TRANSPORTATION DEPARTMENT[761]

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 761—Chapter 105
"Holiday Rest Stops"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 314.27
State or federal law(s) implemented by the rulemaking: Iowa Code section 314.27

Public Hearing

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

May 28, 2024
2 to 2:30 p.m.

Microsoft Teams Link
Or dial: 515.817.6093
Conference ID: 625 951 108

Public Comment

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

Steve McMenamin
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1680
Email: steven.mcmenamin@iowadot.us

Purpose and Summary

The proposed rules provide necessary definitions and requirements to implement Iowa Code section 314.27. This law allows nonprofit organizations to provide free refreshments to motorists and to accept, without active solicitation, voluntary donations from motorists during holiday periods at rest areas.

Key definitions are added or amended in the chapter as follows: "free refreshments," "holiday periods," "holiday rest stop" and "sponsor." Implementation of Iowa Code section 314.27 relies upon the use of these terms. Without these definitions, ambiguity will be present on whether a rest area sponsorship complies with the law. The rules also contain conditions for site selection, signage, acceptance of donations, and the procedures on how to request a sponsorship.

The statute defers to rules to be promulgated by the Department governing the provision of refreshments at rest areas. This chapter provides the criteria to ensure that the rest area sponsorship accomplishes the intended purpose of the law.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

The persons who will bear the direct costs of the proposed rules are the nonprofit organizations that choose to participate. The Department will have some indirect costs from administering the program.

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

Nonprofit organizations benefit since the sponsorship acts as an awareness booster for their organizations. Members of the traveling public benefit from the free refreshments and a potentially interesting diversion in their travels across Iowa.

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

- Quantitative description of impact:

Nonprofit organizations bear all costs for refreshments, activity staff, and any signage. Participation in the activity described in the rules is completely voluntary. Travelers have no direct cost since the refreshments are to be provided for free.

- Qualitative description of impact:

Members of the traveling public benefit from a memorable Iowa rest area experience, enjoyment of the free refreshments, and perhaps learning about a nonprofit that interests them. The nonprofit organizations benefit by raising awareness and goodwill for their organizations.

3. Costs to the State:

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

The costs to the Department include the staff time associated with assisting potential applicants, the review of any applications, and the placing/removal of any signs provided by the sponsor.

- Anticipated effect on state revenues:

The Department for the Blind currently provides vending services at many interstate rest areas. It is possible that on the day of the holiday rest area, travelers may find the free refreshments sufficient and skip a snack purchase that they otherwise would have made from the vending machines. Therefore, there can be a reduction in Department for the Blind's revenues on holidays.

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

Since the direct costs under the proposed rules are borne by organizations that have a choice whether to participate, the costs versus benefits are likely positive or otherwise deemed a worthy risk by the nonprofit as compared to the case of inaction. If nonprofits choose not to participate, then the costs and benefits are the same as the case of inaction. The Department has little cost or benefit, so the case of inaction is very similar. The traveling public has a positive benefit under the proposed rules and is neutral under the case of inaction.

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

The activity proposed is voluntary, so inaction is also an equal option. Therefore, costs or intrusiveness is completely avoidable under the proposal. Only in the case when it makes sense for the nonprofit organization do they choose to exercise the ability granted in this proposed chapter.

6. Alternative methods considered by the agency:

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

None were considered. Iowa Code section 314.27 requires the Department to administer this program.

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

Alternative methods are not available after review of Iowa Code section 314.27, which requires the Department to administer this program and adopt rules.

Small Business Impact

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

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

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

Small businesses are not allowed to participate, as described in Iowa Code section 314.27. Small businesses are also not directly impacted by the costs, benefits, or activities described in the proposed rules. Therefore, the impact to small businesses is neutral.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 105 and adopt the following **new** chapter in lieu thereof:

CHAPTER 105
HOLIDAY REST STOPS

761—105.1(314) 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(314) General.

105.2(1) *Definitions.*

"Free refreshments" means the same as defined in Iowa Code section 314.27.

"Holiday periods" means the same as defined in Iowa Code section 314.27.

"Holiday rest stop" means a location where a sponsor 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.

"Sponsor" means the nonprofit organization that is providing the free refreshments and staffing the holiday rest stop.

105.2(2) *Information.* Information regarding this chapter is available from the Maintenance Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010, or the department's website at www.iowadot.gov.

761—105.3(314) Conditions. The sponsor of a holiday rest stop shall comply with the following general conditions:

105.3(1) 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 the sponsor uses donation containers, the sponsor needs to place signs within the immediate area of the operation at locations designated by the department stating "free refreshments."

105.3(2) Not distribute any literature or other promotional material.

105.3(3) Clean up the area and remove all signs the sponsor has erected promptly after the holiday rest stop is discontinued.

105.3(4) No permit parking on the highway shoulders.

105.3(5) Agree to indemnify, defend and hold 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(314) Holiday rest stops.

105.4(1) *Site.*

a. A holiday rest stop along an interstate highway shall be in an established interstate rest area. Running water is available at each rest area. The department will provide electricity if requested.

b. The proposed site of a holiday rest stop along a primary highway will be inspected by the department to ensure it meets the following requirements:

(1) The site is 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.

(2) An access drive from the primary highway shoulder to the parking area has a top width of at least 20 feet and provides a clear view of the primary highway for at least 900 feet in each direction.

c. The department will designate an appropriate spot within the requested holiday rest stop location that will not include rest area restroom buildings or welcome center buildings. The sponsor may use the information kiosk where available. A tent or canopy may be used in areas without a kiosk during inclement weather.

105.4(2) *Signs.* The sponsor shall:

a. Not place any signs directing highway traffic to the holiday rest stop.

b. Not place any signs for an interstate holiday rest stop along the interstate highway or interchange ramps. The department will place signs stating "free refreshments" adjacent to the interstate highway and will remove these signs when the holiday rest stop is discontinued.

c. Provide two signs approximately four feet by four feet announcing the holiday rest stop, one for each highway approach to the site for holiday rest stops on primary highways. The department will install these signs and will remove them when the holiday rest stop is discontinued.

d. Take responsibility 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 is responsible for the removal of all signs the sponsor has erected promptly after the holiday rest stop is discontinued.

105.4(3) *Request.*

a. A request to sponsor a holiday rest stop will be made on Form 810023. This form is available from the maintenance bureau or the department's website.

b. The request will 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.

c. The request will be submitted to the maintenance bureau and must be submitted at least 90 days prior to the beginning date of the holiday period and may be accepted up to 12 months in advance.

105.4(4) *Approval of request.*

a. The maintenance bureau will notify the potential sponsor of approval or disapproval of the request within the time frame specified in Iowa Code section 314.27.

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

These rules are intended to implement Iowa Code section 314.27.