Regulatory Analysis

Notice of Intended Action to be published: 641—Chapter 81
"General Rules for Migratory Labor Camps"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 138.18

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 138 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 19, 2024 9 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa

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

Public Comment

Any interested person may submit written 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:

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Purpose and Summary

This proposed rulemaking repromulgates Chapter 81 and implements Iowa Code section 138.18 in accordance with the goals and directives of Executive Order 10 (January 10, 2023). Iowa Code section 138.18 provides that the director of the Department shall make such rules that are necessary to carry out the purposes and provisions of Iowa Code chapter 138 subject to the requirements of Iowa Code chapter 17A.

This rulemaking implements the aforementioned Iowa Code sections by setting forth standards for shelters in migratory labor camps. The rules set forth requirements for water supply and waste disposal. The rules address bathing facilities and dining facilities, if any. The rules ensure that the camps comply with safety standards in case of fire. The rules further provide for inspection of the camps and registration of occupants.

Analysis of Impact

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

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

The costs of the proposed rulemaking will be borne by the owners and operators of migratory labor camps by operating in compliance with Chapter 81 and the Department in administering the chapter.

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

The class of persons who will benefit from the proposed rulemaking is the residents in the migratory labor camps. Fire fighters and other first responders who would be required to respond to a fire at the camps would benefit from the rulemaking regarding fire safety.

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 are approximately ten migratory labor camps operating in Iowa in any given year. The rules require that the owners and operators of migratory labor camps maintain appropriate health and safety standards. The costs are not directly incurred due to the rules but are necessary when building and maintaining migratory labor camps and are directly related to the statutory requirements set forth in Iowa Code chapter 138. These costs are difficult to quantify.

- **Qualitative description of impact:**

The proposed rules were drafted to promote safety standards in migratory labor camps. Other states such as Florida, Ohio, Illinois and Wisconsin have similar rules in place to govern migratory labor camps. Some farmers rely on migrant labor to assist in the farming operations. Without healthy and safe camps, these farmers would not be able to attract and retain quality laborers. If the camps are not safe, the laborers will not be able to work to their full potential.

3. **Costs to the State:**

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

Costs to the Department include the costs to implement the program set forth in Iowa Code chapter 138 and ensure compliance with the rules. There are no specific financial costs other than those associated with the Department's general functions.

- **Anticipated effect on state revenues:**

Costs associated with implementing this rulemaking are paid by individual owners and operators of migratory labor camps. There is no anticipated impact to state revenues from these rules.

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

There are no specific financial costs to implement or enforce this rulemaking outside of any costs associated with the Department's statutory duties identified. This rulemaking does not add to the costs of the Department or public in excess of general functions. The benefits include clear and consistent implementation of Iowa Code chapter 138. The rules ensure clear health and safety standards are in place in migratory labor camps. The costs borne by the owners and operators of these camps are necessary to achieve that benefit.

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

There are no less costly or intrusive methods to achieve the purpose of the proposed rulemaking. The current requirements ensure clear health and safety standards are in place in migratory labor camps.

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

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

See response to Section 5 above.

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

See response to Section 5 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?

Persons owning or operating migratory labor camps may be small business owners. Iowa Code section 138.18 requires the director of the Department to make such rules as are necessary to carry out the purposes and provisions of Iowa Code chapter 138. Iowa Code section 138.12 does allow for the director to grant written permission to individual camp operators to vary from the provisions of the chapter of the rules of the Department so long as the extent of the variation is clearly specified and the "variation is necessary to obtain a beneficial use of an existing facility; the variation is necessary to prevent a substantial difficulty or unnecessary hardship; the appropriate alternative measures have been taken to protect the health, safety, and welfare of any inhabitants of a migrant labor camp and ensure that the purpose of the provisions for which variation is sought will be observed."

Text of Proposed Rulemaking

ITEM 1. Rescind 641—Chapter 81 and adopt the following **new** chapter in lieu thereof:

CHAPTER 81
GENERAL RULES FOR MIGRATORY LABOR CAMPS

641—81.1(138) Shelters.

81.1(1) *Heating season.* The season requiring artificial heating as provided in Iowa Code section 138.13 is designated as the period between September 15 and June 1.

81.1(2) *Minimum floor space requirements.* The following floor space requirements shall be provided:

a. At least 50 square feet per occupant for sleeping purposes only in family units and dormitory accommodations.

b. At least 40 square feet per occupant for sleeping purposes only in accommodations using double bunk beds.

81.1(3) *Inspection.* The migrant shelter facilities shall be made available for inspection by the department at any reasonable time.

81.1(4) *Register.* A register of all occupants shall be maintained and provided to the department upon request.

81.1(5) *Separate rooms.* Housing used for families with one or more children six years of age or older shall have a separate room or partition made of rigid materials and installed to provide a reasonably private sleeping area for the husband and wife.

81.1(6) *Storage.* Arrangements for hanging clothing and storing personal effects for each person or family will be provided.

641—81.2(138) Water supply.

81.2(1) *General.* The following standards apply to the water supply:

a. The water supply will be of a safe bacterial and chemical quality.

b. Where a public water supply is available, such water will be used in the camp. If a private water source under pressure is provided, the water system will be capable of delivering at least 35 gallons per person per day to the camp site.

c. Cistern supplies consisting of roof or other surface runoff water will not be used for drinking or culinary purposes.

d. The adequacy of a well as a source of water for drinking or culinary purposes will be determined by inspection and bacteriological examination. Defects found by inspection or contaminated samples will be sufficient grounds for requiring repair, chlorination or condemnation of the well.

e. Water containing 45 or more parts per million nitrates will not be used for drinking or preparation of formula for infants under one year of age. When the supply contains nitrates in the quantity above, water for infant feeding will be obtained from another source that has been tested and found to be bacterially satisfactory and contains less than 45 parts per million nitrates. A water supply containing 45 or more parts per million of nitrates will be placarded or posted stating the water will not be used for infant feeding.

f. Hand-pump bases will be of the solid one-piece type bolted, including suitable gaskets, secured to the well casing by thread or weld connection. Handpumps secured to the platform by bolts cast in the concrete will be provided with a rubber or neoprene gasket between the pump base and the platform to ensure a watertight joint.

g. The pump head will be of a type designed to prevent external water or other contaminating material from entering the water chamber.

h. The pump spout will be of the closed, downward-directed type.

81.2(2) *Existing pump pits.* Existing pump pits may be approved if the construction conforms to the following minimum standards:

a. Walls, floor and top of pit is of watertight concrete or masonry construction or equivalent. The well casing extends at least 6 inches above the pit floor.

b. A positive seal is provided for the annular opening between the casing wall and the drop pipe.

c. A positive drain is provided by either a watertight sump and automatic sump pump discharging with at least a 6-inch free fall above the ground surface or an independent drain line discharging to the ground surface above any possible flood level. Pit drains discharging to any other drain or sewer are prohibited.

81.2(3) *Water supply systems.* The water supply system shall be installed so as to prevent backflow of contaminated water from appliances, fixtures, drains and sewers and have no cross-connections with any nonpotable supply or any other water supply that does not comply with these rules.

81.2(4) *Water tanks.* All water to be hauled for a camp will be obtained from an approved source. All equipment used for hauling or storage of potable water will be thoroughly cleaned and disinfected with a solution containing at least 200 parts per million of chlorine immediately before use. No equipment, tanks or reservoirs used for hauling or storing potable water can be used for any other purpose.

641—81.3(138) Waste disposal.

81.3(1) *Solid waste disposal.* Solid waste shall be disposed of in a sanitary disposal project pursuant to Iowa Code chapter 455B, or if disposed of on the premises, buried so as to create no health hazard or nuisance.

81.3(2) *Liquid waste.* Liquid waste shall be disposed of as follows:

a. Existing wastewater disposal systems located and constructed so as not to create a nuisance or condition of pollution.

b. Water-carriage toilets discharged to a septic tank and solid absorption system or other type disposal system located, designed and constructed in accordance with the specifications set forth in 567—Chapter 69.

c. A leaching pit or other type disposal system provided to receive the wastes from sinks, laundries, showers and tubs when no septic tank and absorption system is available located and constructed in accordance with the specifications set forth in 567—Chapter 69.

641—81.4(138) Bathing facilities.

81.4(1) Showers shall be supplied with hot and cold water under pressure and be sufficiently enclosed to provide privacy for the user. An adjacent, enclosed dry area will be provided for dressing. No duckboards, mats or other such accessories will be permitted.

81.4(2) Automatic water-heating equipment, or storage tanks with hand-fired heating coils, shall be equipped with combination pressure and temperature relief valves or separate pressure and temperature relief valves, located in the top one-eighth or not more than 3 inches above the top of the tank served. Pressure relief valves may be located adjacent to the tank. Gas-fired or other combustion-type water heaters shall be vented to the outside atmosphere.

641—81.5(138) Central dining facilities. When central dining facilities are provided by a concessionaire, operator or the manager of a camp, the size of the kitchen and dining hall will be commensurate with the capacity of the housing and separate from the sleeping quarters.

641—81.6(138) Safety and fire.

81.6(1) *Fire exits.* Fire exits shall consist of:

a. Shelters of one-story construction housing less than ten persons: two means of escape, one of which may be a readily accessible window with an openable space of at least 24 by 24 inches.

b. Sleeping quarters designed for ten or more persons, central dining facilities and common assembly rooms: at least two doors remotely separated so as to provide alternate means of escape.

c. Floors, above the first floor, used for sleeping quarters or common assembly rooms: a stairway and a permanent affixed exterior ladder or a second stairway.

81.6(2) *Shelter spacing.* There shall be at least 10 feet of space in all directions between shelters.

These rules are intended to implement Iowa Code section 138.18.