

## TRANSPORTATION DEPARTMENT[761]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on June 10, 2009, adopted amendments to 761—Chapter 1, “Organization of the Department of Transportation,” and 761—Chapter 4, “Public Records and Fair Information Practices,” and rescinded 761—Chapter 801, “Relationship With Iowa Railway Finance.” The Department of Transportation is also rescinding Iowa Railway Finance Authority 765—Chapter 1, “Organization and Operation,” 765—Chapter 2, “Items of General Applicability,” 765—Chapter 3, “Financial Assistance,” and 765—Chapter 4, “Projects,” and transferring 765—Chapter 5, “Railroad Revolving Loan and Grant Fund Program,” to 761—Chapter 822, Iowa Administrative Code.

2009 Iowa Acts, Senate File 151, eliminated the Iowa Railway Finance Authority, transferred the responsibility of the Railroad Revolving Loan and Grant Program to the Department of Transportation, and eliminated the requirement that at least 50 percent of the Railroad Revolving Loan and Grant Program funding be issued as loans. This rule making amends the Department’s rules to comply with 2009 Iowa Acts, Senate File 151; eliminates references to the Iowa Railway Finance Authority; rescinds the administrative rules of the Iowa Railway Finance Authority that are no longer necessary; and transfers the Railroad Revolving Loan and Grant Fund administrative rules to the Department of Transportation.

For good cause and pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation prior to adoption of these amendments pursuant to Iowa Code section 17A.4(1) are impracticable and contrary to the public interest because the Iowa Railway Finance Authority was eliminated in 2009 Iowa Acts, Senate File 151. The Act has a July 1, 2009, effective date and any delay in the implementation of these amendments will prevent timely compliance with the statute itself.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Department finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective July 1, 2009. These amendments confer a benefit upon the public by providing for the prompt implementation of 2009 Iowa Acts, Senate File 151.

These amendments are intended to implement Iowa Code chapter 307 and Iowa Code section 327H.20A as amended by 2009 Iowa Acts, Senate File 151.

These amendments become effective July 1, 2009.

The following amendments are adopted.

ITEM 1. Amend rule 761—1.7(17A,307), introductory paragraph, as follows:

**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 ~~and the secretary of the Iowa railway finance authority.~~ 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:

ITEM 2. Amend subrule 1.8(7) as follows:

**1.8(7) Rail and water division.** The rail and water division is based in Ames; telephone (515)239-1367. 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 ~~Iowa railway finance authority~~ 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.

ITEM 3. Amend paragraph **4.1(1)“a”** as follows:

*a.* This chapter describes the provisions governing public access to records that are owned by or in the physical possession of the department, ~~including records of the Iowa railway finance authority.~~

However, access to personnel and payroll records may also be subject to the rules of the department of administrative services.

ITEM 4. Rescind and reserve **761—Chapter 801**.

ITEM 5. Rescind **765—Chapter 1** through **Chapter 4**.

ITEM 6. Transfer **765—Chapter 5** to **761—Chapter 822**.

ITEM 7. Amend **761—Chapter 822** by deleting “327I” from the parenthetical implementation statutes.

ITEM 8. Amend **761—Chapter 822** by replacing all references to “IRFA staff” with “department staff,” replacing “IRFA Board” with “transportation commission,” and replacing “board” with “commission.”

ITEM 9. Amend rule 761—822.1(327H) as follows:

**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 ~~2005 Iowa Acts, House File 875, section 31~~ 2009 Iowa Acts, Senate File 151, section 11, and is under the control of the ~~Iowa railway finance authority (IRFA)~~ department.

ITEM 10. Amend rule 761—822.3(327H) as follows:

**761—822.3(327H) Information.** Information may be obtained ~~from IRFA staff~~ at the following address: ~~Iowa Railway Finance Authority Coordinator~~, 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.

ITEM 11. Rescind subrule **822.5(3)**.

ITEM 12. Amend paragraph **822.10(1)“a”** as follows:

a. The applicant shall submit an original and two copies of a project application to the address in rule ~~765—5.3(327H,327I)~~ 761—822.3(327H).

ITEM 13. Amend **761—Chapter 822**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 327H.20A as amended by ~~2005 Iowa Acts, House File 875, section 31, and section 327I.8 as amended by 2005 Iowa Acts, House File 875, section 33~~ 2009 Iowa Acts, Senate File 151, section 11.

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