Regulatory Analysis

Notice of Intended Action to be published: 721—29.4(47) and 721—43.9(9B)
"Elections Technology Security; Notarial Acts"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 47.1(8) and 9B.14A(8)
State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, House File 688

Public Hearing

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

December 31, 2024 11 a.m. to 12 noon	Via videoconference call: meet.google.com/bgd-sijt-agq

Public Comment

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

Eric Gookin
Office of the Secretary of the State
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: eric.gookin@sos.iowa.gov

Purpose and Summary

This proposed rulemaking amends rules 721—29.4(47) and 721—43.9(9B) to add dates certain for references to National Institute of Standards and Technology (NIST) Special Publications as required by 2024 Iowa Acts, House File 688, and to add the required introductory language to those rules.

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 of the proposed rulemaking.

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

The rulemaking does not create or alter benefits.

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 economic impact of the proposed rulemaking.

- **Qualitative description of impact:**

There is no qualitative impact of the proposed rulemaking.

3. **Costs to the State:**

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

There are no costs to the Secretary of State or any other agency.

- **Anticipated effect on state revenues:**

There is no effect on state revenues.

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

There is no cost difference between adoption of the proposed rulemaking and inaction.

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

No less costly methods or less intrusive methods exist.

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

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

No alternative methods were considered.

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

No alternative methods were considered.

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?

The proposed rulemaking does not have a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Amend rule 721—29.4(47), introductory paragraph, as follows:

721—29.4(47) Election security by the commissioners. NIST Special Publication 800-63B, adopted by reference in subrule 29.4(11), provides guidelines for digital authentication of subjects to systems over a network.

ITEM 2. Amend subrule 29.4(11) as follows:

29.4(11) Any county information technology infrastructure that is used to access or conduct any part of elections in the state is subject to the following requirements:

a. Passwords to access the county network must be compliant with the standards enumerated by either the ~~National Institute of Standards and Technology,~~ June 2017 edition, including the March 2, 2020, updates, of NIST Special Publication 800-63B; the OCIO~~,~~; or guidance issued by the state commissioner.

b. Session-lock timeout standards must be compliant with the standards enumerated by either the ~~National Institute of Standards and Technology~~ June 2017 edition, including the March 2, 2020, updates, of NIST Special Publication 800-63B or guidance issued by the state commissioner.

c. and *d.* No change.

ITEM 3. Amend rule 721—43.9(9B), introductory paragraph, as follows:

721—43.9(9B) Standards for communication technology and identity proofing for notarial acts performed for remotely located individuals. NIST Special Publication 800-63-3, adopted by reference in subrule 43.9(2), establishes risk-based processes for the assessment of risks for identity management activities and selection of appropriate assurance levels and controls.

ITEM 4. Amend subrule 43.9(2) as follows:

43.9(2) Identity proofing and credential analysis must be performed by a third-party credential service provider whose methods and standards are substantially similar to those defined in the ~~most recent edition of the National Institute of Standards and Technology's Digital Identity Guidelines,~~ June 2017 edition, including the March 2, 2020, updates, of NIST Special Publication 800-63-3 and that has provided evidence to the notary public of the ability to satisfy the following requirements:

a. and *b.* No change.

c. Credential analysis shall, at a minimum, do all of the following:

(1) Use automated software processes to aid the notary public in verifying the identity of a principal or any credible witness.

(2) Ensure that the credential passes an authenticity test, substantially similar to those defined in the ~~most recent edition of the National Institute of Standards and Technology's Digital Identity Guidelines~~ June 2017 edition, including the March 2, 2020, updates, of NIST Special Publication 800-63-3, that:

1. to 4. No change.

(3) No change.

d. No change.