RA 26-248

PUBLIC HEALTH DEPARTMENT[641]

Regulatory Analysis

Notice of Intended Action to be published: 641—150.2(135) and 641—153.1(142D)
"Public Health Chapter Clean-Up"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 135.11(22) and 142D.8(1)

State or federal law(s) implemented by the rulemaking: Iowa Code section 135.11(22) and chapter 142D

Public Hearing

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

September 8, 2026 10 a.m.	Microsoft Teams Meeting ID: 245 818 881 867 66 Passcode: ya9va9uv

Public Comment

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

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

Purpose and Summary

This proposed rulemaking corrects inadvertent errors and omissions from earlier chapter repromulgations.

During the 2024 Red Tape Review of Chapter 150, the reverification cycle for hospital level of care designation within the regionalized system of perinatal health care was changed from every three years to every six years. While the term was changed in subrule 150.5(3), the Department inadvertently did not make the corresponding change to the definition of "reverification" in rule 641—150.2(135). This proposed rulemaking corrects that oversight.

During the 2023 Red Tape Review of Chapter 153, the Department deleted the definition of "retail tobacco store" because it was repeated verbatim from Iowa Code chapter 142D. With the definition of "retail tobacco store" deleted, the Department also deleted the definition of "incidental to the sale of tobacco products" because it contained the term "retail tobacco store." The Department's philosophy on Red Tape Reviews has evolved since 2023, and rather than delete a definition that is verbatim from the Iowa Code, the Department would now keep the definition and cite the corresponding Iowa Code section. This proposed rulemaking restores the definition of "retail tobacco store," citing Iowa Code chapter 142D, and restores the definition of "incidental to the sale of tobacco products." Both definitions are critical to the Department's enforcement of the Smokefree Air Act outlined in Iowa Code chapter 142D.

Analysis of Impact

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

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

There are no costs associated with this proposed rulemaking.

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

Individuals required to comply with Chapters 150 and 153 will benefit from the clarified guidance in this proposed rulemaking.

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

- **Quantitative description of impact:**

There is no quantitative information pertaining to the corrections contained in this proposed rulemaking.

- **Qualitative description of impact:**

Individuals required to comply with Chapters 150 and 153 will benefit from the clarified guidance in this proposed rulemaking.

3. **Costs to the State:**

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

The Department incurs personnel and other administrative costs associated with the programs that are impacted by this proposed rulemaking.

- **Anticipated effect on State revenues:**

This proposed rulemaking has no impact on State revenues.

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

Rulemaking is appropriate to help ensure that chapters are up to date and accurate.

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

Not applicable.

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

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

Not applicable.

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

Not applicable.

Small Business Impact

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

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

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

This proposed rulemaking has no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Amend rule **641—150.2(135)**, definition of "Reverification," as follows:

"Reverification" means the process of periodic review, conducted at least every ~~three~~ six years, to certify that a hospital has maintained its designated level of care in accordance with criteria established under these rules for hospitals that are participating in the regionalized system of perinatal health care.

ITEM 2. Adopt the following **new** definitions of "Incidental to the sale of tobacco products" and "Retail tobacco store" in rule **641—153.1(142D)**:

"Incidental to the sale of tobacco products" means that the gross revenue of a retail tobacco store derived from the sale of products other than tobacco products is not more than 20 percent of the retail tobacco store's total gross revenue.

"Retail tobacco store" means the same as defined in Iowa Code chapter 142D.