

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Rulemaking related to fire safe cigarette certification program

The State Fire Marshal hereby rescinds Chapter 61, “Fire Safe Cigarette Certification Program,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 101B.3(4).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 101B.

Purpose and Summary

This rulemaking repromulgates Chapter 61 and implements Iowa Code section 101B.3(4) in accordance with the goals and directives of Executive Order 10 (January 10, 2023). This rulemaking establishes an application process and standards for payments, certification, test methods, and package marking for fire safe cigarettes. This rulemaking provides cigarette manufacturers with standards applicable to the certification of fire safe cigarettes. Consumers who purchase cigarettes are ensured that cigarettes certified as fire safe have gone through the testing and certification process outlined in these rules.

The rules also set forth the administrative process for enforcing Iowa Code chapter 101B and 661—Chapter 61, including the process for violations and penalties.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7330C**. Public hearings were held on February 13, 2024, and February 14, 2024, at 10 a.m. at 6200 Park Avenue, Des Moines, Iowa, and virtually. No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department of Inspections, Appeals, and Licensing on March 18, 2024.

Fiscal Impact

This rulemaking does not have a fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on May 22, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 661—Chapter 61 and adopt the following **new** chapter in lieu thereof:

CHAPTER 61
FIRE SAFE CIGARETTE CERTIFICATION PROGRAM

661—61.1(101B) Definitions. For purposes of these rules, the following definitions apply:

“Certified fire safe cigarette” means a unique cigarette brand style that meets the following criteria:

1. The unique cigarette brand style has been tested in accordance with the test method prescribed in Iowa Code section 101B.4 or has been approved pursuant to Iowa Code section 101B.4.

2. The unique cigarette brand style meets the performance standard specified in Iowa Code section 101B.4 or has been approved pursuant to Iowa Code section 101B.4.

3. A written certification for the unique cigarette brand style has been filed by the manufacturer with the department and in accordance with rule 661—61.4(101B).

4. Packaging for the unique cigarette brand style has been marked in accordance with rule 661—61.5(101B).

“Cigarette” means a cigarette as defined in Iowa Code section 453A.1, but does not mean a tobacco product as defined in Iowa Code section 453A.1.

“Department” means the same as defined in Iowa Code section 101B.2(3).

“Fire safe cigarette” means a cigarette certified pursuant to this chapter.

“Manufacturer” means the same as defined in Iowa Code section 101B.2(4).

“Sale” means the same as defined in Iowa Code section 101B.2(8).

“Unique cigarette brand style” means a cigarette with a unique combination of the following:

1. Brand or trade name.
2. Style, such as light or ultra light.
3. Length.
4. Circumference.
5. Flavor, such as menthol or chocolate, if applicable.
6. Presence or absence of a filter.
7. Type of package, such as soft pack or box.

“Wholesaler” means the same as defined in Iowa Code section 101B.2(10).

661—61.2(101B) Certification and fee. A certification application and fee shall be submitted to the department online pursuant to Iowa Code section 101B.5. An application is incomplete unless all required information is submitted, including required attachments and fees. Applications will not be processed until complete.

661—61.3(101B) Test method, performance standard, test report. Unless otherwise excepted therein, each unique cigarette brand style submitted for certification under this chapter shall meet all of the criteria in Iowa Code section 101B.4.

61.3(1) *Alternate test method.* A manufacturer proposing an alternate test method and performance standard pursuant to this rule will submit such proposal to the department on a form provided by the department.

a. The department will approve or deny the proposed alternate test method and performance standard within 60 days of receipt of such proposal and will send notification of such approval or denial by certified mail, return receipt requested, to the address provided by the manufacturer.

b. The department may approve an alternate test method and performance standard if it is determined to be equivalent to the test method and performance standard prescribed in Iowa Code section 101B.4. If an alternate test method and performance standard is approved pursuant to this rule, the manufacturer may employ the alternate test method and performance standard to certify the cigarette in accordance with Iowa Code section 101B.4.

61.3(2) *Acceptance of alternate test method approved by another state.* A manufacturer proposing an alternate test method and performance standard approved by another state will use the procedure specified in subrule 61.3(1) and provide documentation verifying that the alternate test method and performance standard have been approved by another state as provided in Iowa Code section 101B.4(9).

61.3(3) *Retention of reports of testing.* A manufacturer shall maintain copies of all test reports pursuant to Iowa Code section 101B.4(10).

61.3(4) *Testing performed or sponsored by the department.* Testing performed or sponsored by the department will be conducted in accordance with Iowa Code section 101B.4.

61.3(5) *Changes to the manufacture of a certified fire safe cigarette.* If a manufacturer with any cigarette certified under this chapter makes any changes to the cigarette thereafter, retesting of the cigarette may be required in accordance with Iowa Code section 101B.5(6).

661—61.4(101B) Notification of certification. A manufacturer or wholesaler shall provide copies of certifications pursuant to Iowa Code section 101B.6.

661—61.5(101B) Marking fire safe cigarette packaging. Cigarettes that have been certified in accordance with Iowa Code section 101B.5 shall be marked as provided in Iowa Code section 101B.7. The recommended marking is the letters “FSC” displayed in accordance with any of the methods described in Iowa Code section 101B.7.

661—61.6(17A) Violations and penalties. A person who violates any provision of Iowa Code chapter 101B or of this chapter is subject to a civil penalty of an amount no greater than specified by Iowa Code section 101B.8. Notice of a civil penalty will be provided by mail or by personal service. A person subject to a civil penalty may appeal the imposition of the penalty by requesting a contested case hearing, in writing, within 20 days. An appeal of a civil penalty is subject to the provisions of 481—Chapters 9 and 10 governing contested cases.

These rules are intended to implement Iowa Code chapter 101B.

[Filed 3/27/24, effective 5/22/24]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/17/24.