CLEARANCE WARNING SIGNS ALONG RAILROAD TRACKS

761—813.1(327F) Purpose and scope. This chapter implements Iowa Code section 327F.13. This statute requires the Iowa department of transportation (department) to implement the placement of close-clearance warning signs along railroad tracks where the close clearance between the tracks and an obstruction physically impedes a person who is lawfully riding the side of a train from clearing the obstruction. This chapter only applies when funds are available from the department to reimburse the owner for the cost of the close-clearance warning sign and installation.
[**ARC 8202B**, IAB 10/7/09, effective 11/11/09]

761—813.2(327F) Applicability. This chapter applies to railroad companies as well as industries, agricultural cooperatives or other entities that are owners of a railroad track, and it applies to individuals who are owners of a railroad track. This chapter does not apply to any railroad locations where locomotives are powered by overhead or suspended electric power.
[**ARC 8202B**, IAB 10/7/09, effective 11/11/09]

761—813.3(327F) Information. Information regarding this chapter is available from the Office of Rail Transportation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1140.
[**ARC 8202B**, IAB 10/7/09, effective 11/11/09]

761—813.4(327F) Definitions.

"Close clearance" means a permanent or temporary situation where an obstruction near a railroad track physically impedes a person who is lawfully riding the side of a train from clearing the obstruction. Rule 761—813.5(327F) provides further detail on the dimensions that identify a close-clearance situation.

"Obstruction" means a building, machinery (other than equipment designed for operation on a railroad track when actually located on a railroad track), tree, brush or other object.

"Owner" means the railroad company, industry, agricultural cooperative, other entity, or individual that holds a fee simple title, easement, leasehold, contract to purchase, license, or other legal or equitable interest or right in the railroad track, and is in primary possession and control of the railroad track.

"Tangent track" means a track segment without any curves.
[**ARC 8202B**, IAB 10/7/09, effective 11/11/09]

761—813.5(327F) Close-clearance dimensions.

813.5(1) Close clearance for tangent track is a location along the railroad track where there is an obstruction that falls within the following dimensions: starting at the centerline of track at top of rail and extending 5 feet both sides horizontally and level therewith, thence upward vertically 15 inches, thence upward diagonally to a point 4 feet above top of rail and 8 feet laterally from centerline of track, thence vertically to a point 20 feet above top of rail, thence diagonally to a point 6 feet from centerline of track and 22 feet above top of rail, thence horizontally to centerline of track. Vertical clearance shall be 18 feet above top of rail at the entrance to and inside buildings. On curved track, clearances on each side of the track centerline shall be increased 1½ inches per degree of curvature. (See Figure 1.)

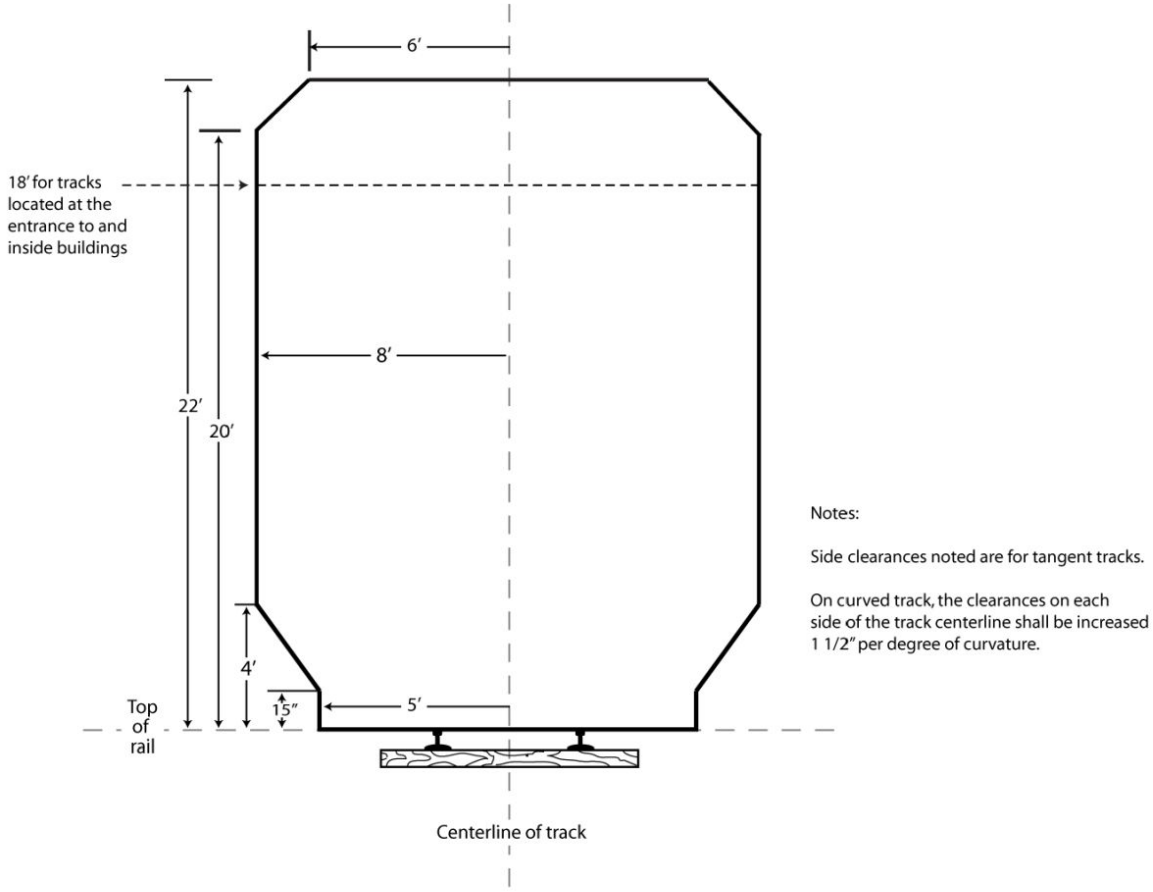

Figure 1

813.5(2) Reserved.

[**ARC 8202B**, IAB 10/7/09, effective 11/11/09]

761—813.6(327F) Signing requirements.

813.6(1) A close-clearance warning sign or signs are required at all locations where there is close clearance. It is the responsibility of the owner to ensure that all close-clearance locations have warning signs.

813.6(2) If an obstruction creating a close-clearance situation is a temporary or nonpermanent obstruction, in lieu of signing the owner may meet the requirements of this rule by opting to remove the obstruction or remove the track from service until the obstruction is removed.

813.6(3) A close-clearance warning sign shall be placed in a location that provides adequate notice to a person who is lawfully riding the side of a train so that the person may prepare for the close clearance.

813.6(4) A close-clearance warning sign shall comply with the following requirements. A warning sign shall:

a. Include the words "no clearance." The letters must be black on a white reflective background and be a minimum of 3 inches high.

b. Be a vertical sign not less than 42 inches in height and 4 inches in width.

c. Be placed at least 1 foot off the ground or on the obstruction and within 3 feet of the close-clearance location or on the obstruction. Signs shall be located on both sides of the obstruction so as to be visible from both directions.

d. Not be within 8 feet of the centerline of the tracks.

813.6(5) In the event that the placement of the close-clearance warning sign according to paragraph 813.6(4)*"c"* or 813.6(4)*"d"* does not provide adequate notice for a person who is lawfully riding the side of a train to prepare for the close clearance (such as a curve or other sight obstruction), an additional sign

reading "no clearance ahead" shall be placed in a location that provides adequate notice to the person who is lawfully riding the side of the train so that the person may prepare for the close clearance. Depending on the particular environment that makes an additional no clearance ahead sign necessary, a no clearance ahead sign may be required on one or on both sides of the obstruction so as to be visible from both directions.

813.6(6) In the event that the physical environment prevents the placement of a warning sign in accordance with paragraph 813.6(4)*"c"* or 813.6(4)*"d,"* the sign shall be placed in a highly visible location that is clearly indicative of the point of close clearance. An alternative size and shape of sign may be used if there is no location available where a standard size and shape sign may be used. Any alternative sign must clearly be identifiable as an indicator of the close-clearance situation.

813.6(7) In limited situations where multiple instances of insufficient clearance occur within a confined area or over a distance, and where posting of multiple warning signs could on its own be a safety hazard, or where multiple signs would create a confusing environment making it difficult to discern the areas that lack clearance, a sign reading "no clearance ahead" may be posted in lieu of multiple signs.

813.6(8) A line or other marker shall be maintained at a distance of 8 feet from the centerline of the track on all platforms, excluding passenger platforms, to indicate the space along the edge of such platform that shall be kept clear of merchandise, material, or other articles that could create a temporary close-clearance situation.

813.6(9) Placement of a warning sign does not relieve the owner from any duties required under Iowa Code chapter 317 or Iowa Code section 327F.27.

[**ARC 8202B**, IAB 10/7/09, effective 11/11/09]

761—813.7 and **813.8** Reserved.

761—813.9(327F) Enforcement.

813.9(1) If the owner is provided written notice by an employee, a person working on or near the tracks, or a railroad inspector that a location is in need of a close-clearance warning sign, the owner shall investigate and, if warranted, ensure the placement of a warning sign or signs within 30 calendar days of notification. If a close-clearance warning sign is not warranted, the owner shall inform the person who provided notice, in writing within 30 calendar days, that a sign is not warranted and shall explain why the location does not need a close-clearance warning sign.

813.9(2) If the owner fails to respond to a written notice by an employee or another person working on or near the tracks, or if the employee or other person disagrees with the owner's determination that a warning sign is not warranted, the employee or other person may notify the department. The department shall investigate and make a determination if the location warrants the placement of a close-clearance warning sign.

a. If the department determines a close-clearance warning sign is warranted, the department shall notify the owner in writing. The owner shall have 14 calendar days from the date of the notification to install the proper warning sign. Failure to install the close-clearance warning sign is evidence that the owner is in violation of Iowa Code section 327F.13.

b. The owner, an employee or a person working on or near the tracks may contest the determination. If the determination is contested, 761—Chapter 13 applies.

[**ARC 8202B**, IAB 10/7/09, effective 11/11/09]

761—813.10(327F) Reimbursement.

813.10(1) The owner may request reimbursement from the department for up to $100 per sign for the cost and installation of the close clearance or no clearance ahead warning sign.

813.10(2) To be reimbursed, the owner shall complete Form 291303, "Close-Clearance Warning Sign Certification," and submit the form to the office of rail transportation. The owner must certify that the warning sign complies with the requirements in rule 761—813.6(327F) and provide proof of purchase.

813.10(3) The department may inspect, at any time, the sign installation to confirm that the warning sign meets the minimum requirements in rule 761—813.6(327F).

813.10(4) Form 291303 is available on the department's Internet Web site at http://www.iowadot.gov/forms/index.htm or from the office of rail transportation.

[**ARC 8202B**, IAB 10/7/09, effective 11/11/09]

These rules are intended to implement Iowa Code section 327F.13.

[Filed ARC 8202B (Notice ARC 7885B, IAB 7/1/09), IAB 10/7/09, effective 11/11/09]

CHAPTERS 814 to 819
Reserved

CHAPTER 820
HIGHWAY GRADE CROSSING SAFETY FUND

[Substance formerly (06,C)Ch 3]
[Prior to 6/3/87, Transportation Department [820]—(10,B)Ch 4]

761—820.1(327G) Definitions. The following terms when used in this chapter of rules shall have the following meanings:

AAR signal unit. The relative maintenance difficulty value assigned to component parts of an active warning device. Units and interpretations are designated by the Association of American Railroads Signal Manual, Part 203 (1984).

Active warning devices. Traffic control devices activated by the approach or presence of a train, such as flashing light signals, flashing light signals with cantilever assemblies, and flashing light signals with automatic gate arms, all of which actively warn motorists of a train.

Maintenance costs of active warning devices. Costs incurred by a railroad associated with the repair or replacement of obsolete, worn out, damaged, or missing component parts of an approved active warning device. Maintenance costs shall include repair or replacement of damaged, vandalized, or stolen component parts only for that amount which exceeds the amount recovered from the liable party or the liable party's insurer.

Safety fund. The highway grade crossing safety fund established in Iowa Code section 327G.19, and administered by the department.

761—820.2(327G) Purpose. The purpose of this chapter is to set out the requirements for use of the highway grade crossing safety fund to reimburse railroads for a portion of the maintenance costs associated with active warning devices.

761—820.3(327G) Information and submissions. Information about this chapter may be obtained by contacting the department at the following address: Office of Rail Transportation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1140. Submissions to the department under this chapter shall be sent or delivered to this address.

761—820.4(327G) Participation in the maintenance costs of eligible warning devices. The highway grade crossing safety fund shall be used to participate in the annual maintenance costs of active warning devices ordered or agreed to be installed on or after July 1, 1973, as stated in the individual order or agreement.

820.4(1) Orders or agreements that provide for revision of the maximum amount that can be expended from the highway grade crossing safety fund by reason of amendment to Iowa Code section 327G.15 are binding. These orders and agreements were amended to read: The fund's participation for calendar years preceding 1977 shall be equal to that of the railroad but limited to a maximum of $450 for any one year, for any one crossing; and for calendar year 1977 and subsequent years, the fund may participate in an amount of up to 75 percent of annual maintenance costs of active warning devices, based upon a cost for each eligible AAR signal unit.

820.4(2) Orders or agreements issued on or after March 8, 1978, shall provide that the highway grade crossing safety fund may be used to participate in an amount of up to 75 percent of the annual maintenance costs of active warning devices, based upon a cost for each eligible AAR signal unit.

820.4(3) Participation in annual maintenance costs is on a reimbursement basis.

761—820.5(327G) Reimbursement.

820.5(1) *Calculations.* Reimbursement to a railroad for its active warning devices that are eligible for reimbursement under rule 761—820.4(327G) shall equal the number of AAR signal units for that railroad's eligible active warning devices times the average annual maintenance cost per AAR signal unit times the percentage of participation.

a. Each railroad shall tabulate the number of AAR signal units for each eligible warning device and furnish this tabulation to the department. The department shall review the railroads' tabulations for conformance with AAR guidelines.

b. Each year, the department shall compute an average annual maintenance cost per AAR signal unit. This unit cost shall be used by all railroads for billing purposes.

c. The percentage of participation shall not exceed 75 percent.

820.5(2) *Billing.* Before April 15 of each year, each railroad shall submit one billing to the department covering maintenance costs for the preceding calendar year for all eligible warning devices. Prior to reimbursement, the department may audit the billings to determine conformity of the billings with the orders or agreements. Reimbursement to a railroad may be denied if the railroad fails to submit its billing before April 15.

820.5(3) *Proration.*

a. If, in any year, the balance of the highway grade crossing safety fund is inadequate to fully reimburse all railroads, the department shall reimburse each railroad on a pro-rata basis.

b. If a warning device has been in operation for less than one calendar year, the maintenance costs shall be prorated from the date the device was placed in operation to the end of that calendar year.

These rules are intended to implement Iowa Code sections 327G.15 and 327G.19.

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CHAPTER 821
HIGHWAY-RAILROAD GRADE CROSSING SURFACE REPAIR FUND

[Substance formerly in (06,C)Ch 3]
[Prior to 6/3/87, Transportation Department [820]—(10,B)Ch 5]

761—821.1(327G) Definitions. The following terms when used in this chapter shall have the following meanings:

"Grade crossing surface repair" means the partial or complete renovation of a highway-railroad grade crossing and the highway approaches to the crossing.

"Jurisdiction" means the authority having primary control over a highway, street, or alley.

"Repair fund" means the grade crossing surface repair fund established in Iowa Code section 327G.29 and administered by the department.

761—821.2(327G) General information.

821.2(1) The repair fund shall be used for grade crossing surface repair.

821.2(2) Information about the repair fund may be obtained by contacting the department at the following address: Office of Rail Transportation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1140. Submissions to the department under this chapter shall be sent or delivered to this address.

761—821.3(327G) Procedures for the use of grade crossing surface repair funds.

821.3(1) *Notification to department.* If a railroad and a jurisdiction agree to use the repair fund for grade crossing surface repair, written notification of the action signed by both parties shall be sent to the department.

a. The notification shall include the American Association of Railroads—Department of Transportation (AAR-DOT) crossing number, the total estimated cost of the repair, and a statement that the railroad and the jurisdiction each agree to pay 20 percent of the cost of the repair.

b. Notification shall be accepted by the department in order of receipt.

821.3(2) *Processing an agreement.*

a. The department shall determine if the agreed-upon work constitutes grade crossing surface repair and may consult with the jurisdiction or the railroad if further information is needed.

b. If the work constitutes grade crossing surface repair and when funds are available in the repair fund, the department shall furnish the railroad and the jurisdiction with three copies of an agreement for grade crossing surface repair.

c. The railroad and the jurisdiction shall sign all three copies of the agreement and return them to the department.

d. The department shall:

(1) Approve the agreement and obligate from the repair fund an amount equal to 60 percent of the cost of the agreed-upon work.

(2) Sign all three copies of the agreement, retain one copy of the fully executed agreement, transmit one copy to the jurisdiction, and transmit one copy to the railroad, authorizing work to proceed.

821.3(3) *Preaudit.* Prior to approval of the agreement, the department may perform a preaudit evaluation of the railroad.

The preaudit evaluation may include an examination of the railroad's accounting methods and procedures to determine the railroad's ability to segregate and accumulate costs to be charged against the surface repair project; an examination of the railroad's cost factors to ensure their propriety and allowability; and an examination of any other general information available which might be pertinent or necessary in determining the railroad's auditability.

821.3(4) *Review of completed project.* Upon completion of the agreed-upon work, the department, the railroad and the jurisdiction shall review the project to determine satisfactory completion.

821.3(5) *Project billing and payment.*

a. The railroad shall submit to the jurisdiction and the department a final detailed billing covering the actual and necessary costs incurred by the railroad for the agreed-upon work.

b. The jurisdiction and the department shall review the billing for reasonable conformance with the agreement. The department may audit the billing to determine the allowability and propriety of the billing costs in accordance with the agreement.

c. Once the department approves the billing, the department shall pay to the railroad from the repair fund an amount equal to 60 percent of the actual cost of the agreed-upon work.

d. The jurisdiction shall pay to the railroad an amount equal to 20 percent of the actual cost of the agreed-upon work.

These rules are intended to implement Iowa Code sections 312.2(5), 327G.29, 327G.30, and 327G.31.

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CHAPTER 822
RAILROAD REVOLVING LOAN AND GRANT FUND PROGRAM

[Prior to 7/1/09, see 765—Ch 5]

761—822.1(327H) Introduction. The railroad revolving loan and grant fund program provides funding in the form of loans and grants for railroad-related improvement projects that spur economic development and job growth. The railroad revolving loan and grant fund is established in Iowa Code section 327H.20A as amended by 2009 Iowa Acts, Senate File 151, section 11, and is under the control of the department.
[**ARC 7909B**, IAB 7/1/09, effective 7/1/09]

761—822.2(327H) Definitions.

"Rail facilities" includes railroad main lines, branch lines, switching yards, sidings, rail connections, intermodal yards and highway grade separations.
[**ARC 7909B**, IAB 7/1/09, effective 7/1/09]

761—822.3(327H) Information. Information may be obtained at the following address: Office of Rail Transportation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1140. Completed applications shall be submitted to this address.
[**ARC 7909B**, IAB 7/1/09, effective 7/1/09]

761—822.4(327H) Purpose of program. The purpose of the railroad revolving loan and grant fund program is to provide loans and grants for railroad-related improvement projects that will provide benefits to Iowa in terms of direct economic development and job growth or through economic benefits derived from railroad transportation service improvements.
[**ARC 7909B**, IAB 7/1/09, effective 7/1/09]

761—822.5(327H) Funding.

822.5(1) The transportation commission is responsible for determining the projects to be funded and the amount of funding for each project.

822.5(2) The minimum amount of matching funds required of an applicant is 20 percent of the project cost.

822.5(3) Rescinded IAB 7/1/09, effective 7/1/09.
[**ARC 7909B**, IAB 7/1/09, effective 7/1/09]

761—822.6(327H) Project criteria.

822.6(1) All rail facilities are eligible for project funding except:

a. At-grade crossing surface repair or replacement unless the repair or replacement is a part of railroad line construction or reconstruction.

b. Signals, gates or other crossing protection unless the crossing protection is a part of new railroad line construction.

822.6(2) An applicant must demonstrate that its project will provide benefits to Iowa in terms of direct economic development and job growth or through economic benefits derived from railroad transportation service improvements.
[**ARC 7909B**, IAB 7/1/09, effective 7/1/09]

761—822.7(327H) Applicant eligibility. A railroad company, railroad user, city, county, metropolitan planning organization, regional planning affiliation, or any other entity with an interest in a rail transportation improvement is eligible to apply for funding. Joint applications are allowed and encouraged, but the applicants shall designate one contact person.
[**ARC 7909B**, IAB 7/1/09, effective 7/1/09]

761—822.8(327H) Eligible and ineligible project costs.

822.8(1) *Eligible costs.* Activities or items eligible for funding include, but are not limited to, the following:

a. Modernization, upgrading or reconstruction of existing rail facilities.

b. Construction of new rail facilities.

c. Railroad bridge and culvert modernization, replacement or removal.

d. Right-of-way acquisition costs.

822.8(2) *Ineligible costs.* The following activities or items are ineligible for funding:

a. Contract administration.

b. Freight car or locomotive lease, purchase or repair.

c. Feasibility studies, environmental studies or major investment studies related to a railroad improvement project.

d. Refinancing of a completed project that would have otherwise qualified under this chapter.

[**ARC 7909B**, IAB 7/1/09, effective 7/1/09]

761—822.9 Reserved.

761—822.10(327H) Project application.

822.10(1) *Submission.* Applications may be submitted at any time.

a. The applicant shall submit an original and two copies of a project application to the address in rule 761—822.3(327H).

b. If an application is incomplete, department staff shall return the application to the applicant to be resubmitted when it is complete.

c. An application may be withdrawn at any time after submission.

822.10(2) *Contents of application.* Each application shall contain the following:

a. The applicant's name, address, telephone number, facsimile number and E-mail address (if available) and the name of a designated contact person for the project.

b. A detailed description of the project proposed for funding, including a map or sketch plan.

c. The justification for the project, including the following information:

(1) The need for and purpose of the project.

(2) How the project will impact the local and state economies, including the number of new jobs to be created, the number of potential jobs that may be created and the number of jobs to be retained as a result of the project.

(3) The long-term growth and development potential of the area or industry to be supported and the direct and indirect economic, transportation, and environmental impacts of the project.

d. An itemized estimate of all project costs and the proposed match or cost sharing based on the requested funding. A detailed financial plan to explain the funding for the entire project should be included, along with any associated development costs.

e. A time schedule for the completion of the project.

f. The total amount of loan and grant funds requested.

g. If loan funds are requested, the proposed loan term and interest rate and a detailed description of the applicant's ability to repay the loan. Department staff may require the applicant to provide audited financial statements for the past two years plus a current balance sheet and profit/loss statement for the entity that is to repay the loan. If the entity that is to repay the loan is a new entity, the applicant shall, instead, provide a pro forma balance sheet and pro forma profit/loss statement.

h. If requested by department staff, endorsement of the project by a local government(s) that will be affected by the project and a description of how the project will impact the local government's transportation and economic development plans.

[**ARC 7909B**, IAB 7/1/09, effective 7/1/09]

761—822.11(327H) Project evaluation and approval.

822.11(1) *Staff review.* Department staff shall review the contents of each application for completeness. Department staff may visit the project site and may require the applicant to verify the information in the application. After department staff determines that the application is complete, the staff shall develop a funding recommendation and shall schedule the project for submission to the transportation commission for approval.

822.11(2) *Commission evaluation.* The transportation commission shall be responsible for selecting and determining the funding for each project, subject to the availability of railroad revolving loan and grant funds. The transportation commission may fund all or part of a project and may make funding dependent upon the applicant's adherence to a time schedule or fulfillment of specified conditions, including job creation commitments.

822.11(3) *Commission approval.* In making its decision to fund a project, the transportation commission may consider the railroad transportation service benefits of the project, the economic development benefits of the project, the applicant's total capital investment, the number of direct and indirect jobs to be created or preserved by the project, the financing requested, an analysis of public benefits versus public costs, and other potential impacts or benefits of the project.

[**ARC 7909B**, IAB 7/1/09, effective 7/1/09]

761—822.12(327H) Project agreement and administration.

822.12(1) *Agreement.* After the transportation commission has approved funding for a project, department staff shall negotiate and execute an agreement with the applicant. Department staff shall administer the agreement.

a. The agreement shall specify the scope of the project, the approved funding level, and other conditions for project funding.

b. As applicable, the agreement shall address responsibilities for project design, right-of-way acquisition, contracting, construction and materials inspection; documentation required for reimbursement of project costs; audit requirements; and maintenance of the completed project.

822.12(2) *Reimbursement.* The applicant will be reimbursed for eligible project costs in accordance with the agreement.

822.12(3) *Audits.*

a. Prior to execution of the agreement, department staff may perform a preaudit evaluation of the applicant or others as defined in the agreement. A preaudit evaluation typically includes an examination of accounting methods to determine the applicant's ability to segregate and accumulate costs to be charged against the project, and an analysis of costs factors to ensure their propriety and allowability.

b. Department staff may conduct a final audit of all project costs.

822.12(4) *Default.* Department staff may revoke a funding commitment, seek repayment of funds loaned or granted or take both actions if the applicant fails to fulfill the terms of the agreement.

[**ARC 7909B**, IAB 7/1/09, effective 7/1/09]

These rules are intended to implement Iowa Code section 327H.20A as amended by 2009 Iowa Acts, Senate File 151, section 11.

[Filed 11/15/05, Notice 9/28/05—published 12/7/05, effective 1/11/06]

[Filed Emergency ARC 7909B, IAB 7/1/09, effective 7/1/09]

CHAPTER 830
RAIL ASSISTANCE PROGRAM
[Prior to 6/3/87, Transportation Department [820]—(10,C)Ch 1]

Rescinded IAB 4/11/07, effective 5/16/07

CHAPTER 831
RAILROAD REVOLVING LOAN FUND

Rescinded IAB 4/11/07, effective 5/16/07

CHAPTER 840
RAIL RATE REGULATION

Rescinded IAB 5/5/99, effective 6/9/99

PUBLIC TRANSIT

CHAPTER 900
CONTRACTS SET ASIDE FOR DISADVANTAGED BUSINESS ENTERPRISES
[Prior to 6/3/87, Transportation Department [820]—(09,A)Ch 1]

Rescinded IAB 9/28/94, effective 11/2/94

CHAPTERS 901 to 909
Reserved

CHAPTER 910
COORDINATION OF PUBLIC TRANSIT SERVICES

[Prior to 6/3/87, Transportation Department [820]—(09,A)Ch 2]

761—910.1(324A) Definitions. For purposes of this chapter, the following definitions shall apply in addition to the definitions in Iowa Code section 324A.1:

"Council" means the statewide transportation coordination advisory council formed in rule 910.3(324A).

"Department" means the state department of transportation. The office of public transportation of the air and transit division of the department administers Iowa Code chapter 324A.

"Emergency transportation" means transportation provided when life, health or safety is in danger, such as ambulance or law enforcement transportation.

"Incidental transportation" means transportation provided by an agency or entity when the driver must provide supervision, educational assistance or other support enroute and at the origin or destination. Transportation used merely to access other services is not incidental.

"Provider" means any recipient of direct or indirect, state, federal or local funds, including a public transit system, that provides or contracts for public transit services.

"Public school transportation" means passenger transportation provided by or for a legally organized Iowa public school district for school district purposes.

"Public transit service" means any publicly funded passenger transportation for the general public or for specific client groups not including public school transportation, emergency transportation or incidental transportation or transportation provided by the state department of human services or state department of corrections on the grounds of the following institutions:

State juvenile home, Toledo;
State training school, Eldora;
Cherokee mental health institute;
Clarinda mental health institute;
Independence mental health institute;
Mount Pleasant mental health institute;
Glenwood state hospital-school;
Woodward state hospital-school;
Iowa veterans home, Marshalltown;
Iowa state penitentiary, Fort Madison;
Iowa state men's reformatory, Anamosa;
Iowa correctional institution for women, Mitchellville;
Medium security unit, Mount Pleasant;
Riverview release center, Newton;
Iowa medical and classification center, Oakdale;
North central correctional facility, Rockwell City;
Correctional treatment unit, Clarinda.

"Public transit system" means one of the 35 systems established under Iowa Code chapter 324A.

This rule is intended to implement Iowa Code section 324A.1.

761—910.2(17A) Information and location. Requests for forms or information about the coordination of public transit services shall be addressed to: Office of Public Transportation, Air and Transit Division, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)233-7870.

This rule is intended to implement Iowa Code section 17A.3.

[Editorial change: IAC Supplement 2/23/11]

761—910.3(324A) Statewide transportation coordination advisory council.

910.3(1) *Purpose.* An advisory council shall be formed by the department to assist with implementation of the compliance reviews required by statute. The council shall assist in the review of information concerning the transportation operations of providers and advise the department as to

whether the provider should be found to be in compliance with the transportation coordination mandate of Iowa Code chapter 324A.

910.3(2) *Advisory council.*

a. *Membership.* Membership in the council shall at minimum include one representative from the department of human services, one from the department on aging and one from the department. Other state agencies as well as federal agencies and statewide private agencies funding local transportation services may also be granted membership.

b. *Chairperson.* The director of transportation or the director's representative shall serve as chairperson of the council.

c. *Staff.* Staff support for council activities shall be provided by the department's office of public transportation.

d. *Meetings.* Meetings shall be held at least once each month and may be held more frequently if necessary to enable the council to expeditiously discharge its duties.

910.3(3) *Duties.* The council shall:

a. Review and make recommendations to the member agencies concerning guidelines and criteria for the review process operated by the council.

b. Provide the department with written recommendations for findings of compliance or noncompliance with the transportation coordination mandate of Iowa Code chapter 324A for individual providers based upon review of each provider's request for certification.

c. Upon request of a member agency, review all transportation components of funding applications or plans submitted by a recipient of the member agency.

d. Advise and make recommendations to the department's office of public transportation concerning public transportation policy.

This rule is intended to implement Iowa Code sections 324A.4 and 324A.5.

[Editorial change: IAC Supplement 2/23/11]

761—910.4(324A) Certification process.

910.4(1) *Requirement for certification.* All providers are required to request a certification of compliance with the transportation coordination mandate of Iowa Code chapter 324A by submitting the certification application form in the Appendix to this rule plus a copy of a certificate of insurance or documentation of self-insurance. [1]Agencies that provide a mixture of public transit service and other service shall request certification based on that part of their overall operation which is public transit service.

910.4(2) *Form distribution.*

a. *Recipients of state or state-administered funds.* Each state agency in its own funding application or contract process shall require each recipient of funding to submit a request for certification of compliance.

b. *Recipients of other funds.* The department shall contact local governments and federal agencies to determine whether they are funding any providers that are not funded through the state. The department shall send to any providers identified in this way, or by other means, an explanation of the certification requirement and a copy of the certification request form in the Appendix.

910.4(3) *Submission of request forms.*

a. Recipients of state funds shall submit both the certification application and the certificate of insurance forms annually to the funding agency.

b. Recipients of funds from multiple sources may submit a single request form to all state funding sources if it covers all agency transportation functions.

c. Providers not receiving any funds from state agencies shall return their completed forms within 20 working days of receipt.

d. Agencies or organizations that receive a form from the department and believe that none of their services fit the definition of public transit services shall respond to the department within 20 working days of receipt, stating this belief and providing a brief description of any passenger transportation service they do provide and why it should not be considered public transit service.

910.4(4) *Incomplete or unreturned request forms.*

a. Forms submitted to a state funding agency as part of a funding application shall be reviewed for completeness by that agency within 10 working days.

b. Forms submitted directly to the department by its recipients or by providers not receiving state or state-administered funds shall be reviewed for completeness by the office of public transportation within 10 working days.

c. The reviewing agency shall inform the provider in writing of any information deficiencies and allow 10 working days from receipt for submittal of missing information.

d. Each state agency shall report to the council each case in which a provider has failed upon notification to supply the required information within the required time frame.

e. All completed request forms submitted to state funding agencies shall be forwarded to the council staff within five working days after verifying completeness.

910.4(5) *Processing requests.*

a. The council staff shall evaluate completed requests based on the compliance standards found in rule 910.5(324A) and make a recommendation for a finding of compliance or noncompliance to the council within 20 working days of receiving the completed request form.

b. Ten working days prior to the council's scheduled monthly meeting, the council staff shall distribute to each council member and to the respective providers a meeting agenda and copies of all compliance finding recommendations completed since the previous agenda mailing.

c. At their monthly meeting the council shall consider the compliance finding recommendations of the staff and may accept the staff recommendations as their recommendations to the director of transportation, change the recommendations and provide a statement of reasons, or defer action pending further review.

d. Upon consideration of the council recommendations, the department shall make a final finding of compliance or noncompliance and notify the provider and the state funding agency, if applicable, in writing of the department's decision within five working days after the council meeting.

This rule is intended to implement Iowa Code section 324A.4.

[1] See Appendix at end of Chapter 910.

761—910.5(324A) Standards for compliance. A provider shall be found compliant if the provider meets both of the following standards:

910.5(1) All vehicles used for the public transit services it provides or contracts for are insured for $1 million per accident for all hazards or the provider maintains a self-insurance fund adequate to provide equivalent protection.

910.5(2) The provider:

a. Purchases all services from a designated public transit system, or

b. Operates all services open to the public under contract with and control of a designated transit system, or

c. Purchases all services from a private-for-profit operator of public transit services, or

d. Operates its own services which:

(1) The designated public transit system is currently unable to provide, or

(2) When considered as a whole using fully allocated costs, prove to be more economical than the purchase of equivalent services from the designated public transit system.

e. Uses a combination of services in paragraphs *"a," "b," "c,"* and *"d."*

This rule is intended to implement Iowa Code section 324A.4.

761—910.6(324A) Noncompliance. A provider shall be found noncompliant if:

910.6(1) The provider has not submitted required data upon expiration of either the original submittal deadline or the additional ten-day grace period after written notification of deficiencies in an original submittal.

910.6(2) The provider's request for certification has been processed and the provider did not qualify for a finding of compliance.

This rule is intended to implement Iowa Code section 324A.4.

761—910.7(324A) Noncompliant sanctions. A provider that is denied certification and continues the noncompliant activities for more than 30 days shall be subject to the penalties and sanctions specified in Iowa Code subsection 324A.5(3).

910.7(1) If the department of human services purchases services from the noncompliant provider, the department's office of public transportation shall notify the department of human services of the noncompliant finding.

910.7(2) If the noncompliant provider is a recipient of public funds from other than the department of human services, the department's office of public transportation shall notify the proper authority as required in Iowa Code subsection 324A.5(3).

This rule is intended to implement Iowa Code sections 324A.4 and 324A.5.

761—910.8(17A,324A) Revocation.

910.8(1) If certification is revoked, the air and transit division shall send a written notice of revocation to the provider.

910.8(2) The affected public transit system, the provider and the air and transit division shall meet within 10 days after the date of the revocation notice to determine an acceptable amendment of the transportation services. The amendments which are agreed upon shall become effective within 60 days. The contract between the provider and the affected public transit system shall be amended, if necessary, to agree with the service changes.

910.8(3) If the transportation services are not timely amended, the air and transit division shall initiate actions as required in Iowa Code subsection 324A.5(3).

This rule is intended to implement Iowa Code sections 17A.18 and 324A.5.

Appendix to rule 761—910.4(324A)

Date _____

FY _____

CERTIFICATION APPLICATION

State/Federal Administering Agency _____

I. GENERAL INFORMATION:

Agency Name:_____

Address:_____

_____

Contact Person:_____Phone:(_____)_____

Service Area (counties):_____

Types of Clients:_____

Types of Services:_____

_____

Does agency provide transportation services? Yes _____ No _____

Does agency use public funds for transportation? Yes _____ No _____

II. TRANSPORTATION ACTIVITIES:

Population groups served: Elderly _____ Youth Economically Deprived _____ Public _____

Persons with physical disabilities _____ Persons with mental disabilities _____ Other _____

Describe others:_____

_____

Services Accessed: Medical _____ Day Care _____ Shopping _____ Nutrition _____ Employment _____

Recreation _____ Education/training _____ Other social services_____

What percent of your transportation service (in terms of miles driven) is operated during the following time periods?

_____ % weekdays + _____ % evenings + _____ % weekends = 100%

Is any part of agency's transportation purchased from an urban or regional transit system?

Yes _____ No _____ If yes, please indicate system:

_____

III. AGENCY OPERATED VEHICLE FLEET:

Year/ Model	Seats/ Wheelchairs	Special Equipment*	% Used for Passengers	Average Monthly Ridership	Average Monthly Vehicle Miles	Owned/ Leased

* Two-way radio, wheelchair lift, ramp, etc.

IV. FUNDING SOURCES USED FOR SUPPORT OF TRANSPORTATION: **Total $ _____**

Source	Federal	State	Local	Annual Total
1.				$
2.				$
3.				$
4.				$
5.				$
6.				$
Total	_____	_____	_____	$

V. PURCHASE OF SERVICE (Contracts and Vendor Agreements): **Total $ _____**

	Average Monthly Ridership	Average Monthly Vehicle Miles	Projected Annual Expenditures
Taxi			$
Intracity bus			$
Regional/Urban Transit System			$
Other - specify			$
Total	———	———	$

VI. OPERATION OF OWN TRANSPORTATION SERVICE: **Total $ _____**

STAFF	Number	% of Time	Projected Annual Expenditures
Administrative			$
Drivers			$
Maintenance			$
Professional			$
Escorts			$
Volunteers reimbursement		$ /mile	$
Other - specify			$
Subtotal	———	———	$

VEHICLE OPERATING COSTS	Projected Annual Expenditures
Fuel and oil	$
Maintenance and repair	$
Insurance	$
Licenses and fees	$
Staff mileage reimbursement $ /mile	$
Indirect cost or overhead	$
Other - specify	$
Subtotal	$

PURCHASE OR LEASE OF VEHICLES AND SPECIAL EQUIPMENT

Vehicle Type	No. to be Leased	No. to be Purchased	No. for Replacement	No. for Expansion	Special Equipment	Projected Annual Cost
						$
						$
						$
Subtotal	———	———	———	———	———	$

Note: The total funding in Section IV must equal the total expenditures in Section V plus Section VI.

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[Editorial change: IAC Supplement 2/23/11]

CHAPTER 911
SCHOOL TRANSPORTATION SERVICES PROVIDED BY REGIONAL TRANSIT SYSTEMS

761—911.1(321) Purpose and information.

911.1(1) *Purpose.* This chapter establishes standards for school transportation services provided by Iowa's regional transit systems under contract with local schools.

911.1(2) *Information.* Information and forms may be obtained from the Department of Transportation, Office of Public Transit, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1875.

761—911.2(321,324A) Definitions. For the purpose of these rules, the following definitions apply:

"Automobile" means a motor vehicle, except a motorcycle or motorized bicycle, designed primarily to carry nine persons or less, as defined in Iowa Code section 321.1.

"Bus" means a motor vehicle, excluding a trailer, designed to carry ten or more persons.

"Contract" means a written agreement between a public or nonpublic school or other group and a regional transit system which defines the terms and conditions under which school transportation service is to be provided. It shall not include the relationship between a regional transit system and an individual fare-paying passenger in either fixed route or demand response service.

"Multipurpose vehicle" means a motor vehicle designed to carry not more than ten persons, and constructed either on a truck chassis or with special features for occasional off-road operation, as defined in Iowa Code section 321.1.

"Regional transit system" means a regional transit system designated under Iowa Code section 324A.1 and all subcontracted providers to the designated regional transit system. It does not mean an urban transit system designated under that section.

"School bus" means a bus that complies with all federal motor vehicle safety standards applicable to a school bus.

"School transportation service" means transit service provided under contract to a public or nonpublic school or other group, including day care centers, to transport students to or from schools or school-sponsored activities.

"Student" means a person attending a public or nonpublic school, grades prekindergarten through high school.

"Vehicle" means an automobile, multipurpose vehicle, bus or school bus as defined in this rule.

761—911.3(321) Services to students as part of the general public. All services provided by regional transit systems must be open to the public. This chapter shall not be construed to restrict the use of these services by any individual fare-paying passenger, in either fixed route or demand response service.

761—911.4(321) Contracts for nonexclusive school transportation. As common carriers in urban transportation service, regional transit systems may contract with schools, day care providers, after-school program providers, or others to provide nonexclusive school transportation service that meets the requirements of this chapter. Exclusive service contracts are prohibited.

761—911.5(321) Adoption of federal regulations.

911.5(1) *Code of Federal Regulations.* The department of transportation adopts the following portions of the October 1, 2006, Code of Federal Regulations, which are referenced throughout this chapter:

a. 49 CFR Part 38, Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.

b. 49 CFR Part 571, Federal Motor Vehicle Safety Standards.

c. 49 CFR Part 655, Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations.

911.5(2) *Obtaining copies of regulations.* Copies of these regulations are available from the state law library or through the Internet at http://www.dot.gov.

761—911.6(321) Driver standards. The following standards apply to regional transit system drivers assigned to provide school transportation service:

911.6(1) *FTA drug and alcohol testing.* Each driver is subject to the following testing for drug and alcohol usage as required by the Federal Transit Administration in 49 CFR Part 655, including:

a. Preemployment testing.

b. Reasonable suspicion testing.

c. Postaccident testing.

d. Random testing.

e. Return to duty testing.

f. Follow-up testing.

911.6(2) *Training.* Each new driver must, within the first six months of assignment and at least every 12 months thereafter, complete a course of instruction approved by the department of education, in accordance with Iowa Code section 321.376.

911.6(3) *Driving record check.* The regional transit system must review the driving record of each driver prior to employment and on an annual basis.

911.6(4) *Criminal record check.* The regional transit system must conduct a criminal records review of each driver prior to employment and on an annual basis. This review verifies that the driver has no history of child abuse or other criminal activity.

911.6(5) *Driver licensing.* Each driver must be licensed appropriately for the size and type of vehicle used as provided in Iowa Code section 321.189. A Class A, B or C commercial driver's license with passenger endorsement may be required. If a commercial driver's license is not required, a Class D (chauffeur) license with passenger endorsement is required.

911.6(6) *Authorization to operate a school bus.* Each driver who transports students must have an authorization to operate a school bus issued by the department of education in accordance with Iowa Code section 321.376.

761—911.7(321) Vehicle standards. The following standards apply to regional transit system vehicles assigned to provide school transportation service:

911.7(1) *Vehicle construction.*

a. Each vehicle must be constructed in compliance with the federal motor vehicle safety standards for that type of vehicle as set forth in 49 CFR Part 571. The capacity rating of automobiles and multipurpose vehicles shall not be modified or altered in any way except by the original manufacturer.

b. Each bus in use must also comply with the following federal motor vehicle safety standards:

(1) Standard No. 217, Bus Emergency Exits and Window Retention and Release. Buses purchased after January 1, 2000, shall incorporate a rear emergency exit door in meeting this standard.

(2) Standard No. 220, School Bus Rollover Protection.

(3) Standard No. 221, School Bus Body Joint Strength.

(4) Standard No. 301, Fuel System Integrity.

911.7(2) *Passenger restraint/protection.* Each automobile, multipurpose vehicle or school bus must provide passenger restraint/protection devices as required for that type of vehicle in the federal motor vehicle safety standards. Each bus must meet the standards listed in either *"a"* through *"f"* below or *"g"* below:

a. Standard No. 207, Seating Systems.

b. Standard No. 208, Occupant Crash Protection.

c. Standard No. 209, Seat Belt Assemblies.

d. Standard No. 210, Seat Belt Assembly Anchorages.

e. Standard No. 213, Child Restraint Systems.

f. Standard No. 225, Child Restraint Anchoring Systems.

g. Standard No. 222, School Bus Passenger Seating and Crash Protection.

911.7(3) *Accessibility for persons with disabilities.* Each vehicle used for students with disabilities must comply with all applicable provisions of 49 CFR Part 38.

911.7(4) *Signage.* A vehicle must not be signed as a school bus.

911.7(5) *Department of education inspection.* Every vehicle must be inspected twice annually by the department of education school bus inspectors and officers of the Iowa state patrol to determine if the vehicle meets all vehicle standards set forth in this chapter.

The department of education will notify each regional transit system of the dates and locations of scheduled inspections. Inspections must be documented on a form prescribed jointly by the departments of transportation and education.

761—911.8(321) Maintenance. Regional transit system vehicles assigned to provide school transportation service must be maintained in a safe and operable condition. The following maintenance practices apply:

911.8(1) *FTA drug and alcohol testing of mechanics.* All personnel providing maintenance services on regional transit system vehicles are subject to drug and alcohol testing as required by the Federal Transit Administration in 49 CFR Part 655.

911.8(2) *Daily pretrip vehicle inspections.* Drivers of these vehicles must perform daily pretrip vehicle inspections using a form prescribed by the department of transportation. Regional transit systems must retain daily pretrip vehicle inspection reports and documentation of follow-up maintenance for one year.

911.8(3) *Annual vehicle inspection.* Maintenance personnel must annually inspect each vehicle using a form prescribed by the department of transportation. Regional transit systems must retain annual inspection forms for one year.

761—911.9(321) Safety equipment. Regional transit system vehicles assigned to provide school transportation service must carry the following safety equipment:

911.9(1) *Communication equipment.* Each vehicle must be equipped with a two-way radio or cellular telephone capable of emergency communication between the vehicle and the regional transit system's base of operations.

911.9(2) *First-aid/body fluids cleanup kit(s).* Each vehicle must be equipped with a first-aid kit of sufficient size and content for the capacity of the vehicle and, in addition, be equipped with a body fluid cleanup kit. These may be provided as separate kits or combined into one kit. The contents of the kit(s) must be contained in one or more moisture-proof and dustproof containers mounted in an accessible location within the driver's compartment and must be removable from the vehicle in an emergency.

911.9(3) *Fire extinguisher.* Each bus or school bus must be equipped with a minimum 5-pound capacity, dry chemical fire extinguisher. Each automobile and multipurpose vehicle must be equipped with an extinguisher of at least 2.5-pound capacity. Extinguishers must have a 2A-10BC rating.

761—911.10(321) Operating policies. School transportation services provided by regional transit systems must be designed to maximize the safety of student riders and must, at a minimum, meet the following standards:

911.10(1) *Passenger loading/unloading.* Unless prohibited by law, students transported in vehicles other than school buses must be loaded and unloaded on the same side of the street as their residence or other origin or destination. Students may be released only to the custody of a designated school official, parent or guardian, employee of the department of human services, or law enforcement official, unless other arrangements are made in advance.

911.10(2) *Student passenger behavior and discipline policy.* Each contract for school transportation service must include a policy relating to the behavior of students while they ride in vehicles. The regional transit system or school must provide instruction to all drivers assigned to school transportation service relative to the content and application of the policy. If a student is removed from a vehicle for one or more policy violations, the student may be released only to the custody of a school official, parent or guardian, employee of the department of human services or a law enforcement officer. In all cases, the school must be notified immediately of any such disciplinary action, and a written report must be filed with the school describing the circumstances resulting in the removal.

911.10(3) *Standing prohibited.* Under no circumstances shall a student be permitted or required to stand while a vehicle is in motion. Every student must be provided an appropriate seat at all times.

911.10(4) *Stops at rail crossings.* Every driver must make a complete stop before crossing the tracks of any railroad crossing, in accordance with Iowa Code section 321.343. In the case of a bus or school bus, the driver must open the service entrance door, look and listen for approaching trains and proceed to cross the tracks only when the driver can do so safely. No stop is needed where the crossing is posted with an exempt sign.

911.10(5) *Accident reporting.* If a driver is involved in a collision or other incident causing or having a potential to cause injuries to students, the regional transit system must immediately notify the school of the incident. The regional transit system must file all accident reports required by law. In addition, the regional transit system must complete a school bus accident report on a form prescribed by the department of education and submit it to the school or the department of education.

911.10(6) *Passenger instruction/evacuation drills.* Each school must provide students assigned to school transportation service with school bus passenger safety instruction and emergency evacuation drills at least twice each school year. These evacuation drills must involve a vehicle of the same type used to provide the school transportation service.

911.10(7) *Special training for drivers carrying students with disabilities.* Each school contracting for school transportation services for a student with one or more disabilities must provide the regional transit system with information on any special needs of the student and, if necessary, provide the assigned driver with appropriate information and training on how to appropriately respond to the needs of the student during transit and in the event of an emergency.

911.10(8) *Posttrip inspection.* After each trip that had students on board, the driver must perform a posttrip inspection of the interior of the vehicle used to transport the students.

These rules are intended to implement Iowa Code sections 321.1, 321.189, 321.343, 321.376, 321.377 and 324A.1.

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CHAPTERS 912 to 919
Reserved

CHAPTER 920
STATE TRANSIT ASSISTANCE

[Prior to 6/3/87, Transportation Department [820]—(09,B)Ch 1]

761—920.1(324A) Statement of policy. State financial assistance to any public transit system shall be restricted to joint projects with the department that hold substantial promise of accomplishing the following goals:

920.1(1) Development, maintenance and improvement of transit services for the general public and for transportation disadvantaged persons, as defined in Iowa Code section 324A.1.

920.1(2) Protection of the rights of private enterprise public transit providers, especially those providing intercity scheduled services on fixed routes.

920.1(3) Improvement of transit system effectiveness and efficiency.

761—920.2(324A) General information. The department shall send annually to each public transit system in Iowa the required forms and instructions for applying for state transit assistance. Requests for assistance and questions about application preparation should be directed to: Office of Public Transportation, Air and Transit Division, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)233-7870.

[Editorial change: IAC Supplement 2/23/11]

761—920.3(324A) Definitions.

Department. The state department of transportation. Both the air and transit division and the planning and research division of the department have responsibilities under these rules.

Joint Participation Agreement. A contract between the department and a public transit system for either operations or capital assistance needed for implementation of a transit service project or projects. Each agreement shall include, but not be limited to, a project budget, method of payment, and period of performance.

Programmed project assistance. State transit assistance appropriations minus funds reserved for special projects.

Project. A concerted set of actions that will develop, maintain, or improve one or more elements of the public transit system's service.

Public transit system. A transit system, either urban or regional, which provides transit services to both the general public and transportation disadvantaged persons.

Regional transit system. See Iowa Code subsection 324A.1(7).

Urban transit system. A system designated by the department which meets the requirements of Iowa Code subsection 324A.1(6). To be designated as an urban transit system for the purposes of this chapter, the system must serve a city or urbanized area with a population of 20,000 or more. The system must also be managed by a board of local officials who have either been elected by the public or appointed by elected officials, and who are responsible for policy and oversight of transit services for one or more incorporated areas within Iowa. Nothing in this paragraph shall be construed to exclude any provider of transit services in an urbanized area from state transit assistance funding if that system was in operation on November 10, 1976, and since that time has provided transportation services on a continuing basis to both the general public and the transportation disadvantaged.

761—920.4(324A) Types of projects.

920.4(1) *Programmed projects.* A programmed project may involve operations assistance, capital assistance, or both. These projects are developed, analyzed and ranked through the transit planning process which involves the following steps:

a. Each public transit system shall arrange with the appropriate planning agencies for a review of all projects submitted, shall ensure public participation and discussion, and shall list the projects by priority.

b. Each public transit system shall submit its ranked list of proposed projects to the air and transit division.

920.4(2) *Special projects.*

a. Special projects are extraordinary, emergency or innovative in nature, and may include, but are not limited to, the following purposes:

(1) Expanding the scope of planning, managerial, or technical expertise.

(2) Improving the performance or fiscal viability of the transit system.

(3) Enhancing the capacity for administration consolidation and service coordination.

(4) Reducing impediments to intramodal or intermodal transfers.

(5) Increasing the cooperation between private and public sectors.

(6) Providing incentives for increased commitment of private or public support.

(7) Developing, demonstrating, or refining some technical, procedural, or mechanical innovation so that it may be successfully employed by other public transit systems in Iowa.

(8) Responding to an emergency situation that places an extraordinary and unforeseen strain on the resources of a public transit system.

b. Proposals for special projects may be submitted to the air and transit division at any time. However, because of limited funding, special projects should be submitted with the programmed projects, if possible.

c. A special project may either involve assistance to an individual public transit system or to several systems as a group.

761—920.5(324A) Standards for projects.

920.5(1) *Requirements for transit system.* A public transit system is eligible for project assistance if the system is in compliance with all of the following criteria:

a. It uses a centralized accounting system that maintains primary documentation for all revenues and expenses.

b. One person is responsible for managing the assets, operations and funding of the system.

c. It maintains its policies, routes, schedules, fare structure, and budget in a manner that encourages public review, responsiveness to user concerns, energy conservation, and fiscal solvency.

d. It has received departmental approval of its plan or schedule for repayment of any loan administered by the department.

920.5(2) *Project conditions.* The department shall obligate state transit assistance for joint projects that meet the following criteria:

a. Each special project shall have a preestablished basis for determining success using a specified means of performance measurement, and a detailed budget of the resources available and the assistance necessary for implementation.

b. Each project shall contain payment criteria which are mutually agreed upon by the department and the contracting officer of the transit system.

c. A project may involve either capital assistance or operations assistance but a separate joint participation agreement is required for each type of assistance funded.

d. State assistance for a special project involving capital expense shall not exceed 13.3 percent of the project's total capital expense. State assistance for a special project involving operating support shall not exceed 50 percent of the project's total operating expense. In special or emergency situations, these requirements may be waived by the director of the air and transit division to permit a fiscal-year maximum of $5000 for any one system.

920.5(3) *Items not eligible for assistance.*

a. Any expense related to heavy rail transit service, including planning, capital, or operations.

b. Administrative, operations, or capital expense which is determined by the department to be inconsistent with department policies, public law, officially approved planning and programming documents, or inconsistent with the purpose of improving the effectiveness and quality of transit services.

c. Development of managerial, administrative, or operational systems which duplicate programs made available at no charge to the transit system by the department.

920.5(4) *Determination of system eligibility for programmed project assistance.*

a. Prior to the beginning of each fiscal year, each transit system's programmed eligibility shall be determined through the process shown in the appendix located at the end of this chapter of rules and included as part of this chapter.

(1) Transit system data used in determining programmed eligibility is derived from the last fiscal year for which complete information is available.

(2) The process shown in the appendix establishes the percentage of available state transit assistance funds not reserved for special projects for which each transit system is eligible during the fiscal year.

b. If a known dollar amount of state transit assistance has been appropriated for the fiscal year, the amount of each system's eligibility for programmed project assistance from this appropriation shall be determined by multiplying the system's programmed eligibility by the amount of the appropriation not reserved for special projects.

c. If the dollar amount of state transit assistance is not known until the funds are actually deposited in the state transit assistance fund, the amount of each system's eligibility for programmed project assistance from these funds shall be determined as follows: At the beginning of each fiscal quarter, the system's programmed eligibility shall be multiplied by the amount of new funds not reserved for special projects that were deposited in the state transit assistance fund during the previous quarter.

d. A transit system's eligibility for programmed project assistance may be reduced if it is subject to the sanctions outlined in Iowa Code section 324A.5 or 761—Chapter 910.

920.5(5) *Determination of amount reserved for special projects.* Each fiscal year, up to $300,000 may be reserved from state transit assistance appropriations for special projects if the appropriations for the year are expected to equal or exceed $500,000. Any special project funds not obligated in the previous fiscal year and any funds made available through closeout of previously approved projects may also be reserved for special projects. Special project funds are distributed by the department on a discretionary basis in accordance with subrule 920.4(2) of this chapter.

761—920.6(324A) Processing.

920.6(1) *Review.* The department, through its air and transit division and planning and research division, shall review the proposed projects.

920.6(2) *Program.* Based on available funds and the project priorities established by the transit systems, the air and transit division shall prepare a list of both programmed and special projects recommended for funding approval.

920.6(3) *Approval.* The air and transit division shall submit the list to the transportation commission for approval.

920.6(4) *Agreement.* Upon approval by the commission, the air and transit division shall prepare a joint participation agreement and send it to the public transit system for signing. The agreement shall be returned to the air and transit division for signing by the department.

Rules 920.1(324A) to 920.6(324A) are intended to implement Iowa Code chapter 324A.

APPENDIX TO
761—920.5(324A)

FY	Fiscal year. The 12-month period beginning July 1 of one year and ending June 30 of the following year.
LDI	Locally determined income. All transit system revenue dedicated for operations expense during a fiscal year, minus federal operating assistance from the U.S. Department of Transportation and minus all special project operating support and programmed eligibility funds received from the Iowa Department of Transportation.
OpExp	Operations expense. All eligible transit system expenses related to operating, maintaining, and administering transit operations.
Pass	Passenger. A person boarding a transit vehicle for the purpose of making a trip. A passenger is counted each time a person boards a vehicle, even though the person may be on the same journey from origin to destination.
PE	Programmed eligibility. The percentage of any state transit assistance appropriation that a public transit system is eligible to receive from the nondiscretionary portion of the appropriation. Determination of a public transit system's "programmed eligibility" shall be made using the method diagrammed in this appendix. System programmed eligibility is reduced by 25 percent for each quarter of any fiscal year in which no joint participation agreement with the department has been executed. The director of the air and transit division may waive this reduction.
RevMi	Revenue Miles. Total vehicle miles traveled by revenue vehicles of public transit systems while in revenue service. Excludes miles traveled to and from storage facilities and other deadhead travel.

APPENDIX TO
761—920.5(324A)

FORMULA FOR DETERMINATION OF PROGRAMMED ELIGIBILITY

$$\text{Regional System's PE} = .50\,\frac{\text{Regional RevMi}}{\text{Total State RevMi}} \times \frac{\text{System's LDI}}{\text{Sum of LDI for all regions}} + .25\,\frac{\text{Regional RevMi}}{\text{Total State RevMi}} \times \frac{\text{System's Pass to OpExp ratio}}{\text{Sum of Pass to OpExp ratios for all regions}} + .25\,\frac{\text{Regional RevMi}}{\text{Total State RevMi}} \times \frac{\text{System's RevMi to OpExp ratio}}{\text{Sum of RevMi to OpExp ratios for all regions}}$$

$$\text{Urban System's PE} = .50\,\frac{\text{Urban RevMi}}{\text{Total State RevMi}} \times \frac{\text{System's LDI}}{\text{Sum of LDI for all urbans}} + .25\,\frac{\text{Urban RevMi}}{\text{Total State RevMi}} \frac{\text{System Pass to OpExp ratio}}{\text{Sum of Pass to OpExp ratios for all urbans}} + .25\,\frac{\text{Urban RevMi}}{\text{Total State RevMi}} \times \frac{\text{System's RevMi to OpExp ratio}}{\text{Sum of RevMi to OpExp ratios for all urbans}}$$

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CHAPTER 921
ADVANCED ALLOCATIONS OF STATE TRANSIT ASSISTANCE FUNDING

[Prior to 6/3/87, Transportation Department [820]—(09,B)Ch 2]

761—921.1(324A) Scope of chapter. This chapter shall apply only to those transit systems eligible for and having or proposing to have a "Joint Participation Agreement" in force with the Iowa department of transportation for state transit assistance funding as set forth in rules 761—Chapter 920. This chapter implements provisions for advance allocations of state transit assistance funding as set forth in Iowa Code subsection 324A.6(5). The requirements for the award of state funds for state transit assistance and subsequent procedures are found in rules 761—Chapter 920.

761—921.2(324A) Basic types of advance allocations. Advance allocations of state transit assistance are paid prior to the time actual expenditures are incurred. Three basic types of advance allocations shall be available:

921.2(1) Payment of one-fourth (or 25 percent) of the total "Joint Participation Agreement" amount prior to or during each fiscal quarter, starting on the execution date of the "Joint Participation Agreement."

921.2(2) Payment of an amount to be denoted in the "Joint Participation Agreement" prior to or during each fiscal quarter, starting on the execution date of the "Joint Participation Agreement."

921.2(3) Payment of the total "Joint Participation Agreement" amount prior to or during the project period, starting on the execution date of the "Joint Participation Agreement."

761—921.3(324A) Application for advance allocations.

921.3(1) Transit systems having or proposing to have a "Joint Participation Agreement" with the department for state transit assistance funding may make written application for advance allocations of the "Joint Participation Agreement" amount. The application shall be directed to: Office of Public Transportation, Air and Transit Division, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)233-7870.

921.3(2) Transit systems applying for state transit assistance funding, pursuant to 761—Chapter 920, may make written application for advance allocations of proposed or existing "Joint Participation Agreement" amount as part of the application for state transit assistance.

921.3(3) No application for advance allocation shall be complete without:

a. The name of the transit system.

b. A specific statement of the reasons why an advance allocation is required by the transit system.

c. A statement from the transit system which indicates the specific existing or proposed "Joint Participation Agreement" from which advance allocations are to be derived.

d. A statement from the transit system which indicates that the contract officer has read these administrative rules and certifies that the contract officer shall comply with them.

e. The signature of the contract officer of the transit system, and the date of the signature.

f. If varied advance allocations per quarter are requested pursuant to subrule 921.2(2), the following shall also be included in the application:

(1) A statement denoting the proposed advance allocations for each quarter, including the dollar amounts and the percentage of each quarter's proposed advance allocation to the total "Joint Participation Agreement" amount.

(2) A statement of justification for the varied allocation amounts requested.

(3) A detailed transit system cash flow analysis projected for the performance period of the "Joint Participation Agreement."

921.3(4) Rescinded, effective April 16, 1986.

[Editorial change: IAC Supplement 2/23/11]

761—921.4(324A) Application approval. The air and transit division of the Iowa department of transportation shall review all applications for advance allocations of state transit assistance. It shall also approve, disapprove or defer all such applications. Provisions of applications which are approved

shall be written into and made a part of the transit system's state transit assistance "Joint Participation Agreement," if it is in effect, or written into such "Joint Participation Agreement" when awarded by the department pursuant to rules 761—Chapter 920. The transit system shall be so notified of such action. Transit systems whose applications for advance allocations are disapproved or deferred shall be so notified, including the reason(s) for such actions.

761—921.5(324A) Consideration in determining the approval of advance allocation application. The air and transit division shall give consideration to the following items in determining the approval, disapproval or deferment of advance allocation applications:

921.5(1) The justification submitted with the application pursuant to subrule 921.3(3).

921.5(2) Previous experience of the air and transit division in dealing with the transit system making application including but not limited to the following:

a. Timeliness of contract and application materials, as assessed by the air and transit division.

b. Fiscal management capability of the transit system, as assessed by the air and transit division.

761—921.6 Rescinded, effective April 16, 1986.

761—921.7(324A) Reports, and suspension and termination of allocations.

921.7(1) Transit systems receiving advance allocations shall provide quarterly and end-of-the-year financial and statistical reports to the air and transit division in the manner and within the time limits described in the state transit assistance "Joint Participation Agreements." These reports shall be made on forms prescribed for that purpose and furnished to the transit systems by the air and transit division.

921.7(2) Failure to file quarterly and end-of-the-year financial and statistical reports by any transit system with the air and transit division in the manner and within the time limits described in the state transit assistance "Joint Participation Agreement" shall be cause for suspension or termination of those provisions of the "Joint Participation Agreement," and therefore, suspension or termination of advance allocation payments made by the Iowa department of transportation. The air and transit division shall notify any transit system of such actions.

921.7(3) Payment of eligible "Joint Participation Agreement" expenses to a transit system that has had advance allocation contract provisions suspended or terminated by the air and transit division shall be by the method of reimbursement payments as described in the state assistance "Joint Participation Agreements."

761—921.8(324A) Income derived from interest-bearing accounts and investments.

921.8(1) Any transit system that receives advance allocation payments shall deposit these funds in a separately identified interest-bearing account until such time as they are expended on costs incurred by the transit system.

921.8(2) All income derived from interest-bearing accounts and investments shall be credited to the transit system and its transit accounts as a nonoperating or nontransportation revenue.

761—921.9(324A) "Joint Participation Agreement" close and audits.

921.9(1) Each transit system receiving advance allocations shall, as part of the end-of-the-year financial and statistical report, calculate the total "Joint Participation Agreement" amount eligible for payment by the Iowa department of transportation within the limits stated in the "Joint Participation Agreement." This eligible "Joint Participation Agreement" amount shall be compared to the total amount of the advance allocations for that "Joint Participation Agreement." If the advance allocations' total is greater than the eligible "Joint Participation Agreement" amount, the transit system must repay the Iowa department of transportation the difference. After verification of these calculations, the department shall issue to the public transit system an invoice for the amount of the required repayment. Failure to make this repayment shall be grounds for:

a. Termination of other transit assistance "Joint Participation Agreements" with that transit system,

b. Suspension or termination of further advance allocations made on future "Joint Participation Agreements,"

c. Reduction of Iowa department of transportation participation in existing or future "Joint Participation Agreements," or

d. Reducing future "Joint Participation Agreement" reimbursement requests of the transit system by an amount not to exceed the unpaid debt owed the Iowa department of transportation and crediting the outstanding debt of the project being closed out.

921.9(2) The air and transit division may institute any such action(s) as stated in subrule 921.9(1) above and shall notify any transit system of such action taken against them.

921.9(3) After the repayment and end-of-the-year financial and statistical reports are submitted, or after the air and transit division has instituted any action(s) for failure to do so, the Iowa department of transportation shall audit the transit system's books, accounts, records and other material and information necessary to determine "Joint Participation Agreement" compliance. The advance allocations paid to the transit system shall be taken into consideration and made part of the amount to be audited.

Rules 921.1 to 921.9 are intended to implement Iowa Code chapter 324A.

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CHAPTER 922
FEDERAL TRANSIT ASSISTANCE

[Prior to 6/3/87, Transportation Department[820]—(09,B)Ch 3]

761—922.1(324A) Projects for nonurbanized areas and private nonprofit transportation providers.

922.1(1) *General information.*

a. Section 18 of the Federal Transit Act established a program of federal financial assistance for support of public transportation projects in areas outside urbanized areas of 50,000 or more population as defined by the U.S. Census Bureau.

b. Section 16 of the same Act established a program of federal financial assistance for support of capital acquisitions for private nonprofit providers of specialized transportation services for elderly and handicapped persons.

c. As required by the Federal Transit Act, the Iowa transportation commission has been designated by the governor to administer both programs within Iowa, subject to review by the Federal Transit Administration (FTA).

922.1(2) *State management plan.*

a. Sections 16 and 18 federal transit assistance programs within Iowa shall be administered according to "Iowa's State Management Plan for the Section 16 and 18 FTA Programs," dated July 1, 1993, which has been prepared by the department and approved by the Federal Transit Administration in conformance with FTA Circulars 9040 and 9070.1C.

b. Copies of the state management plan are available upon request from: Air and Transit Division, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

This rule is intended to implement Iowa Code chapter 324A.

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CHAPTER 923
CAPITAL MATCH REVOLVING LOAN FUND

[Prior to 6/3/87, Transportation Department[820]—(09,B)Ch 4]

761—923.1(71GA,ch265) General information.

923.1(1) *Scope of chapter.* The general assembly appropriated money from the petroleum overcharge fund to the department to be used as a revolving loan fund for transit capital purchases by public transit systems. The revolving loan fund will enable public transit systems to obtain the matching funds required to qualify for capital purchases under federally funded projects. The fund will provide multiyear interest-free loans to public transit systems to allow faster capital acquisitions. Loan recipients shall be required to demonstrate ability to repay the loan from budgeted funds or revenues.

923.1(2) *Information.* Information, requests for assistance, and answers to questions about the preparation and submission of loan requests may be obtained by contacting: Office of Public Transportation, Air and Transit Division, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)233-7870.

[Editorial change: IAC Supplement 2/23/11]

761—923.2(71GA,ch265) Definitions. The definitions in rule 761—920.3(324A), Iowa Administrative Code, for "department," "public transit system," and "project" shall also apply to this chapter.

761—923.3(71GA,ch265) System eligibility. A public transit system is eligible to request a capital assistance loan from the revolving loan fund if it complies with all of the following criteria:

923.3(1) It uses a centralized accounting system that maintains primary documentation for all revenue and expenses.

923.3(2) One person is responsible for managing the assets, operations, and funding of the system.

923.3(3) It maintains its policies, routes, schedules, fare structure, and budget in a manner that encourages public review, responsiveness to user concerns, energy conservation, and fiscal solvency.

761—923.4(71GA,ch265) Project eligibility.

923.4(1) A project is eligible if it meets all of the following criteria:

a. It is a transit-related project for a capital purchase, e.g., new or replacement vehicles, facilities, or both.

b. It qualifies for federal funding approval which includes meeting the federal spare vehicle ratio requirement.

c. It meets an identifiable transit need that has been included in the public transit system's planning or programming document.

d. It is part of a statewide program of transit projects which has been adopted by the transportation commission.

e. The local funding needed for the project justifiably exceeds the public transit system's annual capital match funding capability.

923.4(2) A project to purchase vans for a vanpool, as defined in Iowa Code subsection 325.1(9), may be submitted by an individual or a group through the appropriate public transit system. A vanpool project is eligible for an interest-free loan from the revolving loan fund only after funds for all other projects have been allocated.

761—923.5(71GA,ch265) Procedure.

923.5(1) *Federal funding request.* The public transit system shall submit an application for federal funding approval of the proposed project to either the air and transit division or to the Federal Transit Administration, as required by the type of funding requested.

923.5(2) *Loan request.* The public transit system shall normally submit a request for a revolving fund loan to the air and transit division when the annual grant application is made, but may submit a request at any time if a specific need arises. The request shall include, but not be limited to, the following topics and documents:

a. A description and cost estimate of the proposed project.

b. An explanation of the benefits, including projected energy conservation benefits, to be gained from the project.

c. An explanation and justification of need for the loan.

d. A proposed schedule of when funds will be needed for the project.

e. A proposed loan repayment plan with schedule and source of funds.

923.5(3) *Criteria for selection.* The air and transit division shall review each loan request and shall evaluate the projects for funding. Based on the following criteria (not listed in order of preference), preference shall be given to projects that:

a. Foster coordination among transit services, such as a ground transportation center, a joint maintenance facility, or cooperative vehicle usage.

b. Enhance local or regional economic development, such as a transit mall, passenger shelter facilities, or vehicles for extension of services.

c. Increase federal funding to the state, such as accelerating purchase of replacement vehicles.

d. Extend services to the transportation disadvantaged.

e. Promote energy conservation, such as fuel efficiency.

f. Require the loan as only a portion of the local matching funds required.

923.5(4) *Approval.* Based on available funds, the air and transit division shall approve loans for projects meeting the criteria in subrule 923.4(1) or shall submit recommended loan projects meeting the criteria in subrule 923.4(2) to the transportation commission for approval. Submission may be on an annual or an individual basis.

923.5(5) *Agreement.* Upon approval by the transportation commission, the air and transit division shall prepare a loan contract and send it to the public transit system for signing. The signed contract shall be returned to the air and transit division for signing by the department.

923.5(6) *Default.* If a public transit system fails to make a loan payment as agreed in the contract, the air and transit division may, at its option, deduct the amount of any loan payment past due from state transit assistance payments allocated to that transit system.

These rules are intended to implement 1985 Iowa Acts, chapter 265.

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CHAPTER 924
PUBLIC TRANSIT INFRASTRUCTURE GRANT PROGRAM

761—924.1(324A) Purpose. The purpose of the public transit infrastructure grant program is to provide funding for improvement of the vertical infrastructure of Iowa's designated public transit systems.

761—924.2(324A) Definitions. The following definitions shall apply to this chapter:

"Public transit system" means one of the regional transit systems or urban transit systems designated under Iowa Code section 324A.1.

"Vertical infrastructure" is defined in Iowa Code section 8.57, subsection 6.

761—924.3(324A) Information and forms. Information, instructions, and application forms may be obtained from the Office of Public Transit, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1875. Information and forms are also available through the Internet at http://www.iatransit.com.

761—924.4 Reserved.

761—924.5(324A) Applicant eligibility. Eligible public transit systems shall be limited to the regional transit systems and urban transit systems that have been designated under Iowa Code chapter 324A.

761—924.6(324A) Project eligibility. Projects may be considered for funding only if:

924.6(1) The project has been included in a locally approved transportation improvement program and in the statewide transportation improvement program.

924.6(2) Local match for the project is currently available.

924.6(3) The project is capable of being substantially completed within 18 months of project selection.

761—924.7(324A) Eligible project activities. Activities that are eligible for reimbursement include, but are not limited to, the following:

924.7(1) Construction, expansion, or renovation of facilities for administration of public transit operations, including any associated design, land acquisition, grading and foundation work.

924.7(2) Construction, expansion, or renovation of facilities for servicing, maintenance or storage of public transit vehicles, including any associated design, land acquisition, grading and foundation work.

924.7(3) Construction, expansion, or renovation of transit vehicle fueling facilities, including any associated design, land acquisition, grading and foundation work.

924.7(4) Construction, expansion, or renovation of passenger waiting facilities, including any associated design, land acquisition, grading and foundation work.

924.7(5) Relocating an existing administrative or maintenance facility, if necessary to correct violations of safety or design standards. Such project may include any associated design, land acquisition, grading and foundation work.

761—924.8(324A) Ineligible project activities. A transit facility may be incorporated into a larger project. Examples might include, but are not limited to, an intermodal facility, a headquarters for the umbrella organization sponsoring the transit program, or a public works facility. If this is the case, those costs attributable to the nontransit elements of the larger project shall not be eligible under this program.

761—924.9 Reserved.

761—924.10(324A) Funding.

924.10(1) Program funds may reimburse up to 80 percent of transit-related project costs.

924.10(2) At least 20 percent of transit-related project costs must be provided from local sources by the sponsoring transit system in cash or value of real property.

924.10(3) Assistance from the public transit infrastructure grant program, when combined with federal or other state resources, may not exceed 80 percent of the project's transit-related costs.

761—924.11(324A) Project applications.

924.11(1) Project applications shall be submitted to the office of public transit.

924.11(2) Each application shall contain:

a. General information, including the transit system name, contact person, mailing address, E-mail address, telephone number, and fax number.

b. A project data sheet. The data sheet shall include the following:

(1) A brief description of the project and its purpose, project justification and anticipated benefits to the transit program.

(2) Cost information including total project cost and an itemized breakdown of project components (including transit vs. nontransit costs).

(3) The proposed implementation schedule.

(4) A statement of the applicant's ability to complete the project.

(5) A sketch of the project.

c. Documentation of project feasibility and costs.

d. A resolution from the governing body of the sponsoring transit system endorsing the project and authorizing the necessary local funding match.

761—924.12 and **924.13** Reserved.

761—924.14(324A) Project priorities. The transportation commission shall consider the following in project selection:

924.14(1) Benefits of project to the transit program in terms of:

a. Enhancement of the life of the transit vehicle fleet.

b. Enhancement to transit services.

c. Increased ridership.

924.14(2) Readiness to proceed.

924.14(3) Feasibility of timely completion of the proposed project.

924.14(4) Ability of the project to leverage other funds.

761—924.15(324A) Review and approval. Department staff shall review project applications with an industry advisory committee and shall submit recommendations to the transportation commission. The transportation commission is responsible for approving the projects to be funded.

761—924.16(324A) Project agreement and administration.

924.16(1) *Agreement.* After a project has been approved, the department shall enter into an agreement with the transit system sponsoring the project.

924.16(2) *Payments.* Payments to the transit system sponsor for eligible project costs shall be made on a cost reimbursement basis.

These rules are intended to implement Iowa Code sections 8.57 and 324A.1 and 2006 Iowa Acts, chapter 1179, section 55.

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