

**TRANSPORTATION DEPARTMENT[761]**

**Notice of Intended Action**

**Proposing rule making related to the definition of “vertical infrastructure”  
and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 180, “Public Improvement Quotation Process for Governmental Entities for Vertical Infrastructure,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 314.1A.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 26.2.

*Purpose and Summary*

This proposed rule making updates Chapter 180 to comply with 2020 Iowa Acts, House File 2412, which made changes to the definition of “public improvement” within Iowa Code section 26.2 to amend the exclusions included within the definition. The proposed rule making modifies the definition of “vertical infrastructure” to be consistent with House File 2412 and all of the other exclusions included within the definition of “public improvement.”

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 2, 2021. Comments should be directed to:

Tracy George  
Department of Transportation  
DOT Rules Administrator, Strategic Communications and Policy Bureau  
800 Lincoln Way  
Ames, Iowa 50010  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

*Public Hearing*

If requested, a public hearing to hear oral presentations will be held on February 4, 2021, via conference call from 1 to 2 p.m. Persons who wish to participate in the conference call should contact

Tracy George before 4:30 p.m. on February 2, 2021, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 761—180.2(314) as follows:

**761—180.2(314) Contact information.** Questions regarding this chapter may be directed to the Office of Support Services Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1299.

ITEM 2. Amend rule **761—180.3(26,314)**, definition of "Vertical infrastructure," as follows:

*"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~~ those matters excluded from the definition of "public improvement" in Iowa Code section 26.2(3) "b"(1) to (6).