Regulatory Analysis

Notice of Intended Action to be published: 481—Chapter 35
"Contractor Requirements"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 137C.7, 137D.2 and 137F.3

State or federal law(s) implemented by the rulemaking: Iowa Code sections 137C.7, 137D.2 and 137F.3 and Executive Order 10

Public Hearing

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

November 4, 2025 9 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa

Information on virtual participation will be available on the Department of Inspections, Appeals, and Licensing's website prior to the hearing.

Public Comment

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

Amy K. Oetken
Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.672.4929
Email: amy.oetken@dia.iowa.gov

Purpose and Summary

This proposed rulemaking repromulgates Chapter 35 and implements Iowa Code sections 137C.6, 137D.2 and 137F.3 in accordance with the goals and directives of Executive Order 10. Iowa Code section 137C.7 requires the regulatory authority to regulate, license and conduct inspections for hotels and motels and allows the Director of the Department to enter into agreements with municipal corporations to license, inspect, or otherwise enforce this chapter. Iowa Code section 137D.2 requires the Department to regulate, license and inspect home food processing establishments. Iowa Code section 137F.3 authorizes the Director to inspect food establishments and allows the Director to enter into agreements with a municipal corporation to license, inspect, or otherwise enforce the chapter.

The rulemaking implements the above Iowa Code sections by allowing the Department to enter into contracts with municipal corporations or counties to license, inspect, and enforce these Iowa Code chapters. The rulemaking sets forth contractor requirements and investigation and inspections standards.

Analysis of Impact

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

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

Counties and municipalities will bear the costs of the rulemaking by ensuring that contractors are adequate and have appropriate training and experience.

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

Consumers who purchase and consume food from Iowa food establishments, home food processing establishments, and persons who stay in hotels and motels in Iowa will benefit.

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:**

The costs incurred by the public are no different than those costs incurred to comply with licensing and inspection conducted by the Department directly. Those costs are highly variable and dependent upon the scope of each individual operation. The size of the facility and the number of staff needed to operate the facility are costs that may be influenced but not dictated by the rulemaking.

- **Qualitative description of impact:**

The rules allow for licensing and inspection by municipalities and counties but do not decrease the safety to the general public when licensing and inspection are done by the Department.

3. **Costs to the State:**

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

Costs to the Department related to implementing this chapter are those associated with the Department's statutory duties identified in Iowa Code chapters 10A and 17A and other pertinent chapters associated with programs implemented by the Department. The costs of this rulemaking are those costs that are statutorily required to implement Iowa Code chapters 137C, 137D, and 137F.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

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

The rulemaking allows the Department to enter into contracts for licensing and inspection of food establishments, home food processing establishments and hotels and motels. If the Department had to conduct all inspections and was responsible for all licensing of these establishments, the costs to the Department would increase substantially.

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

The Department is able to utilize the resources of local jurisdictions to assist with licensing and inspections. There is no less costly way to achieve the purpose of the proposed rulemaking.

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

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

Alternatives were investigated but were not seriously considered.

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

See the answer to question five above.

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?

There is no substantial impact on small business as a result of this rulemaking.

Text of Proposed Rulemaking

ITEM 1. Rescind 481—Chapter 35 and adopt the following **new** chapter in lieu thereof:

CHAPTER 35
CONTRACTOR REQUIREMENTS

481—35.1(137C,137D,137F) Definitions. The definitions in rule 481—30.2(10A,137C,137F) and Iowa Code sections 137C.2, 137D.1 and 137F.1 are hereby incorporated by reference as part of this chapter.

481—35.2(137C,137D,137F) Contracts. A municipal corporation or county may enter into an agreement with the department to license, inspect and enforce under Iowa Code chapters 137C, 137D and 137F.

35.2(1) The department will investigate the municipal corporation or county to determine if it possesses adequate resources to fulfill the requirements of the contract.

35.2(2) A copy of the contract is available from the Department of Inspections, Appeals, and Licensing, Food and Consumer Safety Bureau, 6200 Park Avenue, Des Moines, Iowa 50321.

481—35.3(137C,137D,137F) Contractor.

35.3(1) The contractor will:

a. Furnish the personnel, materials, services and facilities necessary to perform the required functions of the contract;

b. Cooperate with the department's monitoring activities in areas under the scope of this agreement;

c. Provide 24-hour-per-day, seven-day-per-week coverage of the facilities under contract;

d. Ensure that personnel are available at all times to respond to complaints, investigations, emergencies and other situations;

e. Supply trained personnel who are prepared and have the capability to perform inspections; and

f. Provide other information as requested by the department in regard to inspections and licenses issued under the contract.

35.3(2) The contractor is not an authorized agent of the state of Iowa.

481—35.4(137C,137D,137F) Contractor inspection personnel.

35.4(1) Contractor inspection personnel will possess experience and education qualifications equal to those required for state food inspectors, including application of the food code. Municipal corporations or counties that wish to contract with the department to perform food inspections under Iowa Code chapters 137C, 137D and 137F but who do not have trained personnel to perform these services, will reimburse the department for the cost of providing the required training.

35.4(2) The salary received by contractor inspection personnel should be comparable to state inspection personnel.

35.4(3) Contractor inspection personnel will participate in state-sponsored training activities.

481—35.5(137C,137D,137F) Investigation. The contractor will investigate all alleged food-borne illnesses in areas licensed and inspected under the agreement. The contractor will notify the department immediately of the existence of any food-borne or other illness caused by, or suspected to have been caused by, unsanitary conditions existing within the jurisdiction of the contractor.

481—35.6(137C,137D,137F) Inspection standards. Inspections will be completed using forms prescribed by the department for those inspections. The contractor will follow applicable standards for inspections found in Iowa Code chapters 137C, 137D and 137F and 481—Chapters 30, 31, 34, 35, and 37. Copies of inspection standards are available from the Department of Inspections, Appeals, and Licensing, Food and Consumer Safety Bureau, 6200 Park Avenue, Des Moines, Iowa 50321.

481—35.7(137C,137D,137F) Enforcement. The contractor will enforce state laws and rules, including regulations adopted by reference. These regulations are the legal basis of authority in licensing and inspection of establishments under this contract.

481—35.8(137C,137D,137F) Licensing. The contractor will issue licenses and collect license fees.

481—35.9(137C,137D,137F) Records. The contractor will maintain records of all inspections, license applications and fees for a minimum of three years and provide the records to the department upon its request.

481—35.10(137C,137D,137F) Contract rescinded. If the department determines that Iowa Code chapters 137C, 137D and 137F are not being enforced by the contractor, the department may rescind the agreement. Notification will be provided to the contractor at least 30 days in advance of the action. The contractor has the right to request a hearing with the department to contest the action.

These rules are intended to implement Iowa Code chapters 137C, 137D and 137F.