

COMMISSION MINUTES

April 8, 2025

IOWA TRANSPORTATION COMMISSION

Meeting Agenda / Commission Orders

April 8, 2025

Terrace View Events Center

230 St. Andrews Way Sioux Center, IA 51250

ITEM NUMBER	TITLE	SUBMITTED BY	PAGE
8:00 a.m.			
D-2025-84	* Approve Minutes of the March 11, 2025 Commission Meeting Commission Comments DOT Comments	Jill Smith	2
AS-2025-85	* Administrative Rules – 761 IAC Chapter 27, Interest on Retained Funds	Lee Wilkinson	4
AS-2025-86	* Administrative Rules – 761 IAC Chapter 40, Recovery of Damages to Highways or Highway Structures	Lee Wilkinson	9
TD-2025-87	* Administrative Rules – 761 IAC Chapter 115, Utility Accommodation	Stuart Anderson	13
MV-2025-88	* Administrative Rules – 761 IAC Chapter 400, Vehicle Registration and Certificate of Title	Kathleen Meradith-Eyers	42
MV-2025-89	* Administrative Rules – 761 IAC Chapter 620, OWI and Implied Consent	Kathleen Meradith-Eyers	73
TD-2025-90	* Program Objectives (2026-2030 Highway Program)	Shawn Majors	82
8:15 a.m.	Adjourn		

* Action Item

On Monday, April 7, the Commission and staff will meet informally at 3:30 p.m. in the Terrace View Event Center in Sioux Center, IA. Transportation-related matters will be discussed, but no action will be taken.

Commissioner Stutsman called the meeting to order at 8:00 am on April 8, 2025, at the Terrace View Event Center, Sioux Center, Iowa.

Commissioners present: Sally Stutsman, Ray Gaesser, Bill Anderson, Rich Arnold, Linda Juckette, Mary Mulgrew Gronen, and Tom Rielly.

Commission Comments

Commissioner Stutsman commented that while it may seem they are moving through these agenda items quickly, they did have an opportunity to review and discuss everything at their workshop the day prior.

D-2025-84

Jill Smith, Executive Assistant

Commissioner Stutsman asked if there was a motion to approve the minutes from the March 11, 2025, Commission meeting.

Commissioner Juckette moved and Commissioner Anderson seconded a motion to approve.

There were no further questions or comments.

The vote to approve was unanimous.

Commission Comments

Commissioner Stutsman thanked the District 3 staff for a great Commission Tour day. There was a lot to see as far as flood recovery as well as the coordination and collaboration between the communities and the DOT.

DOT Comments

Director Marler echoed Commissioner Stutsman's comments in regards to the collaboration during the floods in June 2024. He mentioned how great it is to be in Northwestern Iowa and thanked the communities for their hospitality as well as a special thanks to the District 3 team. Director Marler mentioned safety is a top priority for the Commission. Governor Reynolds signed the 'Hands Free' bill on April 2nd. Iowa is the 31st state to enact this law. Thank you to the Commission for their leadership in making our roads more safe.

DEPARTMENT OF TRANSPORTATION
COMMISSION ORDER

Division/Bureau/Office Administrative Services Division Order No. AS-2025-85

Submitted by Lee Wilkinson Phone No. 515-239-1340 Meeting Date April 8, 2025

Title Administrative Rules—761 IAC Chapter 27, Interest on Retained Funds

DISCUSSION/BACKGROUND:

The rulemaking proposes to rescind and repromulgate Chapter 27 in accordance with Executive Order 10.

Proposed Chapter 27 implements Iowa Code section 573.12 regarding interest payments on retained funds.

The public comment period ended on January 15, 2025. The department did not receive any public comments.

A complete summary explaining the proposed rulemaking is included in the attached Notice of Intended Action.

PROPOSAL/ACTION RECOMMENDATION:

It is recommended that the Commission approve repromulgating Chapter 27.

COMMISSION ACTION:

Moved by Gaesser Seconded by Rielly

Division Director Legal State Director

	Aye	Nay	Pass
Anderson	<u>x</u>	_____	_____
Arnold	<u>x</u>	_____	_____
Gaesser	<u>x</u>	_____	_____
Juckette	<u>x</u>	_____	_____
Mulgrew Gronen	<u>x</u>	_____	_____
Rielly	<u>x</u>	_____	_____
Stutsman	<u>x</u>	_____	_____

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

**Proposing rulemaking related to interest on retained funds
and providing an opportunity for public comment**

The Transportation Department hereby proposes to rescind Chapter 27, “Interest on Retained Funds,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 307.12(1)“j” and 573.12.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 573.12.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 27 in compliance with Executive Order 10. Proposed Chapter 27 implements Iowa Code section 573.12 regarding interest payments on retained funds.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 28, 2024

The Department received no comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

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 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 15, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 14, 2025 11 to 11:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 351 420 023
January 15, 2025 3 to 3:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 315 685 313

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Tracy George and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 27 and adopt the following **new** chapter in lieu thereof:

CHAPTER 27 INTEREST ON RETAINED FUNDS

761—27.1(573) Interest on retained funds.

27.1(1) Scope. This rule implements Iowa Code section 573.12 regarding payment to a contractor of interest earned on retained funds. This rule does not address payment of interest under Iowa Code section 573.14.

27.1(2) General requirements.

a. Interest is paid on retained funds of a contract only if the accrued interest on those funds is at least \$25. This dollar threshold reflects the cost to the department of processing an interest payment on retained funds.

b. Interest is not to be paid on retained funds of a contract declared in default.

27.1(3) Procedures.

a. Interest begins to accrue on retained funds on the date the first progress payment is issued. An interest rate is established on this date in accordance with Iowa Code section 12C.6. This interest rate applies for the duration of the contract.

b. In general, interest continues to accrue on retained funds until the date the final payment is issued.

(1) Final payment is payment of retained funds less assessed liquidated damages, if applicable.

(2) The final payment and the interest payment are paid by separate warrants. The interest payment is issued within two weeks after issuance of final payment.

c. Notwithstanding paragraph 27.1(3) "b," interest is to cease to accrue on retained funds:

(1) Upon the expiration of 90 days following field acceptance of a project if the contractor has failed to submit to the department the documentation necessary for final payment as specified in the contract provisions.

(2) Upon payment of retained funds via a retention release voucher. A retention release voucher releases the retained funds and the interest accrued on those funds less assessed liquidated damages,

twice the amount of claims on file, and the amount of possible overpayments or adjustments to contract items and change orders. A retention release voucher may be paid at any time after 30 days have expired following completion and final acceptance of the project if the contractor has submitted the necessary documentation.

(3) Upon the court's obtaining jurisdiction of the retained funds pursuant to Iowa Code section 573.16. Retained funds turned over to the court will include the interest accrued on those funds to the date the action was filed if the interest has not been paid to the contractor.

This rule is intended to implement Iowa Code sections 307.12(1) "j" and 573.12.

AS-2025-85

Lee Wilkinson, Director, Administrative Services

The rulemaking proposes to rescind and repromulgate Chapter 27 in accordance with Executive Order 10.

Proposed Chapter 27 implements Iowa Code section 573.12 regarding interest payments on retained funds.

The public comment period ended on January 15, 2025. The department did not receive any public comments.

It is recommended that the Commission approve repromulgating Chapter 27.

Commissioner Gaesser moved and Commissioner Rielly seconded a motion to approve.

There were no further questions or comments.

The vote to approve was unanimous.

DEPARTMENT OF TRANSPORTATION
COMMISSION ORDER

Division/Bureau/Office Administrative Services Division Order No. AS-2025-86

Submitted by Lee Wilkinson Phone No. 515-239-1340 Meeting Date April 8, 2025

Title Administrative Rules—761 IAC Chapter 40, Recovery of Damages to Highway or Highway Structures

DISCUSSION/BACKGROUND:

The rulemaking proposes to rescind and repromulgate Chapter 40 in accordance with Executive Order 10.

Proposed Chapter 40 explains the process the Department uses to recover damages to highway or highway structures because of illegal and/or overweight operations.

The public comment period ended on January 15, 2025. The department did not receive any public comments.

A complete summary explaining the proposed rulemaking is included in the attached Notice of Intended Action.

PROPOSAL/ACTION RECOMMENDATION:

It is recommended that the Commission approve repromulgating Chapter 40.

COMMISSION ACTION:

Moved by Arnold Seconded by Mulgrew Gronen

Division Director Legal State Director

	Aye	Nay	Pass
Anderson	<u>x</u>	_____	_____
Arnold	<u>x</u>	_____	_____
Gaesser	<u>x</u>	_____	_____
Juckette	<u>x</u>	_____	_____
Mulgrew Gronen	<u>x</u>	_____	_____
Rielly	<u>x</u>	_____	_____
Stutsman	<u>x</u>	_____	_____

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

**Proposing rulemaking related to recovery of damages to highways or highway structures
and providing an opportunity for public comment**

The Transportation Department hereby proposes to rescind Chapter 40, “Recovery of Damages to Highways or Highway Structures,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 307.12(1)“j” and 321.475.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 321.475.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 40 in compliance with Executive Order 10. Proposed Chapter 40 explains the process the Department uses to recover damages to highway or highway structures because of illegal and/or overweight operations.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 28, 2024

The Department received no comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

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 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 15, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 14, 2025
9 to 9:30 a.m.

[Microsoft Teams link](#)
Or dial: 515.817.6093
Conference ID: 771 905 536

January 15, 2025
11:30 a.m. to 12 noon

[Microsoft Teams link](#)
Or dial: 515.817.6093
Conference ID: 296 427 867

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Tracy George and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 40 and adopt the following **new** chapter in lieu thereof:

CHAPTER 40 RECOVERY OF DAMAGES TO HIGHWAYS OR HIGHWAY STRUCTURES

761—40.1(321) General.

40.1(1) This chapter is limited to recovery of damages to highways or highway structures in accordance with Iowa Code section 321.475, Iowa Code chapter 321E and 761—Chapter 511.

40.1(2) Information about this chapter may be obtained from the Finance Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010, or the department's website at www.iowadot.gov/claimsmanagement.

761—40.2(321) Definitions.

"Highway" means any segment of the primary road system or a municipal extension and includes but is not limited to the pavement surface, shoulder, median, earth fill, ditches and vegetation.

"Highway structure" means all the appurtenances of a highway, including but not limited to guardrails, culverts, bridges, signs, light poles, attenuators, traffic control devices, or buildings at rest areas, information sites, commercial vehicle inspection and enforcement sites, or other appurtenances adjacent to the highway.

761—40.3(321) Recovery of damages. The department:

40.3(1) Will investigate to determine the person(s) responsible for the damages.

40.3(2) Will summarize the repair or replacement costs and submit the claim to the person(s) responsible for the damage.

40.3(3) May seek recovery through civil court action.

40.3(4) Will deposit the collections for recovery of damages in the primary road fund.

These rules are intended to implement Iowa Code section 321.475.

AS-2025-86

Lee Wilkinson, Director, Administrative Services Division

The rulemaking proposes to rescind and repromulgate Chapter 40 in accordance with Executive Order 10.

Proposed Chapter 40 explains the process the Department uses to recover damages to highway or highway structures because of illegal and/or overweight operations.

The public comment period ended on January 15, 2025. The department did not receive any public comments.

It is recommended that the Commission approve repromulgating Chapter 40.

Commissioner Arnold moved and Commissioner Mulgrew Gronen seconded a motion to approve.

There were no further questions or comments.

The vote to approve was unanimous.

DEPARTMENT OF TRANSPORTATION
COMMISSION ORDER

Division/Bureau/Office Transportation Development Division Order No. TD-2025-87
 Submitted by Stuart Anderson Phone No. 515-239-1661 Meeting Date April 8, 2025
 Title Administrative Rules—761 IAC Chapter 115, Utility Accommodation

DISCUSSION/BACKGROUND:

The rulemaking proposes to rescind and repromulgate Chapter 115 in accordance with Executive Order 10.

Proposed Chapter 115 establishes standards and conditions for the placement of utility facilities within the public rights-of-way on primary and interstate roads allowing the department to safely and efficiently manage the public rights-of-way in terms of utility installations in a manner that minimizes disruptions to traffic and public services; facilitates better coordination between utility companies; minimizes impacts to utility facilities before and during highway construction; and protects the integrity and environmental and visual qualities of the highway facilities.

The department made minor and significant changes within the repromulgated chapter. A complete summary explaining the proposed rulemaking and the comments received from 11 constituents on the Regulatory Analysis is included in the attached Notice of Intended Action.

The department will revise paragraph 115.8(2)“e” to update the citation within paragraph 115.8(2)“e” to include the 2008 amendments to the Americans with Disabilities Act when we publish the adopted and filed rulemaking.

The public comment period for the Notice of Intended Action ended on January 16, 2025.

The department received comments from 12 constituents during the Notice of Intended Action comment period from: Corning Municipal Utilities, City of Cedar Rapids, NextGen Highways, Iowa Environmental Council, Center for Rural Affairs, Linn Clean Energy District, Clean Energy Districts of Iowa, National Audubon Society, Audubon Upper Mississippi River, Iowa Audubon, Associated General Contractors of Iowa, and the Iowa Utility Association.

Continued on next page

PROPOSAL/ACTION RECOMMENDATION:

It is recommended that the Commission approve repromulgating Chapter 115 with the noted changes.

COMMISSION ACTION:			Vote	Pass
			Aye	Nay
	Anderson		x	_____
	Arnold		x	_____
	Gaesser		x	_____
Moved by	<u>Anderson</u>	Seconded by	<u>Rielly</u>	
			Juckette	_____
			Mulgrew Gronen	x
			Rielly	x
			Stutsman	x
_____ Division Director	_____ Legal	_____ State Director		

The written comments included: (1) a request to clarify the period for the 10-day notice to 511 for lane closures; (2) a request to consider 5 feet rather than 10 feet as adequate cover under the flowline of waterways; (3) a request to except venting requirements for waterline casings; (4) a request to clarify the approval process for longitudinal freeway occupancy for electric transmission lines; (5) a request to include a term limit for longitudinal freeway occupancy fees; (6) a request to increase the minimum bond amount from \$10,000 to \$30,000 prior to a utility commencing work in the rights-of-way; (7) a request to include adjustment and relocation of utility facilities in addition to installation when determining if higher bond amounts are required; (8) a request to add that the department will initiate a claim on the performance bond when required; (9) a request to retain the use of the term “shall” where action referred to is obligatory in nature; (10) a request to require the use of the online electronic permitting system for utility permit requests; (11) a request to remove the city and county approvals from the online utility permit request; (12) a request to modify language related to noting eligibility for reimbursement on a utility permit; (13) a request to reference “generally accepted industry standards” instead of “department satisfaction” in relation to accomplishment of work; (14) a request to add flexibility to identification sign and marker placement; (15) a request to add “proposed” to the permit plan details regarding the type and size of utility facility to be installed; (16) a request to retain the submission of as-built plan by letter certifying the placement; (17) a request to remove the requirement for certified flaggers for traffic control operations; (18) a request to modify the vertical overhead clearance requirements of 20 feet to instead require compliance with National Electric Safety Code; (19) a request to allow flexibility regarding recognized documentation for pole attachments; (20) a request to allow the utility owner to contact “an owner” of a property rather than “the owner” to provide flexibility when multiple owners are involved; (21) a request to revise the pressure rating for encasement exemption to 125 psi or less; (22) a request to add flexibility regarding pavement removal requirements; (23) a request to clarify the prohibitions on longitudinal occupancy requirements related to overhead lines during extreme weather conditions; (24) a request to allow flexibility in the placement of utility facilities for areas such as deep ravines or ditches, or where adequate separation of utilities is required; (25) a request to modify the requirements for abandoned and out-of-service utility facilities; and (26) a request to lengthen the 30-day response time to 45 days for utility companies to provide mapping information for their facilities.

Based on comments received and additional analysis, the department included the following modifications in the adopted and filed rulemaking:

- Add definition to provide clarification to the 10-day notice to the 511 center to clarify the period is for “calendar days.”
- Add “to be installed, adjusted, or relocated” to paragraph 115.3(4)“a” to provide clarity.
- Add paragraph “f” to subrule 115.3(11) to provide clarity on noncompliance actions.
- Add “unless otherwise authorized by the district representative” to subrule 115.3(12) to provide flexibility when right-of-way width is limited.
- Add “proposed” to subparagraph 115.7(3)“d”(3) to provide flexibility when right-of-way width is limited.
- Amend “fully executed attachment agreement” in paragraph 115.10(2)“b” to allow for other forms of authorization to attach to another utility owner’s poles.
- Add “unless otherwise authorized by the district representative” to paragraph 115.12(1)“b “ to allow the department to approve a more shallow installation warranted by site conditions.
- Add “except water” to the catchwords for paragraph 115.12(5)“e” heading to exclude water from these requirements.
- Strike proposed changes to subparagraph 115.12(5)“h”(2) and revert to the current rule requirements for waterline encasement, sealing and venting.
- Add “unless otherwise authorized by the district representative” to paragraph 115.12(9)“b” to provide flexibility to allow alternative pavement removal dimensions when warranted.
- Strike proposed paragraph 115.15(2)“b” as it creates confusion for overhead lines that may be placed longitudinally in interstate rights-of-way.
- Add “or to allow for adequate separation between utility facilities” to the exceptions and “unless otherwise authorized by the district representative” to create flexibility in certain situations within paragraph 115.16(2)“b.”
- Amend subrule 115.18(1) to recognize the shared responsibility for abandoned and out-of-service utility facilities.

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

**Proposing rulemaking related to utility accommodation
and providing an opportunity for public comment**

The Transportation Department hereby proposes to rescind Chapter 115, “Utility Accommodation,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 306A.3(2) and 307.12(1)“j.”

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 306A and 318 and sections 306.3, 306.47, 314.20, 320.4 through 320.8 and 321.1.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 115 in compliance with Executive Order 10. Proposed Chapter 115 establishes standards and conditions for the placement of utility facilities within the public rights-of-way on primary and interstate roads allowing the Department to safely and efficiently manage the public rights-of-way in terms of utility installations in a manner that minimizes disruptions to traffic and public services; facilitates better coordination between utility companies; minimizes impacts to utility facilities before and during highway construction; and protects the integrity and environmental and visual qualities of the highway facilities.

The proposed repromulgated chapter omits unnecessarily restrictive language and redundancies and retains the essential elements needed for delivering a successful program to the traveling public and the participating utility companies.

There are minor and significant changes included in the proposed repromulgated chapter as follows.

Minor changes include:

1. Updating references to specific sections of the Iowa Code, including Iowa Code section 318.5 (noncompliance and removal of obstructions).
2. Updating references to specific Department divisions and bureaus.
3. Adding and updating links to web pages.
4. Consolidating duplicate rules related to encasement requirements and clear zone requirements.

Significant changes include:

1. Adding a requirement for performance bonds for utility permit requests for installations related to Department highway projects.
2. Amending a requirement to have utilities submit as-built plans to the Department in an electronic format that conforms to Department standards.
3. Adding a requirement to provide a ten-day notice to the Department’s 511 of any lane restrictions or traffic closures.
4. Adding language to address unacceptable work and to require rework (or removal).
5. Amending a requirement to have utilities notify a district representative upon completion of work. This will allow the district to inspect the work and notify a utility if any work was noncompliant and to seek a remedy within a specified time frame established by the Department.
6. Amending a requirement to allow underground electric installations longitudinally with interstate and freeway rights-of-way.
7. Adding that if the Department determines that an aboveground installation longitudinally with interstate and freeway rights-of-way is necessary to advance the state’s priorities, can be installed safely

with minimal impact on the traveling public, can be safely accommodated within an existing right-of-way, is along a roadway that is not anticipated to require an additional right-of-way for future improvements in the foreseeable future, and extends for a relatively short distance, the Department may permit installation with proper justification.

8. Improving utility investigation to identify utilities within the project footprints that will allow the Department to analyze design conflicts with existing utility facilities and to make better design decisions that avoid or minimize impacts and reduce construction delays and costs.

9. Requiring utility companies to provide the location of their facilities within the project footprints. This will allow the Department and utility companies to collaborate on highway design to avoid conflicting with utility facilities when feasible, minimize the remaining impacts to existing facilities, and then work together to resolve and mitigate those facilities that cannot be avoided.

10. Requiring utility companies to make final review of design conflicts with utility facilities earlier in the project timeline and provide one relocation work plan instead of two, which should streamline the work plan review and approval process.

11. Updating the noncompliance rule to allow the Department to determine a noncomplying utility facility to be an obstruction in accordance with Iowa Code section 318.5.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 28, 2024

The Department received written and oral comments from 11 constituents that expressed support for the proposed chapter. The comments are summarized as follows:

1. Associated General Contractors of Iowa supports the increase in bonding amounts and recommended a greater increase to the bond amounts. The Department recommends incremental increases to the bonding amounts that will not create undue burden on utility companies. The Department recommends no change to the proposed rule based on this comment.

2. City of Decorah, Iowa, supports the addition of as-built plan submission in an electronic format in accordance with Department specification and recommendation, including Global Positioning System (GPS) information collected by the contractor during installation. The Department's specification includes detail on GPS requirements and data standards. The Department recommends no change to the proposed rule based on this comment.

3. Great Plains Institute (NextGen Highways); Iowa Environmental Council; Linn Clean Energy District; Center for Rural Affairs; Clean Energy Districts of Iowa; Iowa Business for Clean Energy; and National Audubon Society all support the Department's intent to allow aboveground electric transmission in freeway rights-of-way in limited circumstances. Comments indicated the language may be unnecessarily restrictive and needs clarification as to how the Department will determine whether proposed installations are necessary to advance the state's priorities and whether the proposed installation is for a "relatively short distance." Additional comments indicated the occupancy fees should be cost-competitive with the costs for transmission developers to develop on private land. First, the Department desires to assure that the Department is being reasonably flexible to support the state's economic development growth and considering alternative uses of the rights-of-way where it is safe. It is anticipated that the applicant requesting to install overhead electric transmission facilities within the freeway rights-of-way would submit a Certificate of Public Convenience and Necessity (CPCN) to the Iowa Utilities Commission (IUC) and a Constructability Report (CR) to the Department. If the IUC issues a CPCN to the utility, then the Department will review the CR and the rights-of-way available in the vicinity of the intended installation; the Department's long-range plans for the segment(s) of road involved; and the safety and clear zone requirements in the respective areas to determine if the installation complies with utility accommodation rules, including adequate right-of-way width to accommodate the installation of the proposed facility. The applications will be reviewed by the Department on a case-by-case basis for the specific locations to determine if the proposed installation and the length of the installation can be supported based on the above criteria. The Department

recommends leaving the proposed language the same as in the current proposed rule. Second, the development of the fee structure for longitudinal occupancy in freeway rights-of-way in Iowa goes beyond the land value and includes the cost to the state to manage and coordinate the roadside plantings as well as the subsurface infrastructure within the freeway rights-of-way. The Iowa Laws of the Seventy-Second G.A., 1988 session, established the requirement for the fee collection, which stated the fees were to provide extended payment for continuous funding for the Living Roadway Trust Fund. Therefore, the recurring annual fee was established for installations within freeway rights-of-way to provide that continuous funding. This requirement is currently outlined in Iowa Code section 321.14. The Department recommends no change to fee structure set out in the rule.

4. Scenic America supports the proposed rules and the Department's efforts to protect and preserve the scenic character of the nation's highways. Comments indicated that Scenic America is in support of undergrounding of electrical wires to promote scenic beauty and provide equitable access to clean, renewable energy and indicated the proposed rules could be strengthened by including additional language regarding undergrounding and co-location of high-voltage, direct-current transmission lines. The Department notes that the burden of necessity to place overhead transmission lines within the freeway rights-of-way will be placed on the applicant with Departmental review and approval on a case-by-case basis. The Department recommends no change to the proposed rules.

5. Iowa Farm Bureau Federation supports the proposed rules to accommodate utility facilities within primary highway rights-of-way. Comments relate to the road rights-of-way where the state does not have fee simple ownership interest in that the installation could potentially impact the fee simple landowner through lack of compensation and the Department should consider a notification and review process with the fee simple owner. Most of the state rights-of-way are held in fee simple interest. With the acquisition of permanent easement, the Department acquires every interest in the property with the exception of the underlying fee simple interest by paying 100 percent of the actual value of the property at the time of acquisition. This effectively allows the Department to abandon its interest in a property in the future if it is determined to be in the best interest of the State of Iowa to do so. For some future highway projects, the Department may acquire that last fee simple interest in a property if there is an impetus to do so. In permitting a utility to occupy highway rights-of-way where the property was acquired by permanent easement, the Department has already acquired the right to do so within the permanent easement. The Department recommends no change to the proposed rules regarding this comment.

Fiscal Impact

The fiscal impact cannot be determined. The proposed rules extend the longitudinal use of interstate rights-of-way to electric transmission facilities, including the annual occupancy fee for such facilities. Allowing high-voltage electric facilities to occupy interstate rights-of-way supports the National Electric Vehicle Infrastructure deployment. There is a fee associated with longitudinal occupancy that is based on the length of installation (per mile) and the number of cables and increases 3 percent per year for as long as the facility is in place. The fees collected from longitudinal occupancy of the interstate rights-of-way by electric transmission facilities will increase revenues for the Living Roadway Trust Fund. This could increase the revenues generated from the fees and charges associated with electric vehicles and charging, which are deposited in the Road Use Tax Fund.

It is not possible to determine whether electric transmission facility owners will request to occupy interstate rights-of-way. Since the Department does not know whether utility companies will request to occupy interstate rights-of-way, the length of such installations, or the number of cables, the Department cannot estimate the associated fee nor the fiscal impact.

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 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 16, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 16, 2025 9 to 9:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 299 102 354
January 16, 2025 2:30 to 3 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 270 366 478

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Tracy George and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 115 and adopt the following **new** chapter in lieu thereof:

CHAPTER 115
UTILITY ACCOMMODATION

761—115.1(306A,314,320) General.

115.1(1) Purpose. This chapter covers the requirements needed for placement, adjustment and maintenance of utility facilities in, on, above or below the rights-of-way of primary roads to ensure the safety of the road user and the integrity of the road.

115.1(2) Contact information. Information regarding this chapter may be obtained from the department's website at: www.iowadot.gov/rightofway/Utility-Accommodation-and-Coordination; any

of the department's six district offices; or the Transportation Development Division, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

115.1(3) Considerations. If the department determines that the literal application of these rules to a specific situation will create or result in an unsafe situation or an unreasonable design, the department shall use sound engineering practices to determine the appropriate design for the specific situation documenting the design decision in the permit or the road project file, as applicable, and addressing:

- a. Safety of motorists, pedestrians, construction workers and other road users.
- b. Integrity of the road.
- c. Protection of the rights of the traveling public and of property owners, including the rights of abutting property owners.
- d. Topography and geometric limitations and constraints affecting typical engineering standards.
- e. Environmental protections, limitations and constraints of surrounding ecosystem.

115.1(4) Permit approval process.

a. To apply for a permit, the applicant must submit a request in the form and manner prescribed by the department. The department will do one of the following in response to a request for a utility accommodation on the primary road system: approve the request for a permit, approve the request for a permit with conditions, or deny the request for a permit. The department will notify the applicant of the determination in writing.

b. If the utility facility will impact a road or street under the jurisdiction of a local public agency, the request must be approved by the county. If the utility facility is within corporate limits of a city, the request must be approved by the city. The applicant is responsible for obtaining local jurisdiction approvals. If the utility facility will cross or impact an interstate road, the request must be approved by the FHWA. The department is responsible for obtaining FHWA approval.

c. Upon receipt of a denial notification or if the permit was approved with conditions, the applicant may choose to pursue a waiver from the director pursuant to subrule 115.1(5).

d. For the purposes of this chapter, required notifications may be made by electronic means.

115.1(5) Waivers. The director may, in response to a written petition, waive provisions of this chapter in accordance with 761—Chapter 11. The written petition is to contain the information as required in 761—subrule 11.5(2) and be submitted to the rules administrator either by mail to Rules Administrator, Government and Community Relations, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or by email to the rules administrator's email address listed on the department's website at iowadot.gov/administrativerules.

115.1(6) Additional requirement for waivers involving interstate roads. The director will not waive these rules in utility accommodation and adjustment situations involving the interstate road system, including its ramps, without the approval of the FHWA.

761—115.2(306,306A,321) Definitions.

“511” means a traveler information system that provides real-time updates about weather-related road conditions, road work, commercial vehicle restrictions, road closures and other events that impact traffic via the phone or Internet.

“Abandoned” or “abandonment” means the decision by a utility owner to no longer use its utility facility.

“Adjustment” means a physical change to an existing utility facility, including improvement, rearrangement, reinstallation, protection, relocation or removal of the utility facility.

“Agreement” means a contract between the department and a utility owner.

“Applicant” means the utility owner or the utility owner's designated representative who submits a request for a utility permit on the primary road system.

“Appurtenance” means a utility facility-related feature, such as a vent, drain, utility access or marker.

“Attachment agreement” means a contract between the owner of a utility pole or structure and another utility owner for the joint use or sharing of poles or structures.

“Backfill” means placement of suitable material and compaction of the material as specified in these rules.

“*Best management practices*” means the industry’s best-known method, technique or proven process used to achieve an end goal or standard.

“*Breakaway*” means designed to shatter, bend easily or separate from a solid foundation.

“*Cable*” means an insulated conductor or a combination of insulated conductors.

“*Carrier*” means a pipe directly enclosing a transmitted fluid (liquid or gas) or slurry. “Carrier” may also mean an electric or communication cable, wire or line.

“*Casing*” means an oversize load-bearing pipe, conduit, duct, or structure through which a carrier or cable is inserted.

“*Cell*” means a conduit.

“*Clear zone*” means a roadside area that is free of obstacles where an out-of-control vehicle can traverse safely, starting at the edge of the traveled way.

“*Communication line*” or “*communication cable*” means a cable used for the transmission of data, voice, images, television, alarm systems or traffic control.

“*Conduit*” means an enclosed tubular runway for protecting wires or cables. A conduit may also be referred to as a “cell” or “duct.”

“*Cover*” means depth from the grade of a roadway or ditch to the top of an underground utility facility.

“*Department specifications*” means departmental standard specifications that can be found on the department’s website at www.iowadot.gov/specifications.

“*Designated representative*” means a person with authority to make decisions on behalf of the utility owner, including employees of the utility company or consultants and utility contractors performing specific work on behalf of the utility owner.

“*Director*” means the director of transportation or the director’s designee.

“*District representative*” means a department employee who processes utility accommodation requests in an assigned geographical area.

“*Duct*” means a conduit.

“*Emergency*” means an unplanned situation that presents a danger to the life, safety or welfare of motorists, persons working within the rights-of-way or the general public and that requires immediate attention. The emergency may be the result of storm damage and may involve disruption of utility service to customers. Work on a utility facility due to an emergency is unplanned work and may be necessary at any time of the day or night. The emergency work operation usually involves a small crew and a work vehicle for a short period of time.

“*Encasement*” means placing a casing around a utility facility.

“*FHWA*” means the Federal Highway Administration.

“*Flowline*” means the lowest point in a pipe, culvert, ditch, stream bed, or other structure that conveys water.

“*Foreslope*” means the downward sloping surface of an embankment from the outer edge of the roadway shoulder away from the traveled way to the roadway ditch bottom.

“*Freeway*” means a fully controlled access primary road. The rights of ingress and egress from abutting properties have been legally eliminated by the department. Permanent access to the primary road is allowed only at interchange locations. A freeway is generally five or more miles in length.

“*Generally accepted industry standards*” means a set of criteria within an industry relating to the standard functioning and carrying out of operations in the industry’s respective fields of production.

“*Interchange*” means a system that provides for the movement of traffic between intersecting roadways via one or more grade separations.

“*Maintenance*,” as used in conjunction with a utility facility, means any repair or replacement of the utility facility that is not an adjustment and that does not increase the capacity of the original installation. The term “maintenance,” when used in conjunction with a road, means repair or other operational activities performed by the department within the primary road rights-of-way to preserve the function of the road and its structures.

“*Median*” means that portion of a divided road separating traffic moving in opposite directions.

“*Multiduct*” means a system comprised of two or more conduits combined in a joined pathway.

“*MUTCD*” means the Manual on Uniform Traffic Control Devices as adopted in 761—Chapter 130.

“*Nonfreeway primary road*” means a primary road that is not a freeway.

“*Occupy the primary road rights-of-way*” means located or to be located in, on, above or below the primary road rights-of-way. The term includes attachments to primary road structures.

“*Out-of-service*” means a utility facility that has been removed from service and is not in use.

“*Pavement*” means that portion of a roadway used for the movement of vehicles, excluding paved and unpaved shoulders.

“*Permit*” means a utility permit issued by the department. The term “permit” includes all attachments to the permit.

“*Pipe*” means a tubular product used to transport solids, liquids or gases.

“*Pipeline*” means a carrier system used to transport liquids, gases, or slurries.

“*Primary road*” means the same as defined in Iowa Code section 306.3(6).

“*Reimbursement agreement*” means a contract between a utility owner and the department for reimbursement of utility facility relocation from private easement due to proposed primary road construction.

“*Rights-of-way*” means the same as “public road right-of-way” as defined in Iowa Code section 306.3(7).

“*Road*” or “*street*” means the same as defined in Iowa Code section 306.3(8).

“*Roadway*” means the same as defined in Iowa Code section 321.1(65).

“*Rural-type roadway*” means a roadway that does not have a curb and gutter section.

“*Service connection*” means a water, gas, power, sanitary sewer, storm sewer line or communications cable that extends from the main or primary utility facility into an adjacent property and that is used to serve the property regardless of ownership.

“*Shoulder*” means that portion of a roadway contiguous to the traveled way for the accommodation of disabled vehicles, for emergency use and for the lateral support of the pavement base and paved and unpaved surface courses.

“*Toe of foreslope*” means the intersection of the foreslope and the natural ground or ditch bottom.

“*Traveled way*” means that portion of a roadway used for the movement of vehicles, excluding shoulders and auxiliary lanes.

“*Trenched*” means installed in a narrow open excavation.

“*Trenchless*” means installed without breaking the ground or the pavement surface, such as by jacking, boring, tunneling, directional drilling or mechanical compaction.

“*Urban-type roadway*” means a roadway that has a curb and gutter section.

“*Utility*” means the same as defined in Iowa Code section 306A.13, and for the purposes of this chapter, the term “utility” includes traffic signal systems, street and intersection lighting systems and a communication line or communication cable.

“*Utility access*” means an opening in an underground utility system through which workers or others may enter for the purpose of making installations, inspections, removals, repairs, connections or tests.

“*Utility conflict list*” means a document that identifies the relevant information about the utility facilities identified within the primary road project footprint. The utility conflict list, also known as utility conflict matrix, serves as a tool to track the status of the utility facilities in relation to the road design, including but not limited to no conflict, potential conflict, utility owner, utility type, size, location, assessment, relocation required, actions, and resolutions.

“*Utility facility*” means any pole, pipe, pipeline, pipeline company facility, sewer line, drainage tile, conduit, cable, aqueduct or other utility-related structure or appurtenance.

“*Utility owner*” means the owner of a utility facility.

“*Vent*” means an appurtenance used to ventilate or to discharge gaseous contaminants from casings.

“*Waterway*” means a river, stream, creek, brook, drainage ditch or other perennially flowing body of water.

761—115.3(306A,318,320) General provisions.

115.3(1) *Permit required.* A permit is required to place utility facilities in, on, above or below the primary road rights-of-way to attach utility facilities to a primary road structure or to adjust existing utility facilities occupying the rights-of-way.

115.3(2) *Future adjustment.*

a. In the event any future maintenance or construction of the primary road requires an adjustment of the utility facility, the department will not reimburse the utility owner for adjustment costs incurred unless otherwise noted on the permit.

b. Should adjustment of the utility facility be required, the department makes no assurance nor assumes any liability to the utility owner that the utility facility will again be allowed to occupy the primary road rights-of-way.

115.3(3) *Compliance with requirements.* It is the responsibility of the utility owner to ensure that the utility owner's utility facility complies with all applicable federal, state, local and franchise requirements and meets generally accepted industry standards at the time of installation.

115.3(4) *Performance bond.* The department may require a performance bond for utility work within the primary road rights-of-way under the following circumstances: the work is being done to adjust or relocate the utility facility to accommodate a planned primary road project; the installation is unusual; abnormal site conditions exist, such as but not limited to unstable soil or unique vegetation; or the utility owner has a history of performance problems. A performance bond is required for longitudinal freeway occupancy; more information contained in subrule 115.15(9).

a. If a performance bond is required, the utility owner shall file the bond with the department prior to commencing work within the rights-of-way in the minimum amount of \$10,000 per permit. Depending on the type and extent of the utility facility installed, the department may require a higher performance bond amount. The performance bond shall be in force for the duration of the permit and through completion of the primary road project construction, when applicable. The department will release the performance bond after all permit requirements have been accomplished by the utility owner. The department shall have the right to file a claim against the performance bond for two years after the performance bond has been released.

b. An annual performance bond in the amount of \$100,000 for statewide activities in lieu of an individual performance bond for each permit is permissible and shall be kept in force for as long as the utility owner's utility facilities occupy the primary road rights-of-way anywhere within the state of Iowa.

c. When required, a performance bond shall guarantee prompt relocation for primary road project construction, restoration of any damage that is the result of the utility facility's occupancy of the primary road rights-of-way, and correction of any installation that is not in accordance with the issued permit on location or method of installation.

115.3(5) *Execution of work.* Utility construction and maintenance work within the primary road rights-of-way is to be accomplished in a manner satisfactory to the department.

115.3(6) *Disturbance of other contractors.* Utility construction and maintenance work within the primary road rights-of-way is to be accomplished in a manner that minimizes disturbance to any other contractor working within the rights-of-way. It is the responsibility of the utility owner to coordinate work with other contractors.

115.3(7) *No adverse effect on primary road.* A utility facility must not adversely affect the safety, design, construction, operation, maintenance or stability of the present use or future expansion of a primary road.

115.3(8) *Safety, health and sanitation.* Construction and maintenance of a utility facility shall be accomplished in a manner that minimizes disruption of primary road traffic and other hazards to the road user. The utility owner is responsible to comply with the MUTCD and all applicable federal, state and local statutes, ordinances and regulations governing safety, health and sanitation. The utility owner is to furnish such additional safeguards, safety devices and protective equipment and take actions to protect the life and health of the public.

115.3(9) *Parking or storage in clear zone or median.*

- a. Unattended vehicles, equipment and materials shall not be parked or stored within the shoulder, median or clear zone and should be located as close to the right-of-way line as possible.
- b. When in use, vehicles are to be oriented with the direction of traffic.
- c. Exceptions to parking or storage requirements may be authorized by the district representative on a case-by-case basis.

115.3(10) *Protection of landscaped or planted areas.* Prior to permit approval, specific authorization is to be obtained from the district representative for mowing, trimming trees and shrubs, and for spraying within the rights-of-way. Landscaped and planted areas are to be avoided as much as practical. A landscaped or planted area that is disturbed is to be restored as nearly as practical to its original condition.

115.3(11) *Noncompliance.* The department may take any or all of the following actions for noncompliance with any provision of this chapter or any term of a permit:

- a. Halt utility construction or maintenance activities within the rights-of-way.
- b. Withhold an adjustment reimbursement until compliance is ensured.
- c. Revoke the permit.
- d. Determine a utility facility to be an obstruction and remove the noncomplying utility facility, restore the area to its previous condition, and assess the removal and restoration costs to the utility owner in accordance with Iowa Code section 318.5.
- e. Place all pending and future permits on hold until the issue is resolved.

115.3(12) *Identification signs and markers.* Utility facilities within primary road rights-of-way shall be properly marked in accordance with the following:

- a. Identification signs are to be installed and maintained by the utility owner.
- b. The signs must identify the utility owner, telephone number to contact in case of an emergency, and the type of buried utility.
- c. Identification signs are to be composed of highly visible ultraviolet-resistant material.
- d. Each sign is to be no larger than 200 square inches.
- e. The mounting height is to be 5 feet to the bottom of the sign.
- f. Signs are to be placed within 12 inches of the right-of-way line along the entire occupancy route.
- g. The interval between signs is not to exceed one-quarter mile in rural areas and 500 feet in urban areas or as designated by the district representative.
- h. Utility facility crossings must be properly marked on each side of the road.
- i. If the utility facility is removed or relocated, the utility owner is to remove or relocate the corresponding identification signs and markers.
- j. If the utility facility is abandoned in place, the utility owner is to promptly notify the department as set out in subrule 115.18(2).

115.3(13) *Insufficient capacity of rights-of-way.* The department may deny issuance of a permit if it determines there is insufficient room for additional utility facilities within the rights-of-way.

761—115.4(306A,318) General design provisions.

115.4(1) *Design.* The design plan for a utility facility shall:

- a. Be prepared by a person knowledgeable with this chapter, road design, and work zone traffic control.
- b. Include the measures to be taken to preserve the surrounding environment, safe and free flow of traffic, structural integrity of the road and road structures, ease of road maintenance, appearance of the road and integrity of the utility facility to the extent applicable.
- c. Include the location of each utility facility in the proposed run line with footage off centerline or right-of-way line to ensure the placement of the proposed utility facility can be accommodated.

115.4(2) *Number of crossings.* The number of utility facilities crossing the primary road rights-of-way shall be kept to a minimum. The department may require distribution facilities to be installed on each side of the road to minimize the number of crossings and service connections. In individual cases, the department may require several facilities to cross in a single conduit or structure. Crossings should be as near to perpendicular to the road alignment as practical.

115.4(3) Clear zone requirements and aboveground obstructions. The department will determine the clear zone distance and cause all obstructions within the clear zone of the primary road rights-of-way to be removed pursuant to Iowa Code sections 318.4 and 318.5.

a. On rural-type roadways, a permanent, aboveground obstruction is to be situated as near to the right-of-way line as practical in an area beyond the clear zone or the road foreslope, whichever area locates the obstruction a greater distance from the edge of the traveled way, right-of-way width permitting.

b. On urban-type roadways, the face of a permanent, aboveground obstruction is to be situated no closer than 10 feet from the back of the curb. In areas with parking or auxiliary lanes, an aboveground obstruction is to be situated no closer than 2 feet behind the back of the curb or a minimum of 10 feet from the edge of the traveled way, whichever location is farther from the traveled way.

c. Poles, guys, anchors and related appurtenances shall be situated away from roadway shoulders, the foreslope, the flowline of ditches, and drainage structure openings in an area that minimizes interference with department maintenance operations.

d. Pedestals, cabinets, vaults, hand holes or similar appurtenances should be placed 1 foot from the right-of-way line. The number of installations is subject to district representative approval.

e. If sufficient right-of-way is not available to accommodate the clear zone distance, the department may require the use of breakaway devices, self-supporting poles or towers, double-arming and insulators or dead-end construction; require regrading of the rights-of-way; require the utility facility to be located underground; or authorize the utility facility to be placed near the right-of-way line. The district representative may approve the adjustment of minimum setback distances for poles and other appurtenances that have a breakaway design.

f. Additional clear zone requirements for freeways are included in subrule 115.13(2).

761—115.5(306A) Scenic enhancement.

115.5(1) Introduction. The type and size of a utility facility and the manner in which it is installed can materially alter the scenic quality, appearance and view of roads and adjacent areas. Such areas may include but are not limited to scenic strips, scenic overlooks, rest areas, recreation areas, public parks and historic sites, aesthetically enhanced corridors, and the rights-of-way of primary roads that pass through or are adjacent to these areas.

115.5(2) Underground installations. The department may permit a new underground installation if it does not require extensive removal or alteration of trees or other natural features visible to the road user and if it does not impair the visual quality of the area being traversed.

115.5(3) Aboveground installations. The department may permit a new aboveground installation only if the following three conditions are met:

a. Other locations for an aboveground installation are unusually difficult, are unreasonably costly, or are less desirable from the standpoint of visual quality.

b. Underground installation is not technically feasible or is unreasonably costly.

c. The location, design and materials to be used for the proposed aboveground installation will give adequate attention to the visual qualities of the area being traversed.

761—115.6(306A) Liability. The following are conditions of a permit:

115.6(1) The utility owner. The utility owner will defend, indemnify and save harmless the state of Iowa, its agencies and employees from any and all causes of action; suits at law or in equity; for losses, damages, claims or demands; and from any and all liability and expense of whatsoever nature (including reasonable attorney fees) arising out of or in connection with the utility owner's use or occupancy of the primary road rights-of-way or noncompliance with rule 761—115.19(306,306A) to rule 761—115.24(306A).

115.6(2) The state of Iowa. The state of Iowa, its agencies or employees, will be liable for expense incurred by the permit holder in its use and occupancy of the primary road rights-of-way only when negligence of the state, its agencies or employees, is the sole proximate cause of such expense. Whether in contract, tort or otherwise, the liability of the state, its agencies or employees, is limited to the

reasonable, direct expenses to repair damaged utilities, and in no event will such liability extend to loss of profits or business, indirect, special, consequential or incidental damages.

761—115.7(306A,320) Utility permit.

115.7(1) Applicant contact. The permit request is to include contact information for the utility owner or utility owner's designated representative.

115.7(2) Permit.

a. At a minimum, a utility permit allows:

- (1) The applicant or the applicant's contractor to perform the work covered by the permit.
- (2) The utility facility described in the permit to occupy the primary road rights-of-way.
- (3) The utility facility to be operated and maintained.

b. A utility permit does not convey a permanent right of occupancy.

115.7(3) Plan. Each permit request is to be accompanied by a plan. The plan shall include all of the following that are applicable to the installation:

a. Location of the utility facility by route, county, section(s), township(s), range(s), reference post and primary road stationing, where these references exist.

b. Primary road centerline and rights-of-way limits.

c. Location of the utility facility by distance to the nearest foot at each point where the utility facility's location changes alignment, as measured from the:

- (1) Centerline of the primary road on nonfreeway installations.
- (2) Right-of-way fence on freeway installations.

d. Applicable construction details, including the:

- (1) Depth of burial.
- (2) Types of materials to be used in the installation.
- (3) Type and size of the utility facility, including operating pressures and voltages, number of cable pairs, and fiber counts.
- (4) Vertical and horizontal clearances.
- (5) Traffic control plan prepared by a person knowledgeable in work zone traffic control or a reference to a standard traffic control plan of the department.

115.7(4) Discharging into waterways.

a. A permit request for the placement of a utility facility that will discharge materials into the nation's waters is to be accompanied by satisfactory evidence of compliance with all applicable federal, state and local environmental statutes, ordinances and regulatory standards.

b. The utility owner is responsible for obtaining these approvals. The department may withhold a permit until these approvals are obtained.

115.7(5) Department action on permit request.

a. The department will act on the permit request within 30 days after the filing of the permit request with all necessary and accurate information. If an emergency should exist, the department will act on the request as expeditiously as practical.

b. Failure on the part of the utility owner to provide complete information may result in a delay in the department taking final action on the request.

115.7(6) Changes to work. Changes in the work as described in the original permit require the prior approval of the department and shall be documented in a revised permit and utility as-built plan pursuant to subrule 115.7(8).

115.7(7) Department-issued permit. The utility owner or the utility owner's designated representative is to have a complete copy of the department-issued permit in paper or electronic form, including attachments, at the construction site at all times for examination by the department. Failure to have the approved permit and attachments on site shall result in the department halting work until the issued permit is produced.

115.7(8) As-built plan.

a. Within 90 days after completion of construction, the utility owner is to submit to the department an as-built plan in an electronic format in accordance with department specifications.

b. If the utility owner fails to submit the as-built plan within the time required, the department may hire an independent contractor to locate the utility facility and prepare an as-built plan. All costs associated with this activity are the responsibility of the utility owner.

c. Any costs incurred by the department or its contractors due to incorrect as-built information supplied by the utility owner or deviations in actual placement from that described in the original permit are the responsibility of the utility owner.

115.7(9) *Transfer of permit.* A new utility permit is not needed when a utility facility is transferred or leased in its entirety. The requirements of the permit and this chapter remain in force for as long as the utility facility continues to occupy the primary road rights-of-way and serve the intended purpose. The transferee or lessee is to submit the following information to the appropriate district representative:

- a. The name, mailing and email address and telephone number of the transferee or lessee.
- b. Geographical area involved in the transaction.
- c. Permit numbers or issued permit documents for utility facilities within the geographical area.

115.7(10) *Term of permit.* Except for permits for longitudinal occupancy of freeways as outlined in subrule 115.15(11), an issued permit will continue in perpetuity or until future maintenance or construction of the primary road requires an adjustment of the utility facility (more information contained in paragraph 115.3(2)“b”).

761—115.8(306A) Traffic protection.

115.8(1) *Traffic control for all work.*

a. When performing work within the rights-of-way, the utility owner is responsible for traffic control operations, including but not limited to providing, installing, maintaining and cleaning warning signs and protective devices; removing warning signs and protective devices when the work is complete; and providing certified flaggers.

b. Traffic control operations shall utilize department standard road plans for traffic control available on the department’s website, www.iowadot.gov/design/stdplne_tc.

c. The utility owner shall provide additional protection when special complexities and hazards exist.

115.8(2) *Traffic control for construction and maintenance work that is not emergency work.*

a. The utility owner is responsible for ensuring the use of traffic controls that are adequate for the nature, location and duration of work; type of roadway; traffic volume and speed; and potential hazards. The utility owner is to provide a ten-day notice to 511 of any lane restrictions or traffic closures.

b. Where high traffic volumes cause frequent congestion, routine scheduled maintenance and construction should be avoided during hours of peak traffic.

c. Work areas should be occupied for only as long as it is necessary to safely move in, finish the work, remove all utility work signs and move out.

d. Special care should be taken to clearly mark suitable boundaries for the workspace with channelizing devices so that pedestrians and drivers can see the workspace. If any of the traveled lanes are closed, tapers are to be used as required by the MUTCD.

e. Pedestrians should not be expected to walk on a path that is inferior to the previous path. Loose dirt, mud, broken concrete or steep slopes may force pedestrians to walk on the roadway rather than the sidewalk. Pedestrian detours, including those to accommodate persons with disabilities [Americans with Disabilities Act of 1990 (PL 110-336) 104 Stat. 327 (1990) (ADA)], may be required at the discretion of the district representative. Repairs (temporary or permanent) to damaged sidewalks should be made quickly. This may include bridging with steel plates or good quality wood supports.

f. Work areas involving excavations on the roadway should not exceed the width of one traffic lane at a time. The work should be staged and, if needed, approved bridging should be used. The utility owner should fully coordinate this type of activity with the district representative and, in a city, with the city’s traffic or public works office.

115.8(3) *Traffic control for emergency work.*

a. The extent of traffic control used for emergency work may be less than that used for longer-term construction or maintenance. However, the utility owner is responsible to provide for the safety of

pedestrians, motorists and workers. It may be necessary for the utility owner to contact local law enforcement officials to assist in securing the safety of the traveling public.

b. The work vehicle is to be equipped with an amber revolving light or amber strobe light, portable signs and channelizing devices, and necessary equipment for flagging operations.

761—115.9(306A) Construction responsibilities and procedures.

115.9(1) *Permit required before work may begin.* The utility owner shall not commence construction work in the primary road rights-of-way until the utility owner has received a fully approved and issued permit from the department.

115.9(2) *Notice of construction.* The utility owner shall give the district representative at least 48 hours' prior notice of the utility owner's intent to start construction within the rights-of-way.

115.9(3) *Authority of the district representative.*

a. The district representative has the authority to resolve any issues or concerns that arise regarding the intent of the permit and compliance therewith.

b. During the progress of the work, the district representative may approve minor alterations in the plan or character of the work that the district engineer deems necessary or desirable to satisfactorily complete the work. Such an alteration is not a waiver of the permit, nor does it invalidate any provision of the permit.

115.9(4) *Work in progress.* The utility owner is responsible for the care and maintenance of partially completed work within the rights-of-way. Unless otherwise authorized by the permit or the district representative, all work performed within the rights-of-way is to be accomplished within the time frame of 30 minutes after sunrise to 30 minutes before sunset.

115.9(5) *Department inspection.*

a. The department may inspect any permitted work performed within the rights-of-way.

b. If the department finds performance of permitted work is not in compliance with the issued permit, the department will provide to the utility owner written notice of the defects found. The utility owner is to perform any rework or removal as ordered by the department in the time frame established by the department.

115.9(6) *Department inspectors.* The department may appoint inspectors to represent the department in the inspection of construction. Inspectors are placed on the job to keep the district representative informed of the progress of the work and the manner in which it is being performed, and to call to the utility owner's attention any infringements of the permit. The inspectors may not:

a. Modify in any way the provisions of the permit.

b. Delay the work by failing to inspect the work with reasonable promptness.

c. Act as a supervisor for the work or perform any other duties for the utility owner or its contractor.

d. Improperly interfere with the management of the work.

e. Approve or accept any portion of the work on behalf of the department.

115.9(7) *Repair and cleanup.* Prior to the department's final inspection, the utility owner is to:

a. Upon notification by the department, make any repairs to the rights-of-way that are necessary due to the construction work, including but not limited to shoulder and pavement repairs within the time frame established by the department.

b. Remove from the rights-of-way all unused materials and rubbish resulting from the work and leave the rights-of-way in a clean, presentable condition.

c. Make arrangements for repair or compensation for any damage to another utility facility or tile line found to have been caused by the utility owner's actions.

115.9(8) *Completion of work.*

a. The utility owner is to notify the district representative upon completion of work.

b. Upon notification by the utility owner that the work is complete, the department may inspect each item of work included in the permit as set out in subrule 115.9(5).

761—115.10(306A) Vertical overhead clearance requirements.

115.10(1) Conformance to standards. The vertical clearance for overhead utility facilities and the lateral and vertical clearances for bridges are to conform to generally accepted industry standards as well as applicable codes and regulations.

115.10(2) Minimum vertical clearance.

a. In no event shall the vertical clearance be less than 20 feet above the roadway for all overhead utilities.

b. Utility facility attachments to existing utility-owned poles are to be documented in a fully executed attachment agreement between the applicant and the pole owner for all poles not owned by the applicant and included in the permit request.

c. When a primary road detour has been established utilizing local jurisdiction roadways and streets, the minimum vertical clearance shall be applied to the temporary detour route at no cost to the department.

761—115.11(306A) Utility facility attachments to bridges.

115.11(1) Department determination. Utility facilities may be attached to an existing primary road bridge if the department determines that the attachment is in the best interests of the public. The department may accommodate utility facility attachments or conduits in the department's design for a new bridge if the department determines that the accommodation is in the best interest of the public.

115.11(2) Method and weight of attachment. The plan identified in subrule 115.7(3) is to show the method and weight of attachment. A separate permit is required for each bridge.

a. All attachments are to be placed in conduits, cells, pipes or trays; beneath the bridge's floor; inside the outer girders or beams; and above low steel or masonry of the bridge.

b. Department-approved clamps are to be used for any attachments to structural steel. Attachments are to be designed to withstand expansion or contraction forces.

c. If necessary, expansion devices, such as expansion joints, offsets or loops, shall be used. Utility facilities in cells or casings are to be grounded wherever necessary.

d. Welding or drilling holes in structural steel primary members is prohibited.

e. Utility facilities may be attached to noncritical concrete areas.

f. Holes should not be cut in wing walls, abutments or piers.

115.11(3) Attachment considerations.

a. Carrier pipe is to be suitably insulated from electrical power line attachments.

b. Pipelines may be attached to primary road bridges when installation below ground is not feasible, the design of the bridge can accommodate the attachment, and space is available.

c. Pipelines that have an operating pressure of more than 75 pounds per square inch or that are larger than 2 inches in diameter are to have shutoffs not more than 300 feet from each end of the bridge.

d. The department will consider pipeline attachment casing requirements on an individual basis. In some instances, thicker-walled or extra-strength pipe may be considered in lieu of encasement. Encasement is required for plastic pipe attachments to bridges.

e. The utility owner is to provide an indemnity bond to be executed by either itself or by a responsible bonding company, at the department's option.

(1) The indemnifier under the bond is to, in the event of damage resulting from any cause whatsoever arising out of or from permission to attach a pipeline, indemnify the department against all loss or damage to the department or any third party, including but not limited to the expense of repairing or replacing the bridge and the cost of alternate primary road facilities for traffic during the period when the bridge is being repaired or replaced.

(2) The indemnity bond is to be kept in force for as long as the pipeline is attached to the bridge.

(3) The department may periodically review the amount of the bond and require adjustments in the bond amount.

f. All costs attributable to the installation of an attachment to a bridge are to be paid by the utility owner unless the attachment is installed pursuant to a utility agreement.

115.11(4) Attachment fee.

a. The utility owner is to pay to the department an attachment fee for attaching the utility owner's utility facility to a primary road bridge. The attachment fee is \$181.60 per bridge plus \$0.99 times the weight of the attachment in pounds per foot times the length of the bridge in feet. The fee will increase 3 percent per year over the previous year after the base year of 2024. Additional fees may apply for longitudinal freeway occupancy (more information contained in subrule 115.15(8)). The department maintains the current fee listing available on the department's website at www.iowadot.gov/rightofway/Utility-Accommodation-and-Coordination.

b. The attachment fee is due before any construction work commences within the rights-of-way and shall be submitted to the department upon request.

c. Utility facilities dedicated solely to government use may, at the department's discretion, be attached to a primary road bridge without assessment of an attachment fee.

115.11(5) Utility attachments to freeway border bridges. The department may permit a utility facility to be attached to an existing or planned freeway border bridge if the following conditions are met:

a. The appropriate state agency of the adjoining state approves the attachment.

b. Except for communication cable, the utility facility exits the freeway rights-of-way as soon as physically practical after crossing the state line into Iowa.

c. The attachment otherwise complies with this chapter, specifically including this rule and rule 761—115.15(306A) on longitudinal freeway occupancy.

761—115.12(306A) Underground utility facilities.

115.12(1) Depth requirements.

a. *Minimum cover—roadway.* The minimum required cover under a roadway is 48 inches below the bottom of the pavement.

b. *Minimum cover—waterways.* A minimum of 10 feet of cover below the flowline is required under waterways at the time of placement.

c. *Minimum cover—other portions of rights-of-way.* The minimum required cover under other portions of the rights-of-way is measured from design elevation at the time of placement and is to be a minimum of:

(1) 48 inches for electrical cable.

(2) 30 inches for communication cable, except that 36 inches is required for longitudinal occupancy under freeway rights-of-way.

(3) 36 inches for all other underground utility facilities.

d. *Rocky terrain.* The department may allow an exception to the minimum depth requirement where rocky terrain makes it difficult to obtain the required depth. The department will determine the minimum depth in these situations; however, no installation will be authorized with less than 24 inches of cover.

e. *Other protective measures.* In critical situations where the necessary cover cannot be obtained, the department may approve other protective measures.

f. *Highly erodible areas.* Highly erodible areas may require trenchless installation and additional depth requirements as determined by the district representative.

115.12(2) Measurement of cover. The cover is measured from one of the following:

a. On rural-type roadways, the lowest pavement surface edge.

b. On urban-type roadways, the gutter flow line, excluding local depressions at inlets.

c. Where longitudinal installations will be behind the curb, the top of the curb.

d. The surface of the surrounding ground or the low point of the ditch.

115.12(3) Casing. A casing is to:

a. Protect the road from damage.

b. Protect the carrier pipe from external loads or shock, either during or after construction of the road.

c. Convey leaking liquids or gases away from the area directly beneath the traveled way.

d. Provide for repair, removal and replacement of the utility facility without interference to the road.

e. Leave no excessive voids around the pipe (more information on procedures for backfilling contained in subrule 115.12(7)).

f. Be of sufficient strength to withstand the external loads created by the vehicular traffic on the roadway being traversed.

g. Be properly installed with fill compacted to department specifications.

h. Be made of material that complies with all applicable federal, state, local and franchise requirements and meets generally accepted industry standards.

115.12(4) Seals. Casing pipe shall be sealed at both ends with a suitable material to prevent water or debris from entering the annular space between the casing and the carrier.

115.12(5) Encasement and related requirements.

a. *Trenchless construction.* Underground crossings of existing paved roadways, gravel entrances and residential or business frontage roads shall be accomplished by trenchless construction. Other installation methods may be authorized by the district representative and noted in the permit. The utility owner is responsible for contacting the property owner prior to any open cuts in entrances and residential or business frontage roads.

b. *Transverse crossings.* Underground transverse crossings of freeways and primary roads are to be encased from right-of-way line to right-of-way line and clearly marked by the utility owner at the outer limits of the rights-of-way. Encasement exceptions for transverse crossings may be authorized by the district representative on a case-by-case basis.

c. *Longitudinal installations.* Utility lines installed longitudinally to the primary road rights-of-way are to be encased at entrances and crossings of hard-surfaced roads and streets. Encasement exceptions for longitudinal installations may be authorized by the district representative on a case-by-case basis.

d. *Electrical service.* Underground electrical service is to be placed in a conduit from right-of-way line to right-of-way line and clearly marked by the utility owner at the outer limits of the rights-of-way.

e. *Pipelines.*

(1) Exceptions to pipeline encasement may be made for a pipeline carrying natural gas at an operating pressure of 60 pounds per square inch or less that is made of copper, steel or plastic and is protected and installed in accordance with generally accepted industry standards; and the utility owner certifies as a part of the permit that these standards are met.

(2) Exceptions to pipeline encasement may be made for a pipeline carrying liquid petroleum products, ammonia, chlorine or other hazardous or corrosive products if the pipeline meets all of the following requirements and the utility owner certifies as a part of the permit that these requirements are met:

1. The pipeline is welded steel pipeline.
2. The pipeline is cathodically protected.
3. The pipeline is coated in accordance with generally accepted industry standards.
4. The pipeline complies with federal, state and local requirements and meets generally accepted industry standards regarding wall thickness and operating stress levels.

(3) Pipeline encasements are to be vented and marked at the outer rights-of-way limits. The markers are to meet generally accepted industry standards and include the following information:

1. Name and address of the utility owner.
2. Telephone number to contact in case of an emergency.
3. Type of product carried.

f. *Communication cable.* The department may require encasement of communication cable.

g. *Sanitary sewer lines.* Exceptions to sanitary sewer line encasement may be made for gravity flow lines installed subsequent to road construction if all of the following requirements are met:

(1) The opening is cut to the size of the carrier pipe so that there are no excessive voids around the pipe.

(2) The pipe is of sufficient strength to withstand the external loads created by the vehicular traffic on the roadway being traversed.

(3) Lines beyond the toe of foreslope are properly installed and compacted to department specifications.

h. Waterlines. Exceptions to waterline encasement may be made for the following:

(1) Encasement is not required where it is impractical due to existing conditions as determined by the district representative.

(2) Venting and sealing of waterlines encasement is not required for waterlines with an inside diameter of 2 inches or less.

(3) Waterlines installed in advance of road construction need not be encased if the pipe is properly embedded and made of extra strength cast iron or ductile iron pipe with mechanical joints and seals, or equivalent.

i. Installations vulnerable to damage. When it is acceptable to both the utility owner and the department, an underground utility facility that, by reason of shallow depth or location, is vulnerable to damage from road construction or maintenance operations may be allowed to remain in place and shall be protected with a casing, suitable bridging, concrete slabs or other appropriate measures and noted in the permit.

j. Other installations. When it is acceptable to both the utility owner and the department, an underground utility facility not otherwise addressed in this subrule may be installed without protective casing if the installation involves trenched construction.

115.12(6) Multiduct systems. The department may require installation of a multiduct system to be shared with others. Details of the installation are subject to department approval.

a. For other multiduct systems, the department may designate a “lead company” for the multiduct system. The lead company will generally be the first utility owner requesting occupancy. The lead company is to:

(1) Design and install the multiduct system.

(2) Maintain the multiduct system.

(3) Provide all capital required to construct the multiduct system.

b. Once a multiduct system has been established, the department may require future occupancies to be located within one of the unoccupied inner ducts of the system. If all inner ducts are occupied, the department may require the establishment of an additional multiduct system. Subsequent occupants of a multiduct system should share equally in the entire capital cost of the utility facility. As each new occupant is added to an existing system, the department may require the new occupant to pay its proportionate share based on the number of inner ducts it occupies.

c. More information is contained in subrule 115.15(8) regarding occupancy fees for longitudinal installations on freeways.

115.12(7) Procedures for backfilling trenched construction and jacking or boring pits.

a. When a carrier, pipe, conduit, or cable is placed by trenched construction, jacking or boring, the backfill shall be placed and compacted in accordance with department specifications so that there is no settlement or erosion. Should settling or erosion of a trench be observed, the utility owner will be responsible to correct the problem.

b. Backfill under roadways or entrances is to be of a suitable material to minimize settlement at the site. Examples of suitable material include granular backfill or flowable mortar.

115.12(8) Procedures for trenchless construction.

a. When trenchless construction techniques are used, the bore is to be as small as practical and in accordance with department specifications.

b. Grout backfill is to be used for all unused holes and abandoned pipes. Grout or sand backfill is to be used for any borehole more than 2 inches larger than the installed casing or other utility facility. All bored utility facilities are to be constructed in such a manner that surface water is not transported to or otherwise allowed access to groundwater.

115.12(9) Procedures for pavement removal.

a. When the existing pavement is cut to accommodate a utility installation, the cut shall be made with a concrete saw.

b. The dimensions of the pavement removal shall be 6 feet in length and full lane width. If the distance from the specified cut to any adjacent longitudinal or transverse joint or crack is less than 4 feet, the pavement removal shall be extended to the joint or crack.

c. The district representative will make the final determination on the required depth and width of cut.

115.12(10) Procedures for pavement replacement.

a. Restoration of pavement shall be accomplished in accordance with department specifications.

b. The district representative may authorize temporary repair with bituminous material.

c. A permanent patch shall be placed as soon as conditions permit.

115.12(11) Clear zone for pits. Jacking or boring pits are to be located beyond the clear zone or road foreslope, whichever locates the pit a greater distance from the edge of the traveled way.

a. On freeways, jacking or boring pits are not allowed within the median.

b. On rural-type, nonfreeway primary roads, jacking or boring pits may be allowed within the median or foreslope upon request and at the discretion of the district representative.

c. On urban-type, nonfreeway primary roads, jacking or boring pits should be located at least 2 feet from the curb.

d. Jacking or boring pits authorized within the clear zone are to be protected at all times. All protection measures are to be included in the permit request. Examples of protection measures include backfilling of the pit, temporary barrier rail, or reflective fence.

115.12(12) Construction methods. Casing and pipeline installations are to be accomplished by dry boring, tunneling, jacking, trenching, or directional drilling.

a. The use of water under pressure, jetting or puddling to facilitate boring, pushing or jacking operations is not allowed.

b. Water may be used to lubricate a cutter and pipe during a dry boring operation.

761—115.13(306A) Freeways.

115.13(1) Access to utility facilities occupying freeway rights-of-way.

a. Except for emergency work, access to utility facilities during utility construction or maintenance activities is to be obtained from the areas other than the freeway or its ramps. More information is contained in subrules 115.8(3) and 115.17(2) regarding emergency work.

b. Fence removal and replacement will be determined by the district representative.

c. No gates or ladders are to be placed in or upon the right-of-way fence.

d. The department will coordinate approval from the FHWA for any request to access the interstate right-of-way for utility work.

115.13(2) Freeway clear zone requirements. The clear zone requirements of subrule 115.4(3) apply to freeways. In addition:

a. Personnel, equipment and materials are not allowed in the median or within the clear zone area during utility facility construction or maintenance operations, except as provided in paragraph 115.13(2) "b."

b. Temporary poles may be allowed in the median during cable or conductor stringing operations at the discretion of the district representative.

115.13(3) Aboveground appurtenances. Aboveground appurtenances, including but not limited to poles, guys and other supporting structures, are not allowed within the rights-of-way of freeways.

115.13(4) Existing utility facilities.

a. A utility facility occupying land that subsequently becomes freeway rights-of-way may remain within the rights-of-way if the utility facility:

(1) Can be accessed from areas other than the freeway or its ramps.

(2) Does not adversely affect the safety, design, construction, operation, maintenance or stability of the freeway.

b. If the conditions in paragraph 115.13(4) "a" are not met, the department may request the utility facility be relocated outside the freeway rights-of-way.

761—115.14(306A) Transverse installations on freeways.

115.14(1) *Interchange areas.*

a. Utility facilities may not be placed within the interchange area of intersecting freeways unless they are road-related.

b. In other interchange areas, the department may permit occupancy if access to the utility facility can be obtained from areas other than the freeway or its ramps, such as an intersecting, adjacent or nearby road or trail.

115.14(2) *Aboveground installations.*

a. A single span is to be used to cross the freeway where the width of freeway rights-of-way permits.

b. Within interchange areas:

(1) Single-pole construction is to be used, with the number of poles kept to a minimum.

(2) Overhead lines are to be constructed on tangent, parallel to the intersecting road, without guys or anchors being placed in the areas between the ramps and the main freeway. Guy poles are to be located as near to the freeway rights-of-way line as practical.

(3) Poles are to be located outside the clear zone and situated as far from the main freeway and ramps and as close to the toe of foreslope of the intersecting road as practical but shall remain outside the clear zone.

(4) The use of self-supporting poles or towers, double arming and insulators, breakaway devices and dead-end construction should be considered.

761—115.15(306A,314) Longitudinal installations on freeways.

115.15(1) *Type of installation permitted.*

a. Pursuant to Iowa Code section 314.20, the department may permit the installation of an underground utility facility if, in addition to complying with other provisions of this chapter, the utility facility specifically complies with this rule.

b. Except as provided in this rule, no aboveground installations other than those needed to serve road facilities are allowed.

c. If the department determines that an aboveground installation is necessary to advance the state's priorities, can be installed safely with minimal impact on the traveling public, can be safely accommodated within existing right-of-way, is along a roadway that is not anticipated to require additional right-of-way for future improvements in the foreseeable future, and extends for a relatively short distance, the department may permit installation with proper justification.

115.15(2) *Prohibitions on longitudinal occupancy.*

a. A utility facility may not be placed longitudinally within freeway rights-of-way that is used for transmitting gases, liquids, or products that are flammable, corrosive, expansive or unstable.

b. A utility facility may not be placed longitudinally within the freeway rights-of-way that presents a hazard to life, health or property if it fails to function properly, is severed or is otherwise damaged.

c. No direct service connection to adjacent properties is allowed.

d. No utility facility is allowed in or on a structure carrying a freeway roadway or ramp, except for freeway border bridges, as provided in subrule 115.11(5).

115.15(3) *Minimal maintenance.* Once installed, the utility facility should require minimal maintenance.

115.15(4) *Location and depth.* The utility facility should be located on uniform alignment, preferably within 8 feet of the freeway rights-of-way line, and at a location approved by the department.

a. More information is contained in subrule 115.12(1) regarding minimum depth requirements.

b. Installation methods should be minimally invasive and authorized by the district representative.

c. Utility accesses should be placed below the existing ground line. The locations and number of accesses are subject to district representative approval.

115.15(5) *Pedestals, cabinets, vaults, hand holes, repeater stations or similar appurtenances.*

a. Aboveground pedestals are permissible. All pedestals, cabinets, vaults, hand holes or similar appurtenances should be placed one foot from the right-of-way fence. The number of installations is subject to district representative approval.

b. Repeater stations are not allowed in the rights-of-way.

115.15(6) *Metallic warning tape.* Metallic warning tape is to be installed a minimum of 12 inches below the existing grade and above the utility installation unless installation is done by directional boring or other trenchless methods.

115.15(7) *Engineering.* The utility owner is to retain the services of a licensed, professional engineer familiar with the requirements for utility work to be accomplished in Iowa.

a. The engineer is responsible for overseeing continuous on-site inspection of the installation of the utility facility, including all provisions pertaining to access to the work site and traffic control.

b. Upon completion of the project, the engineer is to certify to the department on the appropriate form that the installation, traffic control, and access to the work site were accomplished in accordance with the permit.

c. Any change to the alignment as described in the permit requires the prior approval of the district representative and is to be included in the as-built plan (more information is contained in subrule 115.7(8)).

115.15(8) *Occupancy fee.* The utility owner is to pay to the department an annual fee for longitudinal occupancy of the freeway rights-of-way in accordance with Iowa Code section 314.20. The initial fee is due before any construction work commences within the rights-of-way. Additional fees may apply for bridge attachments (more information is contained in subrule 115.11(4)). The department maintains the current fee listing available on the department's website at www.iowadot.gov/rightofway/Utility-Accommodation-and-Coordination.

a. Unless otherwise specified, the annual fee is based on the number of ducts, cables and length in miles as follows:

(1) When a multiduct system is required by the department the fee is \$26,188.61 per cable installation or \$13,094.31 per mile of cable, whichever is greater. These fees increase 3 percent per year over the previous year after the base year of 2024.

(2) The fee for all other installation is \$21,673.33 per cable installation or \$4,252.25 per mile of cable, whichever is greater. These fees increase 3 percent per year over the previous year after the base year of 2024.

b. When the department requires the installation of a multiduct system, the department may enter into an agreement with the lead company for a discounted fee payment schedule to be in effect until the company has recovered all or an agreed upon portion of its cost of installing the system. Subsequent occupants of the multiduct system will be required to pay the full annual fee.

c. Utility facilities dedicated solely to state government use may, at the department's discretion, longitudinally occupy freeway rights-of-way without assessment of an occupancy fee.

115.15(9) *Performance bond.* The utility owner is to file a performance bond with the department prior to commencing work within the freeway rights-of-way.

a. The bond shall be in the minimum amount of \$100,000 per permit as determined by the district representative and shall guarantee prompt restoration of any damage caused during the installation of the utility facility.

b. The bond is to be in force for the duration of the construction. The department may file a claim against the bond for two years thereafter.

115.15(10) *Insurance.*

a. The utility owner shall maintain the following insurance for bodily injury, death and property damage arising out of or in connection with the construction, maintenance and operation of the utility facility:

(1) General public liability insurance with limits of not less than \$500,000 for injury to or death of a single person, or not less than \$1,000,000 for any one accident, and not less than \$250,000 per accident for property damage.

(2) Comprehensive automobile liability insurance with limits of not less than \$500,000 for injury to or death of a single person, or not less than \$1,000,000 for any one accident, and not less than \$250,000 per accident for property damage.

(3) Excess liability coverage with limits of not less than \$5,000,000.

- (4) Statutory workers' compensation coverage.
- b. This insurance is to be in effect before the utility owner commences any work within the freeway rights-of-way.
- c. Coverage may be provided by blanket policies of insurance covering other property or risks.
- d. The department is to be named as an additional insured party in the general public liability and excess liability insurance policies.

115.15(11) *Term of permit.* The permit is valid for 20 years from the date of issuance. Upon written request, the department may extend or renegotiate the term.

115.15(12) *Utilities for road facilities.* Longitudinal occupancy of utility facilities that service road-related facilities are permissible upon such terms and conditions as the department may determine.

761—115.16(306A) Longitudinal installations on nonfreeway primary roads.

115.16(1) *Location.* Longitudinal utility facility installations should be located on uniform alignment as near as practical to the right-of-way line to provide a safe environment for traffic operations and to preserve space for future road improvements and other utility installations.

115.16(2) *Underground installations.*

a. No carrier of flammable, corrosive, expansive or unstable material may be placed longitudinally within the rights-of-way of a nonfreeway primary road. Exceptions:

(1) A natural gas line with an operating pressure that is no greater than 150 pounds per square inch is permissible.

(2) The department may permit the placement of a natural gas line with an operating pressure that is greater than 150 pounds per square inch only if a suitable alternate location cannot be found.

b. On rural-type roadways, utility facilities shall be located in an area beyond the road foreslope and ditch bottom, right-of-way width permitting. Exceptions to the location may be made by the district representative for areas such as deep ravines or ditches. When adequate room within the rights-of-way is available, the utility facility shall be installed beyond the end of any culverts at a minimum depth of 10 feet beneath the normal flow line. When adequate room within the rights-of-way is not available, the utility facility shall be installed by trenchless methods a minimum depth of 10 feet beneath any culverts.

c. On urban-type roadways, utility facilities shall be located as near to the right-of-way line as practical. A utility access placed within the rights-of-way shall not protrude above the surrounding surface.

d. Utility facilities should not be placed in the median. The district representative may allow an installation within the median if a suitable alternative is not found.

e. Utility facility locations shall be marked and identified as set out in subrule 115.3(12).

761—115.17(306A) Maintenance and emergency work.

115.17(1) *Maintenance responsibilities.* The utility owner is responsible for utility facility maintenance. The utility owner is to:

a. Maintain the utility facility in a good state of repair.

b. Replace and stabilize all earth cover and vegetation where erosion has occurred over an underground utility facility when the erosion is due to or caused by the placement or existence of the utility facility.

c. Give the district representative 48 hours' prior notice of the utility owner's intent to perform predictable routine maintenance within the rights-of-way.

115.17(2) *Utility emergency work.*

a. Access to the worksite is permissible from the freeway roadways and ramps when an emergency exists.

b. The utility owner shall take all necessary, appropriate and reasonable measures to protect the safety of the traveling public and cooperate fully with law enforcement and the department in completing the emergency work.

c. The utility owner shall notify the district representative of the emergency as soon as practical, describing the steps being taken to protect the traveling public, the extent of the emergency, and the steps being taken to address the emergency.

d. If the nature of the emergency is such that it interferes with the free movement of traffic, the utility owner shall immediately notify law enforcement, 511 and the district representative.

e. When an emergency occurs on the interstate system, the department will notify the FHWA as soon as practical, describing the steps being taken to protect the traveling public and the steps being taken to address the emergency.

115.17(3) Department emergency work. There will be times when the department performs road-related emergency work. If utility facilities are affected, the department shall as soon as practical notify the utility owner of the emergency condition and what steps are necessary to protect the utility facility.

761—115.18(306A) Abandonment, out-of-service facilities, or removal of utility facilities.

115.18(1) Ownership. The utility owner shall continue to own, maintain, map, locate and mark its abandoned and out-of-service facilities within the primary road rights-of-way.

115.18(2) Notice to department. Within 90 days after the abandonment, out-of-service designation, or removal of all or a portion of an existing utility facility that occupies the primary road rights-of-way, the utility owner is to submit a notice of abandonment, out-of-service designation, or removal to the district representative. The notice shall include:

- a. Type of utility facility.
- b. Location of the utility facility by route, county, section, township, range, milepost and primary road stationing, where these references exist.
- c. Name of the original utility owner if different than the current utility owner.
- d. Original permit number and date of approval, if known.

761—115.19(306,306A) Utility facility adjustments for primary road improvement projects. Rules 761—115.20(306A) through 761—115.24(306A) establish administrative procedures for utility facility adjustments made necessary by primary road improvement projects pursuant to Iowa Code section 306A.10, including information exchange and the responsibilities of the department, utility owners, and the department’s contractor. The purpose of these procedures is to adjust utility facilities with minimal delays or added expense pursuant to Iowa Code section 306.47. Rules 761—115.20(306A) through 761—115.24(306A) apply to all primary road improvement projects with the following exceptions:

1. Projects the department develops on an accelerated schedule.
2. Projects with no anticipated utility adjustments.

115.19(1) Adjustment of facilities. If, despite making reasonable efforts to avoid or minimize the need for adjusting an existing utility facility, it is determined that adjustment is required due to proposed primary road construction, the utility owner is to adjust the utility facility in advance of the road construction. Scheduling of relocation work in the case of the following exceptions should be coordinated with the district representative:

- a. Relocation work that needs to be coordinated with the department’s contractor.
- b. Relocation work that is dependent on work to be performed by another utility company.
- c. Relocation work that is not practical until certain department project construction activities occur.

115.19(2) Relocation costs.

a. If adjustment of an existing utility facility occupying the right-of-way is required due to proposed primary road construction, the utility owner is to adjust the utility facility without cost to the state.

b. If adjustment of an existing utility facility located on an easement outside existing rights-of-way is required due to proposed primary road construction, approved relocation costs will be eligible for reimbursement by the department through a reimbursement agreement.

c. When the department participates in the cost of a utility facility adjustment required for proposed primary road construction, the department will not pay for a betterment that results in an increase in the capacity of the utility facility or for any other adjustment not required by proposed primary road construction and is made solely for the benefit of and at the election of the utility owner. The department is entitled to receive credit for the accrued depreciation on replaced facilities and the salvage value of any materials or parts salvaged and retained or sold by the utility owner.

d. Adjustment costs for which the department is responsible will be paid on a cost reimbursement basis through a reimbursement agreement. Estimates shall follow the cost development and reimbursement requirements outlined in 23 CFR 645 (Subpart A, 645.117) as amended October 1, 2023.

761—115.20(306A) Utility investigation and notice of project.

115.20(1) *Determining affected utilities.*

a. The department will make a reasonable effort to identify utility facilities located in the vicinity of a proposed primary road project and collect location information and attributes.

b. The department will periodically evaluate the information available and determine the utility investigation needs for the project. Utility companies are to respond to collaboration efforts with the department to determine the best approach to meet those needs.

c. The department will look at potential utility impacts and initiate coordination with utility owners. A utility conflict list should be used to document and track information obtained on the potential utility conflicts.

115.20(2) *Notifying utilities.* The department will identify by name the owner of each known utility facility located within the vicinity of a proposed primary road project. In accordance with Iowa Code section 306A.10, the department will send to each identified utility owner a notice of the improvement project, including the route number of the primary road, the geographical limits of the project and a general description of the proposed primary road work to be done, type of project, important schedule milestones, and, if available, the name and contact information of the designer or a department's representative for coordination purposes.

115.20(3) *Responding to notice.* The utility owner shall:

a. Within 30 calendar days after the date of the notice, provide to the department information about the utility owner's utility facilities that are in the vicinity of the improvement project. This information shall include the following:

(1) A confirmation in writing that the utility owner has or has no facilities in the vicinity of the project.

(2) Information on the utility owner's utility facilities' location and attributes, the name of any other utility companies that have utility facilities that coexist with the utility owner's utility facilities and contact information of the coexisting utility owner's authorized representative.

b. The utility owner is to reply regardless of whether or not it has utility facilities in the project's vicinity.

761—115.21(306A) Preliminary plan, verifying accuracy of information.

115.21(1) *Depicting utility information.* The department will use collected information to list all known utility owners within the vicinity of a proposed primary road project and include the utility owners' utility facility locations on the project plans in accordance with department specifications.

115.21(2) *Preliminary plan.* The department will submit its preliminary plan to the owner of each known utility facility within the vicinity of a proposed primary road project and ask utility owners to provide information regarding the accuracy of utility information depicted in the preliminary plan and potential conflicts and the utility owners' recommended solutions. The department should schedule a utility coordination meeting after the preliminary plan is sent to the utility owners.

115.21(3) *Response to the preliminary plan.*

a. The utility owner shall review the preliminary information sent by the department and provide a response within 30 calendar days. The response is to include the following:

(1) A statement regarding the accuracy of the location of the utility owner's existing utility facilities as depicted in the preliminary plan. If the information is inaccurate, a description of the inaccuracies is to be provided.

(2) A declaration that there are no known conflicts between the utility owner's utility facilities and the department's project, or a description of any potential conflicts between the utility owner's utility facilities and the department's project.

(3) Utility owners may provide recommended changes to the department's plan that may help to avoid or minimize impacts to utility facilities.

(4) Any other relevant information regarding potential utility facility conflicts, such as potential rights-of-way needs, permits that may be required, estimated time frame required for utility facility relocations, and any dependencies with other utility owners' work or the department's contractor.

b. The utility owner is to reply regardless of whether or not the utility owner's utility facilities in the project's vicinity are impacted by the proposed primary road project.

761—115.22(306A) Semifinal plan, utility work plan.

115.22(1) *Preparation of semifinal plan.* When preparing the semifinal plan, the department should review information provided by utility owners in response to the preliminary plan that was received within the requested time frame and implement recommended changes when feasible. The project utility investigation needs may be reevaluated to determine the best approach to meet those needs.

115.22(2) *Distribution of semifinal plan.* The department will submit its semifinal plan to the owner of each known utility facility within the vicinity of a proposed primary road project. The semifinal plan contains information details of the department's project to assist the utility owner in the design and the adjustment of the utility owner's utility facilities.

115.22(3) *Work plan.* Within 90 calendar days after the date the department provides its semifinal plan, the utility owner shall submit to the department a work plan for the adjustment or relocation of utility facilities impacted by the proposed primary road project.

a. The work plan is to include the following:

- (1) A narrative description of what work the utility owner will do.
- (2) An electronic plan or drawing showing the existing and proposed locations of the utility owner's utility facilities in relation to the semifinal plan.
- (3) Whether the work is dependent on work by another utility owner.
- (4) Whether the work can be done prior to road construction or must be coordinated with the department's contractor.
- (5) Whether the work is dependent on the acquisition of rights-of-way.
- (6) The number of working days required to complete the work and the earliest date when the utility owner could begin to implement the work plan.
- (7) A list of permits and approvals the utility owner is required to obtain from governmental agencies and railroad companies for the work, and the expected time schedule to obtain them.
- (8) The expected lead time in calendar days to obtain materials, schedule work crews, and obtain necessary rights-of-way.
- (9) Any other information that may be useful to the department or the department's contractor.

b. If the utility adjustment work may be reimbursable, the utility owner shall include the following with the work plan:

- (1) Documentation of real estate interests.
- (2) A detailed cost estimate for the adjustment, including appropriate credits for betterments or salvage.

115.22(4) *Conflict between work plans.* When requested by the utility owners or when the department determines there is potential for conflict between work plans, the department shall schedule a coordination meeting. All affected utility owners shall attend the meeting to coordinate the utility owners' work plans. The department may allow a utility owner an additional 30 calendar days to submit the utility owner's work plan if coordination is required with other utility owners.

115.22(5) *Department review of work plan.* The department will review each utility owner's work plan to ensure compatibility with permit requirements, the department's project, other utility work plans, and the department's project schedule.

a. If the work plan is acceptable, the department will notify the utility owner of the department's acceptance of the utility owner's work plan.

b. All relocation work plans should ensure the safety and reliability of the utility facilities and the road and avoid any unnecessary cost or delay. An approved and issued permit is to be obtained for work within the primary road rights-of-way. Any work plan by itself does not constitute a permit nor does it grant permission to occupy primary road rights-of-way.

c. If the work plan is not acceptable to the department, the department will notify the utility owner that the work plan is not acceptable and provide a detailed explanation of the problem.

d. The utility owner is to submit a revised work plan to the department within 30 calendar days after the utility owner's receipt of notice from the department that the work plan was not acceptable.

e. The department will review the revised work plan. If the revised work plan is acceptable, the department will notify the utility owner of the department's acceptance of the revised plan.

f. If the revised work plan is still not acceptable, the department may initiate noncompliance procedures per subrule 115.3(11). If the department determines that meaningful progress is being made, the department may elect to repeat the process set out in paragraphs 115.22(5) "c" to "e."

115.22(6) Reimbursement agreement.

a. For certain utility facility adjustments, the department may enter into a reimbursement agreement between the department and the utility owner. If applicable, the utility owner is to provide a request for reimbursement to the department prior to commencement of any relocation work. If the department determines that the relocation is eligible for reimbursement, a reimbursement agreement may be prepared between the department and the utility owner and should be fully executed by both parties prior to commencement of any relocation work. The agreement is to include the following:

- (1) The responsibilities of each party, including the pro rata share of costs to be borne by each party.
- (2) The scope, description, and location of the relocation work.
- (3) The relocation work plan.
- (4) The itemized cost estimate of the relocation work, including appropriate credits.
- (5) The actions to be taken in case of noncompliance with state requirements.

b. A reimbursement agreement by itself does not constitute a permit nor does it grant permission to occupy the primary road rights-of-way. The utility owner is responsible for obtaining a permit prior to commencing work within the rights-of-way.

761—115.23(306A) Notice of work.

115.23(1) Notice of receipt of permits and approvals. The utility owner shall notify the department within 14 calendar days after the utility owner has received all required permits and approvals from government agencies and railroad companies.

115.23(2) Notice to utility owner to begin work.

a. The department shall send a notice to proceed to the utility owner when necessary approvals are received, permits are issued, and rights-of-way have been acquired for the relocation work.

b. If the utility owner's work plan is dependent upon work by the department's contractor, the department's contractor is to provide the department and the utility owner a good faith notice 14 calendar days before the department's contractor's work is expected to be complete and ready for the utility owner to begin its work. The department's contractor should follow up with a confirmation notice to the department and the utility owner not less than three working days before the department's contractor's work will be complete and ready for the utility owner to begin its work.

115.23(3) Notice to department of commencement and completion of work. The utility owner is to give the department 48 hours' prior notice, excluding weekends and holidays, of the utility owner's intent to start utility adjustment work within the vicinity of a proposed primary road project. The utility owner is to also notify the department immediately upon completion of the work.

761—115.24(306A) Miscellaneous adjustment provisions.

115.24(1) Work plan compliance. The utility owner is to complete its utility adjustment work within the time frame of the work plan approved by the department. Upon completion of the work, the utility owner is to certify to the department that the adjustment of the utility owner's utility facilities is in accordance with the accepted work plan. The utility owner is to submit an as-built plan in accordance with department specifications.

115.24(2) Work plan changes. If a utility owner needs to change its work plan after its adjustment work begins, the utility owner shall notify the department. Once the department approves a modified work plan, the utility owner may make the necessary changes and perform the work.

115.24(3) Cost allocation.

a. If the department requires the adjustment of a utility facility that was originally determined, per the notice and work plan processes, to not need adjustment:

(1) The utility owner will bear the cost of the adjustment if the work is otherwise not reimbursable.

(2) The department will bear the reasonable cost of the adjustment if the work is otherwise reimbursable.

b. If the department requires additional adjustment to a utility facility after the utility facility has been adjusted in accordance with a work plan accepted by the department, the department will bear the reasonable cost of the additional work. This applies to all utility facilities, whether the original adjustment work was reimbursable or not reimbursable.

c. The utility owner will bear the cost of additional adjustment work performed after its utility facilities have been adjusted in accordance with a work plan accepted by the department if the additional work is due to the utility owner's error.

115.24(4) *Failure to comply with these rules, to provide an acceptable work plan, or to adjust utility facilities.* If a utility owner fails to comply with these rules, fails to provide an acceptable work plan per subrule 115.22(5), fails to comply with the accepted work plan, or fails to complete the adjustment of its utility facilities in accordance with the accepted work plan, and its failure results in a delay to the primary road project or causes damages to be incurred by the department or the department's contractor, the utility owner is liable for all costs and damages incurred as a result of its failure. In addition to any other remedy that may exist at law, in equity, or under these rules, the department may initiate noncompliance procedures per subrule 115.3(11) for failure to comply with the requirements of these rules.

These rules are intended to implement Iowa Code chapters 306A and 318 and sections 306.3, 306.47, 314.20, 320.4 through 320.8, and 321.1.

TD-2025-87

Stuart Anderson, Director, Transportation Development Division

The rulemaking proposes to rescind and repromulgate Chapter 115 in accordance with Executive Order 10.

Proposed Chapter 115 establishes standards and conditions for the placement of utility facilities within the public rights-of-way on primary and interstate roads allowing the department to safely and efficiently manage the public rights-of-way in terms of utility installations in a manner that minimizes disruptions to traffic and public services; facilitates better coordination between utility companies; minimizes impacts to utility facilities before and during highway construction; and protects the integrity and environmental and visual qualities of the highway facilities.

The department made minor and significant changes within the repromulgated chapter. A complete summary explaining the proposed rulemaking and the comments received from 11 constituents on the Regulatory Analysis is included in the attached Notice of Intended Action.

The department will revise paragraph 115.8(2)“e” to update the citation within paragraph 115.8(2)“e” to include the 2008 amendments to the Americans with Disabilities Act when we publish the adopted and filed rulemaking.

The public comment period for the Notice of Intended Action ended on January 16, 2025. We did receive additional comments during that period which have all been addressed and included on the attached Commission Orders.

It is recommended that the Commission approve repromulgating Chapter 115.

Commissioner Anderson moved and Commissioner Rielly seconded a motion to approve.

There were no further questions or comments.

The vote to approve was unanimous.

DEPARTMENT OF TRANSPORTATION
COMMISSION ORDER

Division/Bureau/Office Motor Vehicle Division Order No. MV-2025-88
 Submitted by Kathleen Meradith-Eyers Phone No. 515-231-1230 Meeting Date April 8, 2025
 Title Administrative Rules—761 IAC Chapter 400, Vehicle Registration and Certificate of Title

DISCUSSION/BACKGROUND:

The rulemaking proposes to rescind and repromulgate Chapter 400 in accordance with Executive Order 10.

Proposed Chapter 400 provides the process allowing motor vehicle owners to register and title their vehicle in Iowa, which is required for a vehicle to be legally operated on Iowa roadways. The rules provide clarity to county treasurers, law enforcement, and the public on the application and issuance process for vehicle registration and title, as well as outlining any exemptions or specific requirements to title and register a vehicle in Iowa.

The public comment period ended on January 17, 2025. The department did not receive any public comments. The department plans to make changes within subrule 400.35(3) to correct “child support recovery unit” to “child support services” to comply with 2023 Iowa Acts, Senate File 514.

A complete summary explaining the proposed rulemaking is included in the attached Notice of Intended Action.

PROPOSAL/ACTION RECOMMENDATION:

It is recommended that the Commission approve repromulgating Chapter 400 with the changes in subrule 400.35(3).

COMMISSION ACTION:			Vote	Nay	Pass
Aye	x	_____	_____	_____	_____
Anderson	x		_____	_____	_____
Arnold	x		_____	_____	_____
Gaesser	x		_____	_____	_____
Moved by <u>Juckette</u>	x	Seconded by <u>Gaesser</u>	_____	_____	_____
Juckette	x		_____	_____	_____
Mulgrew Gronen	x		_____	_____	_____
Rielly	x		_____	_____	_____
Stutsman	x		_____	_____	_____
_____ Division Director		_____ Legal		_____ State Director	

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to vehicle registration and certificate of title and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 400, “Vehicle Registration and Certificate of Title,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 252J.8, 307.12(1)“j;” 307.30, 321.20, 321.20B, 321.24, 321.34, 321.44A, 321.52, 321.69, 321.71, 321.121, 321H.4A and 435.26B.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 17A.10; 17A.10A; 17A.11; 17A.12; 17A.13; 17A.14; 17A.15; 17A.16; 17A.17; 17A.18; 17A.18A; 17A.19; 25.1; 252J.1; 252J.8; 252J.9; 307.12(1)“j;” 307.30; 321.1; 321.5; 321.8; 321.13; 321.18; 321.18A; 321.19; 321.20 as amended by 2024 Iowa Acts, House File 674, sections 1 and 2; 321.20B; 321.22; 321.23 as amended by 2024 Iowa Acts, House File 674, sections 4 and 5; 321.24 as amended by 2024 Iowa Acts, House File 2316, section 1; 321.25; 321.26; 321.30; 321.31; 321.32; 321.34; 321.37; 321.39; 321.40; 321.41; 321.42; 321.43; 321.44A; 321.45; 321.46; 321.46A; 321.47; 321.48; 321.49; 321.50 as amended by 2024 Iowa Acts, House File 674, sections 16 and 17; 321.52; 321.52A; 321.53; 321.54; 321.55; 321.67; 321.69; 321.70; 321.71; 321.92; 321.101; 321.101A; 321.102; 321.103; 321.104; 321.105; 321.105A; 321.106; 321.109; 321.111; 321.116; 321.117; 321.119; 321.121; 321.122; 321.123; 321.124; 321.126; 321.127; 321.128; 321.129; 321.134; 321.135; 321.153; 321.157; 321.159; 321.162; 321.166; 321.167; 321.170; 321.171; 321.466; 321.515; 321.519; 321H.4A; 321I.4; 321L.1; 322.2; 322.3; 322C.2; 322G.12; 326.15; 423.26; 435.1; 435.26; 435.26A; 435.26B; 435.27 and 633A.4604 and chapters 322, 554D and 809A.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 400 in compliance with Executive Order 10. Proposed Chapter 400 provides the process allowing motor vehicle owners to register and title their vehicle in Iowa, which is required for a vehicle to be legally operated on Iowa roadways. The rules provide clarity to county treasurers, law enforcement, and the public on the application and issuance process for vehicle registration and title, as well as outlining any exemptions or specific requirements to title and register a vehicle in Iowa.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 2, 2024. A public hearing was held on the following date(s):

- October 24, 2024

The Department added subrule 400.2(9) to include the mailing fee for registration plates in accordance with Iowa Code section 321.105.

The Department received written comments from the Probate and Trust Law Section of the Iowa State Bar Association (ISBA). ISBA commented that it would like the Department to adopt a new process into Iowa law allowing the owner of a jointly owned vehicle to designate how the vehicle’s ownership should pass upon the death of an owner, whether as tenants in common or as joint tenants with rights of survivorship. The Department responded that Iowa Code section 321.47 currently provides how a vehicle’s ownership is transferred by operation of law upon the death of an owner, namely by the laws of descent and distribution. Additionally, upon researching how other property and assets are treated upon

death in Iowa Code and how vehicle transfers upon death are statutorily prescribed in two neighboring states, the Department determined that ISBA’s proposal would need to be accomplished via a statute change and is not something the Department currently has the authority to implement via administrative rule.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

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 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 17, 2025 9:30 to 10 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 688 969 009
January 17, 2025 1 to 1:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 967 150 077

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Tracy George and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 400 and adopt the following **new** chapter in lieu thereof:

CHAPTER 400
VEHICLE REGISTRATION AND CERTIFICATE OF TITLE

761—400.1(307,321,322,554) Definitions. The definitions in Iowa Code section 321.1 are hereby made part of this chapter. In addition, the following words and phrases, when used in Iowa Code chapter 321 or this chapter, shall have the meanings respectively ascribed to them, except when the context otherwise requires.

“Certificate of title” means a document issued by the appropriate official that contains a statement of the owner’s title, the name and address of the owner, a description of the vehicle, a statement of all security interests and additional information required under the laws or rules of the jurisdiction in which the document was issued, and that is recognized as a matter of law as a document evidencing ownership of the vehicle described. The terms “title certificate,” “title only,” and “title” are synonymous with the term “certificate of title.”

“Dealer’s or manufacturer’s inventory” means all vehicles owned by a dealer that are being held for sale or trade and for which the dealer has a duly assigned ownership document as required by Iowa Code section 321.45.

“Driverless-capable vehicle” means the same as defined in rule 761—380.2(321).

“Electric vehicle annual registration fee” means an annual registration fee for a battery electric or plug-in hybrid electric motor vehicle as provided in Iowa Code sections 321.116 and 321.117. Unless otherwise provided, for purposes of this chapter, any reference to a registration fee, a penalty, or a registration fee and penalty shall also include an annual registration fee, penalty, or registration fee and penalty for a battery electric or plug-in hybrid electric motor vehicle.

“Electronic” means as defined in Iowa Code section 554D.103.

“Electronic lien and title” or *“ELT”* means an information technology system authorized by the department for the purpose of providing an electronic record of the certificate of title to a security interest holder in order to subject a vehicle to an electronic lien and to allow for the submission and receipt of forms related to security interests through electronic means as described in Iowa Code section 321.50.

“Electronic record” means as defined in Iowa Code section 554D.103.

“Electronic signature” means as defined in Iowa Code section 554D.103.

“End user” means a person or entity that directly uses the services of an ERT service provider to submit an electronic application for certificate of title or registration of a vehicle.

“ERT” means the electronic registration and title program.

“ERT service provider” means a person or entity authorized by the department to submit electronic applications for certificate of title or registration of a vehicle on behalf of an end user to a county treasurer.

“Farm trailer” means a trailer used exclusively by a farmer in the conduct of the farmer’s agricultural operation. The term shall not include a “semitrailer.”

“Final-stage manufacturer” means as defined in Iowa Code section 322.2.

“Half-year fee” means the first semiannual installment of an annual registration fee under Iowa Code section 321.134(2) for a heavy weighted truck when the registration month is December but does not include an electric vehicle annual registration fee. The term “half-year registration” is synonymous with the term “half-year fee.”

“Hearse” means a motor vehicle used exclusively to transport a deceased person.

“Lien” means an interest in a vehicle that secures payment or performance of an obligation. The term “security interest” is synonymous with the term “lien.”

“Manufacturer’s certificate of origin” means a certification signed by the manufacturer, distributor or importer that the vehicle described has been transferred to the person or dealer named and that the transfer is the first transfer of the vehicle in ordinary trade and commerce.

1. The terms “manufacturer’s statement,” “importer’s statement or certificate,” “MSO” and “MCO” are synonymous with the term “manufacturer’s certificate of origin.”

2. In addition to the requirements of Iowa Code section 321.45(1), the certificate shall contain a description of the vehicle that includes the make, model, style, vehicle identification number, and, if a motorized bicycle, the maximum speed.

3. For 1992 and subsequent model year vehicles, the form used for manufacturers' certificates of origin shall conform with the American Association of Motor Vehicle Administrators (AAMVA) Appendix B: Recommended Specifications and Security Features for a Manufacturers Certificate of Origin effective 2023. This requirement does not apply to trailer-type vehicles.

"Model year," except where otherwise specified, means the year certified by the manufacturer. For purposes of titling and registration, the model year shall advance one year each January 1.

"Registered" means that the appropriate registration fee has been paid for a vehicle and a registration receipt evidencing payment has been issued to the owner.

"Registration receipt" means a document issued to the owner of a vehicle by the appropriate agency whose duty it is to register vehicles, that contains the name and address of the owner and a description of the vehicle, and that is issued to the owner when the vehicle has been registered. The terms "registration card" and "registration certificate" are synonymous with the term "registration receipt."

"Security interest" means an interest in a vehicle that secures payment or performance of an obligation. The term "lien" is synonymous with the term "security interest."

"Signature" unless otherwise specified shall include a signature in ink or an electronic signature as provided in Iowa Code section 554D.103(8). A requirement to sign a document unless otherwise specified shall allow for a signature in ink or an electronic signature.

This rule is intended to implement Iowa Code sections 307.12(1)"j"; 321.1; 321.8; 321.20 as amended by 2024 Iowa Acts, House File 674, section 2; 321.23; 321.24; 321.40; 321.45; 321.50; 321.116; 321.117; 321.123; 321.134; 321.157 and 322.2 and chapter 554D.

761—400.2(307,321,322) Vehicle registration, certificate of title, receipt, validation sticker and registration plates—general provisions.

400.2(1) Vehicles subject to registration.

a. A vehicle subject to registration under the laws of Iowa shall be required to be registered from the time the vehicle is first operated or moved upon a highway in this state.

b. The department shall not register the following:

(1) An all-terrain vehicle.

(2) A vehicle built on or after January 1, 1968, unless it was manufactured primarily for use on public streets, roads and highways except a vehicle operated exclusively by a person with a disability, which may be registered if the department, in its discretion, determines that the vehicle is not in an unsafe condition. This subparagraph does not apply to a vehicle that is specially constructed, a reconstructed street rod or a replica vehicle as defined in Iowa Code section 321.1.

400.2(2) Vehicles exempt from titling or registration. No certificate of title will be issued for a vehicle that is exempt from the titling or registration provisions of Iowa Code chapter 321 unless issuance of a certificate of title is specifically authorized in Iowa Code chapter 321 or as provided in 761—Chapter 410.

400.2(3) Issuance of a certificate of title, receipt, validation sticker and registration plates upon payment of registration fees. Except as otherwise provided in Iowa Code chapter 321 or this chapter, the current year registration fee and any delinquent registration fees and penalties, if any, shall be paid prior to issuance of a certificate of title, receipt, validation sticker and registration plates.

400.2(4) Trailers with an empty weight of 2,000 pounds or less. No certificate of title will be issued for trailers with an empty weight of 2,000 pounds or less.

400.2(5) Vehicles owned by the government. A certificate of title shall be issued for a vehicle owned by the government that is otherwise required to be titled. However, vehicles owned by the government are exempted from registration and titling fees.

400.2(6) Vehicles leased by the government. Vehicles leased by the government for a period of 60 days or more are exempted from payment of registration fees. A copy of the lease agreement, certificate of lease, or other evidence that the vehicle is being leased by the government shall be required. However,

the lessor is not exempted from the requirements for obtaining a certificate of title as set out in Iowa Code chapter 321 and these rules, including payment of the appropriate certificate of title fee.

400.2(7) *Private school buses, fire trucks, authorized emergency vehicles, and transit buses.* In accordance with Iowa Code sections 321.18, 321.19 and 321.22, private school buses, fire trucks not owned or operated for a pecuniary profit, certain authorized emergency vehicles owned and operated by nonprofit organizations, and urban and regional transit system buses are exempt from the payment of registration fees. However, these vehicles are not exempt from the requirements for obtaining a certificate of title as set out in Iowa Code chapter 321, including payment of the appropriate certificate of title fee.

400.2(8) *Plates for exempted vehicles.* The department, upon application, issues plates for exempted vehicles under subrules 400.2(5), 400.2(6) and 400.2(7) in accordance with the requirements in Iowa Code sections 321.18, 321.19, 321.22 and 321.170, as applicable, and this chapter. As authorized by Iowa Code sections 8A.361 and 8A.362(7), the department of administrative services may order the issuance of regular registration plates for exempted vehicles assigned to the department of administrative services. The following process applies to regular registration plates issued to an exempted vehicle under Iowa Code section 321.19(1)“c”:

a. The requesting agency under Iowa Code section 321.19(1)“c,” other than the department of administrative services, files an application with the department in the form and manner prescribed by the department and certifies the authorized purpose for which issuance of the registration plates for an exempted vehicle is requested.

b. The plates shall be assigned to a specific vehicle. The requesting agency shall notify the department within ten days of assigning the plates to another vehicle.

c. In accordance with Iowa Code section 321.19, the department maintains separate records of regular registration plates issued to exempted vehicles, which are available in a manner that allows law enforcement and other persons authorized by Iowa Code section 321.11(3) to query vehicle and owner information by the registration plate number.

d. If a vehicle to which regular registration plates are assigned under this subrule is no longer used for an exempted purpose, the requesting agency shall surrender the plates to the department and the department will cancel the plates. The department may revoke the plates and require the agency to surrender the plates pursuant to Iowa Code section 321.103 if the department determines use of the plates is no longer authorized.

400.2(9) *Registration plates mailing fee.* Pursuant to Iowa Code section 321.105, the mailing fee for registration plates is \$5.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.18 through 321.20B, 321.22, 321.24, 321.34, 321.103, 321.105, 321.123, 321.170, 321I.4 and 322C.2(19).

761—400.3(321,322,423) Application for certificate of title or registration for a vehicle.

400.3(1) *Application form.* To apply for a certificate of title or registration for a vehicle, the owner of the vehicle shall complete an application form prescribed by the department, which may be electronic. In addition to the information required in Iowa Code section 321.20, the application shall include:

a. The plate number and plate type if the owner has registration plates that have been assigned to the owner and transferred to the vehicle.

b. The vehicle owner’s month of birth, if applicable, subject to the following:

(1) If the vehicle is owned by one individual, the individual’s month of birth determines the registration year.

(2) If the vehicle is owned by two or three individuals, the county treasurer selects the month of birth of one of the individuals to determine the registration year.

(3) If the vehicle is owned by a partnership, corporation, association, or governmental subdivision, the county treasurer selects the month to determine the registration year.

c. The model year of the vehicle.

d. The purchase or acquisition date and the purchase price.

e. The vehicle color. If the color is not already listed in the department’s vehicle registration and titling system, then the county treasurer selects the color that most closely matches the application.

f. The date the vehicle was brought into Iowa, if the vehicle was registered in a foreign jurisdiction.

g. The owner's signature. If there are two or more owners, all owner signatures. The definition of "signature" in Iowa Code section 9B.2(15) applies.

h. If the vehicle has been sold to the owner by a dealer as defined in Iowa Code section 321.1 and the dealer collects the fees and forwards the application form under Iowa Code section 321.25(1), a dealer certification containing the dealer's number and signed by the dealer or an authorized representative of the dealer, including signature by electronic means, containing the following information:

- (1) Sale price of the vehicle.
- (2) The amounts allowed for property traded in.
- (3) Nontaxable charges and rebates.
- (4) The tax price of the vehicle.
- (5) The date that a "Registration Applied For" card was issued, and the registration fee collected.

i. If an application is being made to lower the tonnage on any motor truck, bus or truck tractor, the county treasurer may require a copy of a stamped weigh ticket issued by any public scale.

j. If leased, the lease price of the vehicle and the lessor's leasing license number if the entity is required to have a leasing license. A federal employer identification number is not required to be listed for an entity with a leasing license number.

k. If requested by the department, whether the vehicle is a driverless-capable vehicle as defined in rule 761—380.2(321). The department may also use a separate form to assess the vehicle's driverless capability.

400.3(2) *Information about owner, lessee and primary user.* A firm, association, corporation, or trust that is not required to have a federal employer identification number shall disclose the social security number, Iowa driver's license number or Iowa nonoperator's identification card number of an authorized representative of the firm, association, corporation, or trust. The authorized representative of a trust is the trustee unless otherwise specified in the trust agreement or the certification of trust as defined in Iowa Code section 633A.4604.

400.3(3) *Affidavit of correction.* As provided in Iowa Code section 321.23A, the county treasurer or the department may accept an affidavit of correction on a form prescribed by the department.

a. The affidavit may be used only to correct those errors, erasures or alterations listed on the affidavit.

b. The affidavit must be signed by the parties that made the error, erasure or alteration.

c. The affidavit must be surrendered with the document that contains the error, erasure or alteration.

d. The affidavit may be accepted to correct errors, erasures or alterations on either an Iowa title or a foreign title.

400.3(4) *Electronic applications.* The department will authorize electronic submission of applications for certificate of title and registration by an authorized ERT service provider pursuant to the authority in Iowa Code section 321.20(2). To be authorized to serve as an ERT service provider, the ERT service provider must comply with the department's ERT policy and execute a provider agreement with the department.

a. An application submitted electronically must meet all legal requirements for the applicable transaction, and no requirement is excused or waived as a result of submitting the transaction electronically. However, wherever a signature is required, the signature may be an electronic signature. Wherever an electronic solution approved by the department requires the submission of scanned documents, the scanned documents shall be of a quality and resolution determined by the department. The department and any county treasurer processing an application retain the right under Iowa Code sections 321.13 and 321.30 to determine the genuineness, regularity, and legality of the application and any scanned document submitted as part of the application and may withhold approval of the application and require presentation of the original document whenever the scanned document is of insufficient quality, content, or appearance. An end user shall retain all such documents for a period of six months

from the date of submission of the application by the end user and make all such documents available for inspection by the department upon request. Anything in this paragraph notwithstanding, lessors required to retain a damage disclosure statement under Iowa Code section 321.69(4), and authorized vehicle recyclers licensed under Iowa Code chapter 321H and motor vehicle dealers licensed under Iowa Code chapter 322 required to retain damage disclosure statements under Iowa Code section 321.69(6) shall retain the original document for a period of five years from the date of the statement as required therein.

b. An end user that electronically submits an application on behalf of the owner or owners to whom the end user is transferring or delivering the vehicle shall disclose to all owners or, if there is more than one owner and the title application uses “or” between the names of the owners, at least one owner, that the application will be submitted electronically and shall obtain written authorization from all owners, or if there is more than one owner and the title application uses “or” between the names of the owners, written authorization from at least one owner, to submit the application on the owner’s behalf. The written authorization shall be retained by the end user for a period of six months from the date of application and be made available for the department’s inspection upon request. Before submitting the application, the end user shall review and disclose to the owner or owners all details of the application and provide a complete, true, and accurate copy of the application to the owner or owners immediately after submitting the application. The written authorization shall be submitted in the form and manner required by the department.

This rule is intended to implement Iowa Code sections 321.1; 321.8; 321.20 as amended by 2024 Iowa Acts, House File 674, section 2; 321.23 through 321.26; 321.31; 321.34; 321.46; 321.105A; 321.109; 321.122; 321.515; 321.519 and 423.26.

761—400.4(321,322,633A) Supporting documents and processing requirements.

400.4(1) *New vehicle.* An application for a new vehicle must be accompanied by a manufacturer’s certificate of origin, properly assigned to the applicant. A manufacturer’s certificate of origin is not acceptable if the assignment to the applicant is made by any person other than the manufacturer, importer or distributor, a licensed motor vehicle dealer franchised to sell that line-make of vehicle, or a final-stage manufacturer motor vehicle dealer licensed under rule 761—425.11(322).

a. The first person, including a dealer not franchised to sell that line-make of vehicle, who is assigned the manufacturer’s certificate of origin shall obtain a certificate of title and register the vehicle.

b. An uncanceled security interest noted on the reverse side of a manufacturer’s certificate of origin (MCO) shall be noted as a separate security interest on the certificate of title, in addition to any security interest acknowledged by the applicant, unless the security interest acknowledged by the applicant is the same as the one noted on the reverse side of the MCO.

c. For a 1980 or subsequent model year vehicle manufactured by a person other than the original manufacturer, both the original manufacturer’s certificate of origin and the final-stage manufacturer’s certificate of origin shall be submitted if the vehicle’s original line-make is changed by the final-stage manufacturer. The final-stage manufacturer’s certificate of origin shall contain all assignments or reassignments of ownership of the vehicle and list the original manufacturer’s vehicle identification number. The face of the original manufacturer’s certificate of origin is to be stamped in bold type with the statement: “Final-stage manufacturer’s MCO has been issued on this vehicle.”

d. If a final-stage manufacturer is a motor vehicle dealer licensed under rule 761—425.11(322), the final-stage manufacturer may reassign the original manufacturer’s certificate of origin or an incomplete or intermediate MCO to the retail buyer.

400.4(2) *Used vehicle registered or titled in this state.* The last issued certificate of title, properly assigned to the applicant, shall be submitted, unless the applicant is an insurer applying for a salvage certificate of title under Iowa Code section 321.52(4). An uncanceled security interest noted on the face of the certificate of title shall be noted on the face of the certificate of title issued to the applicant, in addition to any security interest acknowledged by the applicant. If the vehicle is not subject to titling provisions, the last issued registration receipt or bill of sale, properly assigned to the applicant, shall be submitted.

400.4(3) *Used vehicle from a foreign jurisdiction.* If the vehicle was subject to the issuance of a certificate of title in the foreign jurisdiction, the certificate of title issued by the foreign jurisdiction to the

applicant or properly assigned to the applicant shall be submitted unless the applicant is an insurer applying for a salvage certificate of title under Iowa Code section 321.52(4).

a. A security interest, noted on the face of the foreign certificate of title, which has not been canceled, shall be noted on the face of the certificate of title issued to the applicant, in addition to any security interest acknowledged by the applicant.

b. A certificate of title issued in a foreign jurisdiction may be assigned to a motor vehicle dealer in another jurisdiction, and the dealer may reassign the certificate of title to the applicant. Unless a regulation of the foreign jurisdiction provides otherwise, an assignment or reassignment form issued by any foreign jurisdiction may be used with any foreign title to complete an assignment or reassignment of ownership from a foreign motor vehicle dealer to the applicant, provided the ownership chain is complete.

c. An Iowa licensed motor vehicle dealer who acquires a vehicle registered in a foreign jurisdiction may reassign the foreign certificate of title to the applicant as provided in Iowa Code section 321.48(2) and rule 761—400.24(321,322).

d. A person who registers a foreign vehicle under Iowa Code section 321.23(3) will be issued a nontransferable-nonnegotiable registration. To transfer ownership of the vehicle, the owner must first obtain an Iowa certificate of title except as provided in Iowa Code section 321.23(3) when ownership is transferred to an Iowa licensed motor vehicle dealer or an insurance carrier authorized to do business in Iowa.

e. If the vehicle was not subject to the issuance of a certificate of title but was registered in the foreign jurisdiction, the registration document issued by the foreign jurisdiction to the applicant or properly assigned to the applicant shall be submitted.

(1) If the foreign registration document is not issued in the applicant's name and does not contain an assignment of ownership form, a bill of sale conveying ownership from the owner as listed on the foreign registration document to the applicant shall be submitted with the foreign registration document.

(2) Upon receipt of the foreign registration document, the county treasurer shall issue a nontransferable—nonnegotiable registration unless the foreign registration document has been approved by the department.

(3) Acceptance of the foreign registration document is determined by the department on an individual basis, if the county treasurer of the county where the certificate of title is to be issued cannot determine whether the document is acceptable.

f. If a trailer weighing 2,000 lbs. or less is exempt from the issuance of a certificate of title and registration in the foreign jurisdiction, a bill of sale conveying ownership to the applicant, if acquired by a resident from a nonresident, or an affidavit of ownership signed by the applicant, if the applicant is establishing residence in this state, shall be submitted.

g. If a motor vehicle is exempt from the issuance of a certificate of title and registration in the foreign jurisdiction, the bonding procedures as provided in Iowa Code section 321.24 shall be followed.

400.4(4) *Used vehicle acquired by a resident of this state from a federal government agency.* If the vehicle was acquired from an agency of the federal government, the applicant shall surrender the government bill of sale, General Services Administration Form 97, or Internal Revenue Service Form 2435, properly assigned to the applicant.

400.4(5) *Manufactured or mobile home.* If the vehicle described on the application is a manufactured or mobile home with an Iowa title, the applicant shall submit a tax clearance form to show that no taxes are owing, unless the title has been issued to a manufactured or mobile home retailer licensed under Iowa Code chapter 103A. The form may be obtained by any owner of record of the manufactured or mobile home from the county treasurer.

400.4(6) *Vehicle acquired by a resident of this state by operation of law.* Iowa Code section 321.47 applies to a vehicle acquired by the applicant by operation of law under the conditions specified in Iowa Code section 321.47. Acceptable proof of ownership includes but is not limited to a foreclosure sale affidavit, artisan's or storage lien affidavit, affidavit of death testate or intestate, abandoned vehicle sales receipt, peace officer's bill of sale or court order.

400.4(7) *Foreign ownership document issued in a language other than English.* The county treasurer may require an applicant to produce a written English translation of a foreign ownership document or other supporting document issued in a language other than English.

400.4(8) *Titles from foreign jurisdictions.*

a. Except as provided in paragraph 400.4(8)“*b*,” the department will not accept a certificate of title issued by a foreign jurisdiction if the title or assignments thereon contain an alteration or erasure.

b. An affidavit of correction form issued by a foreign jurisdiction that corrects the certificate of title issued by the same foreign jurisdiction will be accepted only for the reason listed on the affidavit of correction form. However, acceptance of an affidavit of correction form that corrects an odometer statement or a designation will be determined by the department on an individual basis.

400.4(9) *Applications in the name of trusts.* An application in the name of a trust must be accompanied by a copy of all documents specifying the required signatories of the trust or by the certification of trust as defined in Iowa Code section 633A.4604. A certification of trust must meet the requirements of Iowa Code section 633A.4604, including but not limited to providing the names of all the currently acting trustees. If there are two or more currently acting trustees, the certification of trust must state whether the trustees may act individually, whether the trustees must act by majority decision or whether the trustees must act by unanimous decision. If the certification of trust does not meet said requirements, the certification of trust will be considered invalid for the purposes of the application. Each signature on the application shall be followed by the words “as trustee.”

400.4(10) *Driverless-capable vehicles.* If an application is made for a driverless-capable vehicle, the department may require the application to be accompanied by the operational design domain.

This rule is intended to implement Iowa Code sections 321.20 as amended by 2024 Iowa Acts, House File 674, section 2; 321.23; 321.24; 321.30; 321.31; 321.45 through 321.50; 321.67; 321.515; 321.519; 322.3 and 633A.4604.

761—400.5(321) Where to apply for registration or certificate of title.

400.5(1) Application shall be made to the department’s motor vehicle division for the following:

a. Titling and registration of vehicles owned by the government. This requirement does not apply to manufactured or mobile homes subject to a public bidder sale as explained in Iowa Code section 321.46(2).

b. Registration of vehicles exempted under Iowa Code section 321.19.

c. Registration of private school buses.

d. Registration of vehicles under the provisions of Iowa Code section 321.23(4), relating to restricted-use vehicles.

e. Registration of apportioned vehicles under Iowa Code chapter 326. More information contained in 761—Chapter 500.

400.5(2) Application for a certificate of title for a vehicle subject to apportioned registration under Iowa Code chapter 326 may be made to either the county treasurer or to the department’s motor vehicle division.

This rule is intended to implement Iowa Code sections 321.18; 321.91; 321.20 as amended by 2024 Iowa Acts, House File 674, section 2; 321.22; 321.23; 321.46(2) and 321.170.

761—400.6(307,321) Addresses, information and forms. Assistance under this chapter is available as follows:

400.6(1) Information and forms for vehicle registration, certificate of title, or other procedures covered under Iowa Code sections 321.18 through 321.20B, 321.22 through 321.26, 321.28 through 321.32, 321.34, 321.35, 321.37 through 321.63, 321.65 through 321.74, 321.78, 321.79, 321.81, 321.84 through 321.106, 321.109 through 321.113, 321.115 through 321.117, 321.119 through 321.135, 321.145, 321.148 through 321.162 and 321.165 through 321.171 may be obtained from the county treasurer or by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278; in person at Iowa Department of Transportation, 6310 SE Convenience Boulevard, Ankeny, Iowa 50021; by telephone at 515.237.3110; or on the department’s website at www.iowadot.gov.

400.6(2) Information for investigations under this chapter may be obtained from the Bureau of Investigation and Identity Protection, Iowa Department of Transportation, 6310 SE Convenience Boulevard, Ankeny, Iowa 50021; or on the department’s website at www.iowadot.gov/biip/home.

This rule is intended to implement Iowa Code section 307.12(1) “j” and section 321.20 as amended by 2024 Iowa Acts, House File 674, section 2.

761—400.7(307,321) Information appearing on title or registration. In addition to the requirements of Iowa Code sections 321.24, 321.52, 321.69, 321.71 and 322G.12, a certificate of title or registration receipt or both shall contain the following information when applicable:

400.7(1) Registration expiration date.

400.7(2) Registration month, as explained in rule 761—400.3(321).

400.7(3) Description of the vehicle, including the following items. These items may be represented on the title and registration by code letters or numbers.

a. Vehicle identification number.

b. Type, such as automobile, trailer, truck, etc.

c. Make, model, and model year.

d. Color.

e. Weight and registered gross weight.

f. The square footage of floor space of a manufactured or mobile home or travel trailer as determined by measuring the exterior.

g. The odometer mileage and whether the mileage is “actual,” “not actual,” or “exceeds mechanical limits.”

400.7(4) Previous Iowa title number or the name of the foreign jurisdiction if the previous title is a foreign title.

400.7(5) Plate number.

400.7(6) List price or value.

400.7(7) Penalties and title, registration and security interest receipt numbers.

400.7(8) The following phrase stamped on the reassignment portion of a manufactured or mobile home title: “Dealer reassignment not authorized on this certificate of title.”

400.7(9) The designation required by 761—Chapter 405. A vehicle may have no more than one designation.

400.7(10) Full legal name of owner.

a. When the name of an owner changes from that which is printed on the title or registration issued to the owner, the owner shall apply for a replacement registration receipt and submit to the county treasurer one of the following documents:

(1) Court order for a name change. The court order must contain the full name, date of birth, and court seal.

(2) Divorce decree.

(3) Marriage certificate.

b. This subrule does not apply to owners that are firms, associations, corporations, or trusts.

400.7(11) Driverless-capable vehicle indicator, which may also indicate whether operational restrictions exist.

This rule is intended to implement Iowa Code sections 307.12(1) “j,” 321.24, 321.31, 321.40, 321.45, 321.52, 321.69, 321.71, 321.124, 321.515, 321.519 and 322G.12.

761—400.8(307,321) Release form for cancellation of security interest.

400.8(1) A secured party may note the cancellation of a security interest on any of the following:

a. Form 411168 (Cancellation of Security Interest).

b. The secured party’s letterhead if the written statement is notarized and contains the same information as Form 411168.

c. The certificate of title containing the cancellation pursuant to Iowa Code section 321.50(5) “a.”

400.8(2) The secured party shall forward the cancellation form or statement to the county treasurer or to the department if the title was issued by the department. The county treasurer or department may accept facsimiles or photocopies. A separate form or statement is required for each vehicle.

This rule is intended to implement Iowa Code section 307.12(1) “j” and section 321.50 as amended by 2024 Iowa Acts, House File 674, section 16.

761—400.9(307,321) Assignment of security interest. A security interest noted on a certificate of title may be assigned to another secured party without losing the seniority of the security interest by complying with the procedure in Iowa Code section 321.50 or with the following procedure:

400.9(1) Notice of assignment. In the cancellation portion of the title certificate, the secured party listed on the title certificate shall make the notation “Assigned to (name of assignee)” where the security interest is noted and include the date, name of secured party and signature of the person noting the assignment.

400.9(2) Application for notation of security interest. The assignee shall complete, and sign in the space where the signature of the owner is ordinarily required, Form 411046 (Application for Notation of a Security Interest).

400.9(3) Submission of documents to county treasurer. The certificate of title, application for notation of security interest and appropriate notation fee shall be submitted to the county treasurer.

a. If there are additional security interests noted on the certificate of title, the seniority of the assignee’s security interest may be preserved by issuance of a certificate of title in lieu of the original, on which the assignee’s security interest will be noted in the same seniority as the assignor’s security interest.

b. A receipt for notation of security interest form processed by a county treasurer shall list the following:

- (1) A new receipt number.
- (2) The original notation date.
- (3) The words “by assignment” following the name of the assignee.

This rule is intended to implement Iowa Code section 307.12(1) “j” and section 321.50 as amended by 2024 Iowa Acts, House File 674, section 16.

761—400.10(307,321,809A) Sheriff’s levy, restitution lien, and forfeiture lien noted as security interests.

400.10(1) A sheriff’s levy may be noted as a security interest on a certificate of title by completing Form 411046. The sheriff or sheriff’s deputy shall sign the application in the space where the signature of the owner is ordinarily required and submit with the appropriate notation fee to the county treasurer.

400.10(2) A restitution or forfeiture lien may be noted as a security interest on a certificate of title by completing Form 411046. The county attorney or the county attorney’s designee shall sign the application in the space where the signature of the owner is ordinarily required and submit to the county treasurer.

This rule is intended to implement Iowa Code section 307.12(1) “j”; section 321.50 as amended by 2024 Iowa Acts, House File 674, section 16; and chapter 809A.

761—400.11(307,321) Replacement certificate of title. Application for a replacement certificate of title shall be made on Form 411033 (Application for Replacement of Iowa Certificate of Title to a Motor Vehicle). All living owners of the vehicle as listed on the certificate of title shall sign Form 411033 unless the application is made by a lienholder. If all owners are deceased, a court-appointed executor or administrator may complete, sign, and submit Form 411033 along with a certified copy of the court order or the letter of appointment confirming executor or administrator status.

This rule is intended to implement Iowa Code sections 307.12(1) “j” and 321.42.

761—400.12(321) Bond required before title issued.

400.12(1) Procedures. An applicant for a certificate of title who cannot provide the supporting documents required in rule 761—400.4(321) is required to comply with the procedure under Iowa Code section 321.24(11) as amended by 2024 Iowa Acts, House File 2316, section 1, in addition to this rule.

a. The applicant shall submit a bond application and supporting material to the motor vehicle division on a form prescribed by the department.

b. The department will search the department’s vehicle title and registration system to determine if there is an owner of record or security interest for the vehicle and if the vehicle has been reported stolen or embezzled.

(1) If an owner of record is found, the department will mail a release letter by first-class mail to the owner of record at the owner’s last-known address notifying the owner of the right to claim ownership of the vehicle or to waive all rights or claims.

(2) If the owner of record makes a claim, the motor vehicle division will review the claim.

(3) If the department receives no response from the owner of record within ten days after the date of mailing, the owner of record waives all rights or claims; or if the letter is returned as undeliverable, the department will continue processing the bond application.

(4) If one or more security interests are found and can be identified, the department will send a certified letter and application for cancellation of security interest to a lienholder at the last-known address of that lienholder. If a lienholder releases the lien, the department will continue to process the application. If a lienholder responds with a request to claim the vehicle, the department will review the claim. If the certified letter is returned as undeliverable, the department will continue to process the application.

(5) If one or more security interests is found but a lienholder cannot be identified because the record is held by another jurisdiction, the department will return the application to the applicant and inform the applicant which jurisdiction holds the record(s) to the vehicle.

c. If the department determines that there is sufficient evidence to indicate that the applicant is the rightful owner, and that there is no known unsatisfied security interest, the department is authorized to determine the current value of the vehicle and notify the applicant to deposit cash or file a surety bond with the department in an amount equal to one and one-half times the current value of the vehicle.

d. A motor vehicle investigator of the department may verify information in the application, examine the vehicle, and authorize the county treasurer to issue a title for and register the vehicle. An investigator may require the applicant to drive the vehicle to and from the examination location upon completing Form 420054, Affidavit to Operate a Vehicle for Inspection. Should the vehicle not meet the equipment requirements of Iowa Code chapter 321, the investigator may authorize the county treasurer to issue a title and registration but instruct the county treasurer to immediately suspend the registration until such time as the vehicle meets these equipment requirements. If applicable, the investigator will also affix an assigned vehicle identification number to the vehicle.

400.12(2) Denial. If the department determines that the applicant has not complied with this rule, that there is sufficient evidence to indicate that the applicant may not be the rightful owner, or that there is an unsatisfied security interest, then the department will not authorize issuance of a certificate of title or registration receipt and will notify the applicant in writing of the reason(s).

400.12(3) Junked vehicle. A certificate of title will not be reinstated for a vehicle that has been issued a junking certificate unless the junking certificate was issued in error, as explained in rule 761—400.23(321), or the vehicle qualifies as an antique vehicle under Iowa Code section 321.115(1).

This rule is intended to implement Iowa Code section 321.24 as amended by 2024 Iowa Acts, House File 2316, section 1, and section 321.52.

761—400.13(307,321) Authorized signatories for a transfer of ownership. The following procedures shall apply for all titling and registration purposes:

400.13(1) Transfer of vehicle owned by two or three persons. If the names of the owners of a vehicle on the certificate of title, the manufacturer’s certificate of origin, or the registration receipt for a vehicle that does not require a title are joined by the word “or,” as in “John Doe, Jane Doe or Mary

Doe,” then the signature of any of these owners is sufficient to transfer ownership or to junk the vehicle. In all other cases the signature of each named owner is required.

400.13(2) *Assignment of title to two or three persons.* If a certificate of title, a manufacturer’s certificate of origin, or a bill of sale for a vehicle that does not require a title is assigned to two or three persons with their names joined by the word “or,” as in “John Doe, Jane Doe or Mary Doe,” then a certificate of title or registration receipt for a vehicle that does not require a title may be issued to any one of these persons, or to any two or all three of these persons with their names joined by the word “or.” However, a certificate of title or registration for a vehicle that does not require a title shall only be issued to persons who have signed the application for title and registration.

400.13(3) *Organizational ownership.*

a. When a vehicle is owned by a partnership, corporation, association, governmental unit, or private organization, the signature of its authorized representative is required.

b. When a vehicle is owned by a trust, the title shall be accompanied by a copy of all documents creating or otherwise affecting the trust or by the certification of trust as defined in Iowa Code section 633A.4604.

(1) The certification of trust may be signed by any trustee or the attorney for any trustee.

(2) The title shall be signed by the number of trustees as specified in the trust agreement, and the transferor shall provide the department with the document or the certification of trust specifying the required signatories for the trust.

(3) If a certification of trust is provided, one of the following shall apply:

1. Any currently acting trustee may sign the title if the certification of trust states that such trustee may act individually.

2. A majority of the trustees must sign the title if the certification of trust states that the trustees must act by majority decision.

3. All currently acting trustees must sign the title if the certification of trust states that the trustees must act by unanimous decision.

(4) A certification of trust must meet the requirements of Iowa Code section 633A.4604, including but not limited to providing the names of all the currently acting trustees. If there are two or more currently acting trustees, the certification of trust must state whether the trustees may act individually, whether the trustees must act by majority decision or whether the trustees must act by unanimous decision. If the certification of trust does not meet said requirement, the certification of trust will be considered invalid for the purposes of the transfer.

(5) Each signature on the title shall be followed by the words “as trustee.”

400.13(4) *Death with a will.* When ownership is transferred according to a decedent’s will, a certified copy of the court order or the letter of appointment appointing the person assigning the title as executor of the will shall be required.

400.13(5) *Death without a will.* When ownership is transferred from a decedent without a will and there is no administration of the estate, a notarized affidavit of death intestate form shall be required. When ownership is transferred from a decedent without a will but there is an administration of the estate, a copy of the court order or the letter of appointment appointing the person assigning the title as administrator shall be required.

400.13(6) *Power of attorney.* An attorney in fact may act for the living owner(s) if the appointment is shown on a power of attorney form. Power of attorney forms are available from the department, but other forms or a certified true copy may be accepted if they contain all necessary information.

This rule is intended to implement Iowa Code sections 307.12(1) “j,” 321.20, 321.24, 321.45, 321.47, 321.49, 321.67 and 633A.4604.

761—400.14(307,321) Cancellation of a certificate of title.

400.14(1) The department will cancel a certificate of title when authorized by any provision of law or when it has reasonable grounds to believe that the person holding the certificate of title, purportedly issued for the vehicle, has no immediate right to possession of the vehicle.

400.14(2) The decision to take any action regarding ownership of the vehicle for which the current title has been canceled will be determined after an investigation and recommendation by a motor vehicle investigator of the department.

This rule is intended to implement Iowa Code sections 307.12(1)“j” and 321.101.

761—400.15(307,321) Application for certificate of title or original registration for a vehicle that is specially constructed, reconstructed, a street rod or a replica vehicle.

400.15(1) *Definitions applicable to this rule.*

a. “Ownership document for the vehicle” means the certificate of title, the manufacturer’s certificate of origin, the junking certificate, or other evidence of ownership acceptable to the department.

b. “Ownership documents for essential parts” means bills of sale for all essential parts used to construct or reconstruct the vehicle. Each bill of sale shall contain a description of the part, the manufacturer’s identification number of the part, if any, and the name, address, and telephone number of the seller.

400.15(2) *Procedures.* This subrule describes the procedures for obtaining department approval to title and register a vehicle that is specially constructed, reconstructed, a street rod or a replica vehicle. The procedures described are in addition to the regular procedures for titling and registering a vehicle.

a. The applicant shall apply to the county treasurer for a certificate of title and registration. The county treasurer, upon receiving an application that indicates the vehicle is specially constructed, reconstructed, a street rod or a replica vehicle, shall forward the application to a motor vehicle investigator of the department.

b. The investigator will contact the applicant and schedule a time and place for an examination of the vehicle and the ownership documents. An investigator may require the applicant to drive or tow the vehicle to and from the examination location upon the applicant’s completion of Form 420054. The applicant, when appearing with the vehicle for the examination, shall submit to the investigator the ownership document for the vehicle, the ownership documents for essential parts, and a weigh ticket indicating the weight of the vehicle. However, a weigh ticket is not required for motorcycles, autocycles, trucks, truck tractors, road tractors or trailer-type vehicles.

c. If the investigator determines that the vehicle complies with 761—Chapter 450, that the integral parts and components have been identified as to ownership, and that the application has been completed properly:

(1) The investigator will approve the application, affix to the vehicle an assigned vehicle identification number, and return the application and ownership documents to the applicant. The investigator will authorize the county treasurer to issue a title and registration for the vehicle.

(2) If the vehicle is a passenger-type motor vehicle, the department is authorized to determine its weight and value and if the vehicle is subject to the electric vehicle annual registration fee. The vehicle weight shall be fixed as provided in Iowa Code section 321.162. The weight and value shall constitute the basis for determining the annual registration fee under Iowa Code section 321.109, except as provided in Iowa Code section 321.113.

(3) The applicant shall then submit the ownership document for the vehicle to the county treasurer and continue with the regular title and registration process.

400.15(3) *Disapproval.* If the department determines that the vehicle does not comply with 761—Chapter 450, that the integral parts or components have not been identified as to ownership, or that the application has not been completed properly, then the department will not approve the vehicle for titling and registration.

400.15(4) *Model year.* The model year of a specially constructed or reconstructed motor vehicle is the year the vehicle is approved by the department as a specially constructed or reconstructed motor vehicle.

This rule is intended to implement Iowa Code sections 307.12(1)“j”; 321.20; 321.23 as amended by 2024 Iowa Acts, House File 674, section 4; 321.24; 321.52; 321.109; 321.116; 321.117 and 321.162.

761—400.16(307,321) Temporary use of vehicle without plates or registration receipt.

400.16(1) *Temporary use of vehicle without plates.* A person who acquires a vehicle that is currently registered or in a dealer's inventory at the time of sale and who does not possess registration plates that may be assigned to and displayed on the vehicle may operate or permit the operation of the vehicle not to exceed 30 days from the date of purchase or transfer without registration plates displayed thereon, if ownership evidence is carried in the vehicle.

400.16(2) *Temporary use of vehicle without registration receipt.* A person who acquires a vehicle that is currently registered or in a dealer's inventory at the time of sale and who has possession of plates which may be attached to the vehicle acquired may operate or permit the operation of the vehicle not to exceed 45 days from the date of delivery or transfer without a registration receipt, if ownership evidence is carried in the vehicle.

400.16(3) *Ownership evidence.* Ownership evidence under this rule shall consist of the certificate of title or registration receipt, or a photocopy thereof, properly assigned to the person who has acquired the vehicle, or a bill of sale conveying ownership of the vehicle to the person who has acquired the vehicle. The ownership evidence shall be shown to any peace officer upon request.

This rule is intended to implement Iowa Code sections 307.12(1) "j," 321.25 and 321.46.

761—400.17(307,321) Registration of motor vehicle weighing 55,000 pounds or more. When applying for registration or renewal of registration for a motor vehicle weighing 55,000 pounds or more, the owner shall present to the department or to the county treasurer proof of compliance with the federal heavy vehicle use tax required by 26 CFR Part 41 in effect as of April 1, 2021.

400.17(1) If the motor vehicle is used exclusively in the transportation of harvested forest products, the owner may present a written statement certifying that usage and the usage will be recorded.

400.17(2) If the motor vehicle is used primarily for farming purposes, the owner may present a written statement certifying that usage and the usage will be recorded.

This rule is intended to implement Iowa Code section 307.30 and section 321.20 as amended by 2024 Iowa Acts, House File 674, sections 1 and 2.

761—400.18(307,321) Registration of vehicles on a restricted basis. The department may register a vehicle that does not meet the equipment requirements of Iowa Code chapter 321, due to the particular use for which it is designed or intended, or which is a driverless-capable vehicle as defined in rule 761—380.2(321). Registration may be accomplished upon payment of the appropriate fees and after inspection and certification by the department that the vehicle is not in an unsafe condition.

400.18(1) Operation of the vehicle may be restricted to a roadway to which a specific lawful speed limit applies, as specified in Iowa Code section 321.285, if the maximum speed of the vehicle is such that the operation of the vehicle would impede or block the normal and reasonable movement of traffic.

400.18(2) The department may also restrict the operation of the vehicle to daylight hours if operation of the vehicle during hours other than daylight would create a hazard.

400.18(3) The department will issue a certificate of restriction in conjunction with registration of the vehicle, listing the restrictions that apply to the operation of the vehicle.

a. Registration laws applicable to motor vehicles in general shall also apply to vehicles registered under a restricted registration.

b. The department may approve exceptions to those equipment requirements of Iowa Code chapter 321 which cannot be met due to the particular use for which the vehicle is designed or intended.

400.18(4) When a vehicle registered in this state is modified to make it a driverless-capable vehicle as defined in rule 761—380.2(321), the person in whose name the vehicle is registered shall within 30 days notify the department upon a form prescribed by the department.

400.18(5) As provided in Iowa Code sections 321.515 and 321.519, the department may restrict the operations of a driverless-capable vehicle registered in this state or another state but that operates in this state. The restrictions may include but are not limited to the restrictions provided in subrules 400.18(1) and 400.18(2) and any operational restrictions based on a specific functional highway classification, weather conditions, days of the week, times of day, and other elements of operational design while the automated driving system is engaged. The department may require the vehicle owner to submit to the

department the automated driving system's intended operational design domain for the vehicle on a form prescribed by the department. The department may evaluate the automated driving system's intended operational design domain for the vehicle. The department may establish additional operational restrictions to ensure safe operation of the vehicle. The department shall issue a certificate of restriction as provided in subrule 400.18(3) for any restriction established under this subrule, and the certificate shall be carried in the vehicle and made available for inspection by any peace officer upon request.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.1, 321.23(4), 321.30(2), 321.101(1), 321.515 and 321.519.

761—400.19(307,321) Transfers of ownership by operation of law. For a vehicle transferred by operation of law under Iowa Code section 321.47 that is not currently registered in this state, the registration fee and penalties due shall be computed as follows:

400.19(1) If the vehicle is ordered confiscated or forfeited by a court under a judgment or forfeiture, the fee shall be computed on the remaining unexpired months in the registration year from the date of the court order.

400.19(2) If the vehicle is sold on a peace officer's bill of sale as an unclaimed, stolen, embezzled or abandoned vehicle, or as a vehicle seized under Iowa Code section 321.84, the fee shall be computed on the remaining unexpired months in the registration year from the date of the sale.

400.19(3) If the vehicle is sold or transferred under a judgment or order entered by a court in a civil action or proceeding, or is transferred under any provision of Iowa Code section 321.47 that is not covered in this subrule, the fee shall include any delinquent fees that have accrued during previous registration periods and accrued penalties. Penalties shall continue to accrue until paid.

400.19(4) If the vehicle was last titled or registered in a foreign state, the fee shall be based on the month the vehicle becomes subject to registration in this state, except as provided in subrules 400.19(1) and (2) above.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.47, 321.105, 321.106, 321.134 and 321.135.

761—400.20(321,321H) Junked vehicle.

400.20(1) *Junking certificate.* The owner of a vehicle that is to be junked or dismantled shall obtain a junking certificate when required by Iowa Code section 321.52.

400.20(2) *Required verification.*

a. One of the following shall satisfy the required verification when a vehicle owner junks or dismantles a vehicle to a licensed vehicle recycler under Iowa Code section 321.52(2)“b” or 321H.4A(2)“b”:

(1) The owner or authorized representative provides information to the licensed vehicle recycler who acquires the vehicle, including, at a minimum, government-issued photo identification and verification of prior reporting to the National Motor Vehicle Title Information System (NMVTIS). For a subsequent transaction with the licensed vehicle recycler, the vehicle owner or authorized representative is not required to provide government-issued photo identification if the licensed vehicle recycler has retained such information from a prior transaction. A licensed vehicle recycler is not required to report a vehicle verified under this subparagraph to the NMVTIS.

(2) The vehicle's owner is a licensed vehicle recycler or is the authorized representative of an established commercial or industrial business, operating from a fixed location, that is known to the licensed vehicle recycler to be regularly engaged in the junking or dismantling of vehicles or may reasonably be expected to produce vehicles for junking or dismantling and has entered into a written agreement with the licensed vehicle recycler confirming it has reported the vehicles to the NMVTIS. The written agreement shall, at a minimum, contain the owner's or authorized representative's name and address. A licensed vehicle recycler is not required to report a vehicle covered under an agreement under this subparagraph to the NMVTIS.

(3) The licensed vehicle recycler obtains the vehicle owner's or authorized representative's name and the vehicle identification number for the vehicle being junked or dismantled, and the vehicle recycler reports the vehicle to the NMVTIS.

b. A licensed vehicle recycler acquiring a vehicle as described under this subrule shall cooperate with a law enforcement agency during normal business hours when the agency has reason to believe that fraud has occurred in connection with the junking or dismantling of the vehicle. A law enforcement agency shall maintain the information as confidential and shall not disclose the information to a third party, except as may be necessary for the prosecution of a criminal violation.

400.20(3) Retitling a junked vehicle. The department may authorize issuance of a new certificate of title to the vehicle owner named on the junking certificate only if the department determines that the junking certificate was issued in error.

a. The reasons a junking certificate was issued in error include but are not limited to the following:

(1) The owner inadvertently surrendered the wrong certificate of title. The owner shall submit to the department a photocopy of the ownership document for each vehicle and a signed statement explaining the circumstances that resulted in the error.

(2) A junking certificate was obtained in error and the vehicle continues to be registered. The owner shall submit to the department a photocopy of the current registration and a signed statement explaining the circumstances that resulted in the error.

(3) The owner intended to apply for a salvage title under Iowa Code section 321.52(4) but inadvertently submitted an application for a junking certificate. The owner shall submit to the department a bill of sale or other documentation from the previous owner stating that the vehicle was rebuildable when purchased and a signed statement explaining the owner's original intention to obtain a salvage title. The department shall inspect the vehicle to verify the rebuildable condition.

b. If the department determines that the junking certificate was issued in error, the department will authorize the proper county treasurer to issue a certificate of title for the vehicle after payment by the owner of appropriate fees and taxes, including the return of any credit or refund for registration fees paid to the owner because of the error.

This rule is intended to implement Iowa Code sections 321.52 and 321H.4A.

761—400.21(307,321) Annual vehicle registration fee. The registration fee shall be computed on the month of purchase or transfer of a vehicle, except that the registration fee on a vehicle acquired outside of this state shall be based on the month that the vehicle was brought into Iowa.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.105 and 321.135.

761—400.22(307,321) Fees established by the department. If the department cannot obtain the retail list price and weight for a particular motor vehicle model registered under Iowa Code section 321.109(1), the department shall determine a list price and weight.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.109, 321.157 and 321.159.

761—400.23(321) Anatomical gift. Voluntary contributions collected by the county treasurer or the department to the anatomical gift public awareness and transplantation fund shall be a minimum of \$1. The county treasurer and the department will remit contributions collected monthly to the funds specified in Iowa Code section 321.44A.

This rule is intended to implement Iowa Code section 321.44A.

761—400.24(307,321,322) Vehicles held for resale or trade by dealers. A motor vehicle dealer, as defined in Iowa Code section 321.1, is authorized to hold a motor vehicle for resale or trade under the following conditions.

400.24(1) Assignment to dealer. The certificate of title or manufacturer's certificate of origin for the vehicle shall be assigned to the dealer by the seller. The seller shall complete the assignment portion of the form, including the date of sale or trade and the name and address of the dealer, and shall sign the form. The date of the sale or trade shown in the assignment portion of the form shall be the date the dealer acquired the vehicle.

400.24(2) New certificate of title and registration not required.

a. A motor vehicle held for resale by a dealer or registered in Iowa at the time of sale or trade to a dealer may be held by that dealer without obtaining a new certificate of title or a new registration if the

dealer holds for that vehicle a certificate of title or a manufacturer's certificate of origin properly assigned to the dealer.

b. A motor vehicle may also be held by a dealer without obtaining a new certificate of title or a new registration if the dealer has a title properly assigned to the dealer from a state that permits its titles to be reassigned by Iowa dealers and if a vacant reassignment space is available on the title.

400.24(3) *New certificate of title required.* A dealer shall obtain a new certificate of title under the procedures in Iowa Code section 321.20(1) as amended by 2024 Iowa Acts, House File 674, section 1, but is not required to pay registration fees for a vehicle if the application for title is made within 30 days of vehicle transfer date and if any of the following conditions apply:

a. The vehicle has been registered in a foreign state or country that does not permit its titles to be reassigned by Iowa dealers.

b. The vehicle was assigned to the dealer using an affidavit of foreclosure form prescribed by the department or issued by a foreign jurisdiction.

c. All reassignment spaces of the certificate of title have been used.

d. The vehicle registration fee was delinquent in Iowa at the time the vehicle was acquired by the dealer. The delinquent fees and penalty shall be paid by the dealer from the first day the registration was due to the month the application for title is submitted.

e. In accordance with 761—Chapter 405, the dealer is required to obtain a salvage certificate of title.

400.24(4) *New certificate of title and registration fee required.* A dealer shall obtain both a new certificate of title and pay a registration fee for a vehicle if:

a. The vehicle has a foreign certificate of title but has never been registered and the dealer is not licensed under Iowa Code chapter 322 to sell that line-make of vehicle. The registration fee due shall be prorated for the remaining unexpired months of the dealer's registration year.

b. The vehicle was placed in storage by the previous owner. The registration fee due shall be computed from and commence the month the vehicle is removed from storage.

c. The vehicle has been registered in a foreign state or country that does not permit its titles to be reassigned by Iowa dealers and the application for a new certificate of title is submitted more than 30 days after the date the vehicle entered Iowa. The registration fee due shall be prorated for the remaining unexpired months of the dealer's registration year.

d. The vehicle has been registered in a foreign state or country and all reassignment spaces on the title are full and the application for a new certificate of title is submitted more than 30 days after the last available reassignment space is used. The registration fee due shall be prorated for the remaining unexpired months of the dealer's registration year.

e. The vehicle was in the dealer's inventory and the dealer's license was revoked as provided in Iowa Code chapter 322 or 322C or surrendered in lieu of revocation. The dealer shall obtain title and registration within 30 days from the date of revocation or surrender of the license. The registration fee due shall be prorated for the remaining unexpired months of the registration year.

400.24(5) *Registration fee required.* A vehicle owned by a dealer and used as a work or service vehicle, or offered for lease, rent or hire, shall become subject to a registration fee in the month that the vehicle is first used for that purpose. The registration fee shall be due annually unless the vehicle is transferred to the dealer's inventory. To transfer the vehicle, the dealer shall surrender the registration plates that were issued for the vehicle.

This rule is intended to implement Iowa Code sections 307.12(1)“j”; 321.20 as amended by 2024 Iowa Acts, House File 674, section 1; 321.45, 321.46; 321.48; 321.49; 321.67; 321.70; 321.104 and 321.126 and chapter 322.

761—400.25(321) Special trucks. The owner of a truck tractor registered as a special truck shall certify to the owner's county treasurer annually at the time of renewal that the truck tractor is not operated more than 15,000 miles annually.

This rule is intended to implement Iowa Code sections 321.1(75) and 321.121.

761—400.26(307,321) Registration of vehicles registered in another state or country.

400.26(1) The registration fee for a vehicle from another state or country shall be due in the month that the vehicle becomes subject to registration in Iowa.

400.26(2) A vehicle registered in another state or country shall become subject to registration in Iowa and payment of the Iowa registration fee beginning in either of the following:

a. The month of sale or transfer to an Iowa resident.

b. The month that a nonresident owner establishes Iowa residency or accepts employment in Iowa of 90 days duration or longer. The county treasurer or the department may require from the applicant a written statement giving the date that the applicant established residency in Iowa.

This rule is intended to implement Iowa Code sections 307.12(1)“j”; 321.18; 321.20 as amended by 2024 Iowa Acts, House File 674, section 1; 321.53 through 321.55; 321.101 and 321.135.

761—400.27(307,321) Vehicles owned by nonresident members of the armed services.

400.27(1) A vehicle owner who is a nonresident and a member of the armed services is not required to register the vehicle in Iowa if it is properly registered in the person’s state of residence.

400.27(2) A vehicle owner who is a nonresident and a member of the armed services may register the vehicle in Iowa under the following conditions:

a. The vehicle is owned entirely by nonresidents.

b. The fee for a passenger-type vehicle registered under Iowa Code section 321.109 shall be based only on the weight of the vehicle; the part of the fee based on value shall be excluded. The fees for all other vehicles shall be determined as specified in Iowa Code chapter 321. The registration fee under Iowa Code sections 321.116 and 321.117 shall apply.

c. The application for vehicle registration shall include a certification by the person’s commanding officer of the person’s state of residence and assignment to Iowa.

400.27(3) If ownership of a passenger-type vehicle is transferred to another person, the vehicle shall be subject to registration in Iowa.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.53 through 321.55, 321.109, 321.116 and 321.117.

761—400.28(307,321,321L) Registration of vehicles equipped for persons with disabilities. To apply for the reduced registration fees under Iowa Code section 321.109(1)“b” or 321.124(1)“h”(1)(f), the owner of the vehicle must provide a written self-certification at the first registration and at each renewal of either of the following:

400.28(1) That the automobile, multipurpose vehicle, or motor truck with an unladen weight of 10,000 pounds or less has permanently installed equipment manufactured for and necessary to assist a person with a disability, as defined in Iowa Code section 321L.1, to enter or exit the vehicle.

400.28(2) That the owner or a member of the owner’s household uses a wheelchair as the person’s only means of mobility.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.109, 321.124 and 321L.1.

761—400.29(321) Motorcycle or auticycle primarily designed or converted to transport property.

A motorcycle or auticycle primarily designed or converted to transport less than 1,000 pounds of property will be registered as a motorcycle or auticycle. A motorcycle or auticycle primarily designed or converted to transport 1,000 pounds of property or more will be registered as a motor truck.

This rule is intended to implement Iowa Code sections 321.1; 321.20 as amended by 2024 Iowa Acts, House File 674, section 2; and 321.117.

761—400.30(307,321) Conversion of motor vehicles.

400.30(1) An automobile converted to a truck with a carrying capacity of 1,000 pounds or more will be registered as a reconstructed motor vehicle.

400.30(2) A vehicle manufactured as a truck tractor or motor truck will not be registered as a motor home unless the vehicle has been substantially altered to change its type and mode of operation so that it is a reconstructed vehicle as defined in Iowa Code section 321.1.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.1, 321.23, 321.111 and 321.124.

761—400.31(321,435) Manufactured or mobile home converted to or from real property.

400.31(1) *Conversion to real property.* When a manufactured or mobile home is converted to real property under Iowa Code section 435.26, the process shall be as follows:

a. If a security interest is noted on the title and the secured party is given a mortgage for the land on which the home is located, the assessor shall collect the certificate of title as provided in rule 701—74.5(435).

b. If a security interest is noted on the title and the secured party is not given a mortgage for the land on which the home is located, the secured party shall retain the certificate of title as provided in Iowa Code section 435.26. At the time the security interest is released, the secured party may surrender the certificate of title to the county treasurer, who shall cancel the title as converted to real estate and destroy the title.

c. If there is no security interest noted on the title, the owner shall surrender the certificate of title to the assessor. The assessor shall note the conversion on the face of the certificate of title above the assessor’s signature, date the notation and deliver the title to the county treasurer. The county treasurer shall note the conversion on the vehicle record and then cancel the title as converted to real estate and destroy the certificate of title.

d. If the assessor identifies in the county records a security interest no longer exists that would prevent the title to the home and the title to the land to merge under Iowa Code section 435.26 and the county treasurer verifies there is no lien on the certificate of title, the title to the home and the title to the land shall merge, and the county treasurer shall cancel the title as converted to real estate and destroy the certificate of title, if available.

400.31(2) *Reconversion from real property.*

a. When a manufactured or mobile home is reconverted from real property by adding a vehicular frame, the owner may apply to the county treasurer for a certificate of title.

b. The owner shall submit a record of existing liens obtained from a local abstractor. The record shall identify the owner of the property, list all liens and encumbrances against the property, and shall be signed by the abstractor.

c. The owner shall also submit written consent to the reconversion from any person holding a mortgage on the real property (mortgagee). An existing mortgage shall be noted as a security interest on the certificate of title.

d. The county treasurer shall submit written notice of the reconversion to the county assessor’s office.

400.31(3) *Affidavit for surrender of certificate of title.*

a. As provided in Iowa Code section 435.26B, an owner may effectuate a surrender of the certificate of title by recording with the county recorder Form 411186 if all of the following requirements are met:

(1) There is no record that a certificate of title has been issued or surrendered for a manufactured or mobile home that is located outside a manufactured home community or mobile home park.

(2) The manufactured home or mobile home has been converted to real estate by being placed on a permanent foundation.

(3) The manufactured or mobile home is entered on the tax rolls.

b. The fee for the duties performed by the department pursuant to Iowa Code section 435.26B(1) “i”(2) shall be \$5.

This rule is intended to implement Iowa Code sections 321.1, 435.1, 435.26, 435.26A, 435.26B and 435.27.

761—400.32(307,321) Church bus registration fee. If ownership of a church bus registered under Iowa Code section 321.119 is transferred to a person not entitled to register the vehicle as a church bus or the bus is used in a manner other than provided by law, the church bus shall be registered under the

provisions of Iowa Code section 321.122. The registration fee shall be prorated for the remaining unexpired months of the registration year.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.119 and 321.122.

761—400.33(307,321) Storage of vehicles.

400.33(1) The owner of a vehicle upon which the registration fee is not delinquent may surrender all registration plates for the vehicle to the county treasurer where the vehicle is registered and has the right to register the vehicle later upon payment of the annual registration fee due, which shall be computed from and commence the month the vehicle is removed from storage. Payment of a registration fee is not required when the vehicle is removed from storage within the current registration year, provided that registration fees have not been refunded. Surrendered plates shall be destroyed. When a vehicle is removed from storage, the fee is \$5 for a set of replacement plates.

400.33(2) The owner of a motor vehicle that is placed in storage when the owner enters the military service of the United States shall comply with Iowa Code section 321.126, and subrule 400.33(1) does not apply.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.126 and 321.134.

761—400.34(307,321) Penalty on registration fees.

400.34(1) *Monthly basis.* The penalty on the delinquent payment of a registration fee shall be computed on a monthly basis, rounded to the nearest whole dollar. If multiple penalties are assessed, the penalties shall be first added together and then the sum shall be rounded to the nearest whole dollar.

400.34(2) *Vehicle purchased.* The penalty on the registration fee shall accrue from the first day of the month following the date of purchase unless the application for a certificate of title is submitted within 30 days after the date of purchase.

400.34(3) *Vehicle moved into Iowa.* The penalty on the registration fee shall accrue on the first day of the month following 30 days from the date a vehicle is moved into Iowa.

400.34(4) *When delinquency extends beyond the current year.* When the penalty on a delinquent registration fee extends beyond the current registration year, the penalty shall continue to accrue until paid or until the provision of Iowa Code section 321.134(4) takes effect. Penalty shall only accrue on the fee applicable at the time the delinquency accrued and shall not be applicable to subsequent registration fees that have not been paid.

400.34(5) *Statement of nonuse.* If the owner of a vehicle, on which the registration fees have not been paid for more than three complete registration years, certifies to the county treasurer of the owner’s residence, or to the department on Form 442018 if a vehicle is registered under Iowa Code chapter 326, that the vehicle has not been moved or operated upon the highway since the year it was last registered, the vehicle may be registered upon payment of the current year’s registration fee.

400.34(6) *Waiver of penalties for military members.* Registration penalties will be waived as provided in Iowa Code section 321.134(5), if the owner provides a copy of an official government document verifying that the applicant is in the military service of the United States and has been relocated as a result of being placed on active duty on or after September 11, 2001.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.39, 321.46, 321.47, 321.49, 321.134 and 321.135.

761—400.35(252J,307,321) Suspension, revocation or denial of registration.

400.35(1) A peace officer, county treasurer, or the county treasurer’s designee may submit a request using Form 411012, Request for Cancellation of Title or Revocation or Suspension of Registration and Plates, or 411013, Request for Suspension of Registration and Plates, as applicable, to the department for suspension or revocation of registration and plates under Iowa Code section 321.101.

a. The notice of suspension or revocation will contain the following:

(1) The basis of the suspension or revocation.

(2) Information regarding how the person may satisfy the violation and have the suspension or revocation removed, if applicable.

(3) Information notifying the person of the right to appeal the suspension or revocation in accordance with rule 761—400.44(321).

b. Reserved.

400.35(2) When the registration of a vehicle has been revoked as provided in Iowa Code sections 321.101 and 321.101A, the registration fee and penalty shall accrue as if the plates had never been issued, unless waiver of registration fees and penalties is specifically provided for in Iowa Code chapter 321.

400.35(3) Pursuant to Iowa Code section 252J.8, the department will suspend or deny the issuance or renewal of registration and plates upon receipt of a certificate of noncompliance from the child support recovery unit.

a. The suspension or denial takes effect 30 days after notice to the vehicle owner and continues until the department receives a withdrawal of the certificate of noncompliance from the child support recovery unit.

b. If a person who is the named individual on a certificate of noncompliance subsequently purchases a vehicle, the vehicle will be titled and registered, but the registration will be immediately suspended.

This rule is intended to implement Iowa Code sections 252J.1, 252J.8, 252J.9, 307.12(1) “j,” 321.101, 321.101A and 321.127.

761—400.36(307,321) Termination of suspension of registration. Upon termination of the suspension of registration of a vehicle, the county treasurer may issue new plates for the vehicle. If the new plates replace a current series of plates, there shall be a replacement fee as provided in Iowa Code section 321.42. If the vehicle is not currently registered at the time the suspension is lifted, the registration fee and penalties due shall be determined as follows:

400.36(1) If the registration fee was delinquent at the time that the suspension became effective, the penalty shall continue to accrue on the registration fee until the suspension became lifted and the registration fee is paid. In addition, if the suspension was for failure to pay an additional registration fee, the additional registration fee shall be paid before the suspension is lifted.

400.36(2) If the registration fee was not delinquent when the suspension became effective and the suspension is lifted after the beginning of another registration year, the annual registration fee for that year shall be due in the month the suspension is lifted. The penalty shall accrue on the registration fee the first day of the month following the month that the suspension was lifted. The annual registration fee on a recovered stolen vehicle for which the registration has been suspended shall be prorated for the remaining unexpired months of the registration year.

400.36(3) If the registration fee was not delinquent at the time that the suspension became effective and the suspension is lifted during the same registration period, no additional registration fees shall be due unless the suspension was for failure to pay an additional registration fee, in which event the additional registration fee shall be paid before the suspension is lifted.

This rule is intended to implement Iowa Code sections 307.12(1) “j,” 321.42, 321.105 and 321.134.

761—400.37(307,321) Raw farm products. A vehicle may be operated with a gross weight of 25 percent in excess of the gross weight for which it is registered when transporting a load of raw farm products or soil fertilizers under Iowa Code section 321.466 except that nothing in this rule shall be construed to allow operation of a special truck on the public highways with a gross weight exceeding the maximum gross weight allowed under Iowa Code section 321.463(6). In addition, the following products are considered raw farm products. This list is not exhaustive and does not exclude other commodities that might be considered raw farm products:

Animals that are dead	Hides
Berries, fresh	Honey, comb or extracted
Blood	Melons
Corn, ear corn including hybrids	Milk, raw
Corn, shelled	Nursery stock

Corn, cobs	Potatoes
Cream, separated	Peat
Eggs, fresh or frozen in shell	Poultry, live
Flax	Saw logs
Flaxseed	Sod
Fodder	Soybeans
Fruit, fresh	Straw, baled or loose
Grain, threshed or unthreshed	Vegetables, fresh
Hair	Wood, cord or stove wood
Hay, baled or loose	Wool

This rule is intended to implement Iowa Code sections 307.12(1) “j,” 321.466(4) and 321.466(5).

761—400.38(25,307,321,326) Refund of registration fees.

400.38(1) Vehicles registered by county treasurer.

a. The department will refund annual registration fees for vehicles registered by the county treasurer pursuant to Iowa Code section 321.126.

b. Except as provided in Iowa Code section 321.126, the owner may submit a claim for refund to the county treasurer’s office in any county.

c. Registration plates shall be submitted with the claim if the vehicle is placed in storage or registered for apportioned registration, if the owner of the vehicle moves out of state, or if the plates have not been assigned to a replacement vehicle, unless the plates have been surrendered to a licensed dealer in Iowa that has submitted the title and registration application under Iowa Code section 321.25. If one or both plates have been lost or stolen, the claimant shall certify this fact in writing.

d. For a vehicle that was junked, the date on the junking certificate determines the date the vehicle was junked.

e. If the claim for refund is for excess credit or no replacement vehicle:

(1) The county treasurer will, within three days of receipt of the claim for refund, provide the information required to process the refund to the department.

(2) The department is authorized to approve or deny the claim.

f. The county treasurer shall forward all other claims for refund to the department for processing in the form and manner prescribed by the department.

400.38(2) Vehicles registered by the department. Forms and instructions for claiming a refund on apportioned registration fees under Iowa Code section 326.15 may be obtained from the department at the address in subrule 400.6(1).

This rule is intended to implement Iowa Code sections 25.1, 307.12(1) “j,” 321.126 through 321.129 and 326.15.

761—400.39(307,321) Assigned identification numbers. The department is authorized to issue to the owner an assigned vehicle identification number for a vehicle, an assigned component part number for a component part, and an assigned product identification number for a fence-line feeder, grain cart, or tank wagon. An identification number will be assigned only if the department is satisfied as to the true identity and ownership of the vehicle, component part, fence-line feeder, grain cart or tank wagon. When an assigned vehicle identification number has been issued for a vehicle, the vehicle will be registered and titled under that number. An assigned component part number or an assigned product identification number shall be used only for identification purposes.

400.39(1) Issuance of an identification number. The department will issue an assigned vehicle identification number, assigned component part number or assigned product identification number, as applicable, only if:

a. The original number has been destroyed, removed or obliterated.

b. The vehicle has had a cab, body, or frame change and the replacement cab, body, or frame is within the manufacturer’s interchangeability parts specifications catalog and is compatible with the

make, model, and year of the vehicle. If the replacement cab, body, or frame change is not within the manufacturer's interchangeability parts specifications catalog or is not compatible with the make, year, and model of the vehicle, the vehicle shall be considered reconstructed and subject to rule 761—400.16(321).

c. The vehicle is specially constructed, reconstructed, a street rod or a replica vehicle. More information is contained in rule 761—400.15(321) for the requirements and procedures applicable to vehicles that are specially constructed, reconstructed, street rods or replica vehicles.

400.39(2) Procedures.

a. *Request.* Whenever an assigned identification number is required under subrule 400.39(1) and the request does not apply to a vehicle that is specially constructed, reconstructed, a street rod or a replica vehicle, the owner of the vehicle, component part, fence-line feeder, grain cart or tank wagon, or the person holding lawful custody, shall contact the department's motor vehicle division at the address in subrule 400.6(1) and request the assignment of a number.

b. *Examination.* A motor vehicle investigator will contact the owner and schedule a time and place for examination of the vehicle, component part, fence-line feeder, grain cart or tank wagon and ownership documents. An investigator may require the owner to drive or tow the vehicle to and from the examination location upon the applicant's completion of Form 420054. If the vehicle has had a cab, body, or frame change, the owner shall have, for evidence of ownership for the replacement cab, body, or frame, a bill of sale with a description of the part, complete with the manufacturer's identification number, if any, and the name, address, and telephone number of the seller. The bill of sale, the vehicle, and the cab, body, or frame that has been replaced shall be made available for examination at the time and place scheduled.

c. *Assigned vehicle identification number.*

(1) The investigator upon approval of the request will affix to the vehicle an assigned vehicle identification number and authorize the county treasurer to issue a title and registration for the vehicle.

(2) The owner shall submit the certificate of title and the registration receipt issued for the vehicle to the county treasurer. If the certificate of title is in the possession of a secured party, the county treasurer will notify the secured party to return the certificate of title to the county treasurer for the purpose of issuing a corrected title. Upon receipt of the notification, the secured party shall submit the certificate of title within ten days. The county treasurer, upon receipt of the certificate of title and the registration receipt, will issue a corrected title and registration receipt listing as the vehicle identification number the assigned vehicle identification number.

d. *Assigned component part number.* The investigator upon approval of the request will affix to the component part an assigned component part number and give to the owner a component part form. The owner shall retain the form as a record of issuance and attachment. The form shall be made available on demand by any peace officer for examination.

e. *Assigned product identification number.* The investigator upon approval of the request will affix an assigned product identification number to the fence-line feeder, grain cart or tank wagon and give to the owner an assigned product identification number form. The owner shall retain the form as a record of issuance and attachment. The form shall be made available on demand by any peace officer for examination.

400.39(3) Fees. A county treasurer, as provided in Iowa Code section 321.20(1) as amended by 2024 Iowa Acts, House File 674, section 1, may issue a corrected certificate of title upon collection of the certificate of title fee and a fee for a notation of a security interest, if applicable. A corrected certificate of title is not required for a name change.

This rule is intended to implement Iowa Code sections 307.12(1) "j"; 321.1; 321.20 as amended by 2024 Iowa Acts, House File 674, section 1; 321.43; 321.50 as amended by 2024 Iowa Acts, House File 674, section 16; 321.52A and 321.92.

761—400.40(321) Odometer statement.

400.40(1) Pursuant to Iowa Code section 321.71 and 49 U.S.C. Section 32705, an odometer disclosure statement shall be submitted with an application for certificate of title for a motor vehicle

unless the motor vehicle is exempt. The statement shall provide a current odometer reading and reflect whether the mileage is “actual,” “not actual” or “exceeds mechanical limits.”

400.40(2) If the transferor failed to provide an odometer disclosure statement or if the transferee lost the statement, and the transferee has attempted in good faith to contact the transferor to obtain a statement, the transferee may file a sworn statement of these facts on a form prescribed by the department. The sworn statement will be accepted by the county treasurer or the department in lieu of the required odometer disclosure statement. The subsequent title issued from the sworn statement will record “not actual” mileage.

400.40(3) As required by 49 CFR Section 580.17 in effect as of October 1, 2024, for vehicle transfers that occur through December 31, 2030, any vehicle that is model year 2011 or newer shall require an odometer disclosure statement. For vehicle transfers that occur on or after January 1, 2031, the model year formula for odometer disclosure statements is the current year minus 20. The resulting number represents the first model year for which a motor vehicle is exempt from the odometer statement requirements incident to a transfer.

This rule is intended to implement Iowa Code section 321.71.

761—400.41(321) Stickers.

400.41(1) *Placement of validation sticker.* The validation sticker shall be affixed to the lower left corner of the rear registration plate. EXCEPTIONS: For motorcycle, autocycle and small trailer plates, the validation sticker shall be affixed to the upper left corner of the plate. For natural resources plates, the sticker may be affixed to the lower right corner of the rear plate.

400.41(2) *Special fuel identification sticker.* Iowa Code section 321.41(4) applies to special fuel identification stickers. This sticker shall be displayed on the cover of the fuel inlet of the motor vehicle or on the outside panel of the motor vehicle within 3 inches of the fuel inlet so as to be in view when fuel is delivered into the motor vehicle.

400.41(3) *Persons with disabilities parking sticker.* A persons with disabilities special registration plate parking sticker shall be affixed to the lower right corner of the rear registration plate. A persons with disabilities parking sticker shall be affixed to the lower left corner of the flying our colors rear registration plate and above the validation sticker to allow for full view of all numerals and letters printed on the plate pursuant to Iowa Code section 321.37.

400.41(4) *Special truck for farm use sticker.* An owner of a special truck, registered pursuant to Iowa Code section 321.121, who has been issued either regular registration plates or special registration plates other than special truck registration plates must obtain from the county treasurer a sticker that distinguishes the vehicle as a special truck. The sticker shall be affixed to the lower right corner of the rear registration plate. EXCEPTION: If the vehicle displays front and rear plates, two stickers shall be issued with one sticker affixed to the lower right corner of the front plate and rear plate. For natural resources plates and flying our colors plates, the stickers must be affixed to the lower left corner of the front and rear plates.

This rule is intended to implement Iowa Code sections 321.34, 321.37, 321.40, 321.41, 321.121 and 321.166.

761—400.42(307,321) Registration receipt issued for trailer-type vehicles. The registration receipt issued for trailer-type vehicles shall be carried in the vehicle that is described on the receipt or in the driver’s compartment of the towing vehicle.

This rule is intended to implement Iowa Code sections 307.12(1)“j” and 321.32.

761—400.43(321) Damage disclosure statement.

400.43(1) If the transferor failed to provide a damage disclosure statement or if the transferee lost the statement, and the transferee has attempted in good faith to contact the transferor to obtain a statement, the transferee may file a sworn statement of these facts. The transferee shall also complete section 2 of a separate damage disclosure statement and sign on the buyer’s line. The sworn statement and damage disclosure statement completed by the transferee will be accepted by the county treasurer or the department in lieu of the damage disclosure statement required from the transferor.

400.43(2) A model year formula for damage disclosure statements shall be the current year minus eight. The resulting number represents the first model year for which a motor vehicle is exempt from the damage disclosure statement requirements incident to a transfer.

400.43(3) If the transferor completes the damage disclosure on the assignment of title at the time of application for title, a transferor or transferee of a vehicle may submit a separate damage disclosure statement, Form 411108, indicating the damage level of the vehicle and whether the damage level exceeds 70 percent.

a. If the transferor signs both the damage disclosure on the assignment of title and the separate damage disclosure statement, Form 411108, the county treasurer shall accept the separate damage disclosure statement.

b. If the transferee signs the separate damage disclosure statement, Form 411108, the county treasurer shall accept the separate damage disclosure statement only if the separate damage disclosure statement indicates the damage level exceeds 70 percent. If the transferee's statement indicates the damage level is less than 70 percent, and there is no evidence that a prior Iowa title or foreign title was issued or designated as salvage, rebuilt or flood, the department will review the transaction to confirm the damage level using data obtained from the insurance provider, motor vehicle repair facility, or other entity with direct knowledge of the damage.

This rule is intended to implement Iowa Code sections 321.52 and 321.69.

761—400.44(17A,321) Hearings. The department will send notice by certified mail to a person whose certificate of title, vehicle registration, license, or permit is to be revoked, suspended, canceled, or denied under this chapter. The notice will be mailed to the person's mailing address as shown on departmental records and takes effect after 20 days from the date mailed. A person who is aggrieved by a decision of the department and who is entitled to a hearing may contest the decision in accordance with 761—Chapter 13. The request shall be submitted in writing to the director of the motor vehicle division at the address in subrule 400.6(1). The request for a contested case shall be deemed timely submitted if it is delivered or postmarked on or before the 20th day from the date the notice was mailed for revocation, suspension, cancellation, or denial.

This rule is intended to implement Iowa Code sections 17A.10 through 17A.19, 321.101 and 321.102.

761—400.45(321) Motorized bicycles. The following rules shall apply to motorized bicycles.

400.45(1) *Maximum speed.* If the department has reason to believe that a particular vehicle or model is capable of speeds exceeding 39 miles per hour, the department may conduct independent tests to determine the maximum speed of the vehicle or model. If the department determines that the maximum speed of the particular vehicle or model exceeds 39 miles per hour, the vehicle or model will not be registered as a motorized bicycle.

400.45(2) *Identification of a vehicle as a motorized bicycle.* Registration plates issued for motorcycles will also be issued for motorized bicycles.

This rule is intended to implement Iowa Code sections 321.1, 321.13 and 321.166.

761—400.46(307,321) Registration documents lost or damaged in transit through the United States postal service. To obtain without cost the reissuance of registration documents that were sent by the county treasurer to the owner through the United States postal service and that were lost or damaged in transit, the owner of the vehicle shall file application for reissuance between 20 and 60 days of the date the documents were issued by the county treasurer.

This rule is intended to implement Iowa Code sections 307.12(1) "j" and 321.42.

761—400.47(307,321) Credit of registration fees.

400.47(1) *Credit for unexpired registration fee.* The applicant may claim credit, as specified in Iowa Code section 321.46(3), toward the registration fee for one newly acquired replacement vehicle.

a. The credit may be claimed only when the owner of the newly acquired vehicle is applying for a certificate of title and registration (or just registration if the vehicle is not subject to titling provisions) for the newly acquired vehicle.

b. For a junked vehicle, the date on the junking certificate determines the date the vehicle was junked.

c. Excess credit shall not be applied toward the registration fee for a second vehicle.

d. Credit shall be allowed for one or two vehicles which have been sold, traded or junked toward one replacement vehicle. Credit shall be based on the remaining unexpired months of the registration year(s) of the vehicle(s) sold, traded or junked.

400.47(2) *Credit for transfer to spouse, parent or child.* Credit shall be allowed toward a new registration for a vehicle being transferred to the applicant from the applicant's spouse, parent or child, or from a former spouse pursuant to a dissolution of marriage decree, if application for the certificate of title and registration (or just registration if the vehicle is not subject to titling provisions) is made within 30 days after the date of transfer. If the owner is deceased, credit may be transferred under rule 761—400.13(321).

400.47(3) *Credit from/to apportioned registration.*

a. Pursuant to Iowa Code section 321.46A, an owner may claim credit toward the registration fees due when changing a vehicle's registration from apportioned registration under Iowa Code chapter 326 to registration under Iowa Code chapter 321. The owner shall surrender proof of apportioned registration to the county treasurer. Credit shall be allowed for the unexpired complete calendar months remaining in the registration year from the date the application is filed with the county treasurer.

b. Pursuant to Iowa Code sections 321.126 and 321.127, the owner or lessee of a motor vehicle may claim credit for the apportioned registration fees due when changing the vehicle's registration from registration by the county treasurer to apportioned registration. Application for apportioned registration shall be submitted to the department's motor vehicle division; more information is contained in 761—Chapter 500.

400.47(4) *Assignment of credit and registration plates from lessor to lessee.* When a lessee purchases the leased vehicle and within 30 days requests the assignment of the vehicle's fee credit and registration plates, the lessor shall assign the registration fee credit and registration plates for the purchased vehicle to the lessee.

400.47(5) *Rounding.* If credit from two registration years or two registration fees, or some combination of both, is available, the credits shall first be added together, then it shall be determined whether the sum meets the minimum required under Iowa Code section 321.46(3) "c," and then the sum shall be rounded to the nearest whole dollar.

This rule is intended to implement Iowa Code sections 307.12(1) "j," 321.46, 321.46A, 321.48, 321.116, 321.117, 321.126 and 321.127.

761—400.48(321) Reassignment of registration plates.

400.48(1) Registration plates may be reassigned if one of the owners listed on the registration receipt before the transfer is also a listed owner following the transfer.

400.48(2) Registration plates may be reassigned when credit is allowed toward a new registration for a vehicle being transferred to the owner's spouse, parent, or child, or to a former spouse pursuant to a dissolution of marriage decree. If the owner is deceased, plates may be transferred under rule 761—400.13(321).

400.48(3) Registration plates shall not be reassigned between a natural person or persons and a corporation, association, copartnership, company, or firm.

400.48(4) Registration plates may be reassigned and credit allowed if two or more corporations, associations, partnerships, or firms merge into one corporation, association, partnership or firm.

400.48(5) Registration plates may be assigned and credit allowed if an owner listed on the certificate of title and registration transfers ownership of the vehicle to a trust created by that owner.

400.48(6) Registration plates may be assigned and credit allowed if an owner listed on the certificate of title and registration transfers ownership of the vehicle from a living trust to an individual owner who created that trust and vice versa.

This rule is intended to implement Iowa Code sections 321.34 and 321.46.

761—400.49(307,321) Storage of registration plates, certificate of title forms and registration forms. Registration plates, certificate of title forms and registration forms that are consigned to county treasurers by the department shall be stored in a secure location only accessible to authorized persons as designated by the county treasurer or department.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.5, 321.8 and 321.167.

761—400.50(307,321) Disposal of surrendered registration plates. The county treasurer shall return plates that have been surrendered to the county treasurer to Iowa state prison industries for recycling.

This rule is intended to implement Iowa Code sections 307.12(1)“j,” 321.5 and 321.171.

761—400.51(307,321) County treasurer’s report of motor vehicle collections and funds. The county treasurer shall file the report provided for in Iowa Code section 321.153 in a manner prescribed by the department.

This rule is intended to implement Iowa Code sections 307.12(1)“j” and 321.153.

761—400.52(321) Removal of registration and plates by peace officer under financial liability coverage law. This rule applies to instances when a peace officer issues a citation and removes the registration receipt and registration plates of a motor vehicle registered in this state when the driver of the motor vehicle is unable to provide proof of financial liability coverage. This rule applies regardless of whether the vehicle was also impounded.

400.52(1) The peace officer shall forward the registration receipt and evidence of the violation to the county treasurer of the county in which the motor vehicle is registered. Evidence of the violation is one of the following:

a. A copy of the citation. The citation must either reference Iowa Code section 321.20B(4)“a”(3) or 321.20B(4)“a”(4), as applicable, or reference Iowa Code section 321.20B and indicate whether or not the vehicle was impounded.

b. A written statement from the peace officer listing the plate number of the registration plate removed from the vehicle and the vehicle owner’s name. The statement must either reference Iowa Code section 321.20B(4)“a”(3) or 321.20B(4)“a”(4), as applicable, or reference Iowa Code section 321.20B and indicate whether or not the vehicle was impounded. The statement must be signed by the peace officer or an employee of the law enforcement agency.

400.52(2) The peace officer may either destroy removed plates or deliver the removed plates to the county treasurer for destruction.

This rule is intended to implement Iowa Code section 321.20B.

761—400.53(307,321) Electronic lien and title.

400.53(1) The department may authorize the use of an electronic lien and title (ELT) system to provide an electronic record of the certificate of title to a security interest holder, to subject a vehicle to an electronic lien, and to allow for the submission and receipt of forms related to security interests through electronic means.

a. The department may enter into an agreement with ELT providers for transmission of vehicle data, title data and forms necessary to process security interest transactions through electronic means.

b. The department may authorize an ELT lender to participate in the ELT system if the ELT lender has first established a service relationship with an authorized ELT provider. The department may establish application forms and approval processes as necessary for ELT lenders.

400.53(2) For each individual transaction, an authorized ELT lender may choose to use either the ELT process or the paper security interest process as provided in Iowa Code section 321.50 and rules 761—400.8(321) and 761—400.9(321).

400.53(3) If a security interest is released through ELT and there are no other secured parties, but the ELT lender does not request a paper title to be printed and provided to the owner, or the ELT lender does not otherwise provide a paper title to the owner, then the owner of the vehicle may apply to the

county treasurer or the department for a certificate of title to be printed and provided to the owner by submitting an application form in the form and manner prescribed by the department.

a. If there is more than one owner of the vehicle, any owner may apply to the department or the county treasurer, as applicable, for the certificate of title to be printed and provided to whomever the owner specifies.

b. If an owner is deceased, the signatures and documents specified in subrules 400.13(4) and 400.13(5) shall be required.

This rule is intended to implement Iowa Code section 307.12(1) “*j*” and section 321.50 as amended by 2024 Iowa Acts, House File 674, section 17.

MV-2025-88

Stuart Anderson, Director, Transportation Development Division

The rulemaking proposes to rescind and repromulgate Chapter 400 in accordance with Executive Order 10.

Proposed Chapter 400 provides the process allowing motor vehicle owners to register and title their vehicle in Iowa, which is required for a vehicle to be legally operated on Iowa roadways. The rules provide clarity to county treasurers, law enforcement, and the public on the application and issuance process for vehicle registration and title, as well as outlining any exemptions or specific requirements to title and register a vehicle in Iowa.

The public comment period ended on January 17, 2025. The department did not receive any public comments. The department plans to make changes within subrule 400.35(3) to correct “child support recovery unit” to “child support services” to comply with 2023 Iowa Acts, Senate File 514.

A complete summary explaining the proposed rulemaking is included in the attached Notice of Intended Action which is attached to the Commission Order.

It is recommended that the Commission approve repromulgating Chapter 400 with the changes in subrule 400.35(3).

Commissioner Juckette moved and Commissioner Gaesser seconded a motion to approve.

There were no further questions or comments.

The vote to approve was unanimous.

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

**Proposing rulemaking related to OWI and implied consent
and providing an opportunity for public comment**

The Transportation Department hereby proposes to rescind Chapter 620, “OWI and Implied Consent,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 307.12(1)“j”; 321.193; 321J.3; 321J.17 as amended by 2024 Iowa Acts, Senate File 2261, section 6; 321J.17A as enacted by 2024 Iowa Acts, Senate File 2261, section 7; and 321J.20A as enacted by 2024 Iowa Acts, Senate File 2261, section 9.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A; chapter 321J as amended by 2024 Iowa Acts, Senate File 2261, sections 6, 7 and 9; and sections 125.84, 125.86, 321.193, 321.201, 321.215, 321.376 and 707.6A.

Purpose and Summary

This rulemaking proposes to repromulgate Chapter 620 in compliance with Executive Order 10. Proposed Chapter 620 implements Iowa Code chapter 321J and outlines the requirements for a person who has violated Iowa’s operating while intoxicated (OWI) laws. The chapter explains the issuance requirements for a temporary restricted license, the hearings and appeals procedures, and the reinstatement requirements. The proposed chapter also implements 2024 Iowa Acts, Senate File 2261, related to ignition interlock device (IID) requirements for persons who commit OWI offenses. The legislation requires the Department to adopt a new process to allow an IID requirement to be waived upon certification from a medical doctor, to increase the amount of time a person is required to maintain an IID if violations are detected, and to outline the IID provider electronic reporting requirements necessary to implement the compliance-based IID removal provisions of Senate File 2261.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 18, 2024. A public hearing was held on the following date(s):

- October 10, 2024

The Department received no comments. The proposed rules were changed from the Regulatory Analysis to incorporate the changes necessary to implement 2024 Iowa Acts, Senate File 2261.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa beyond the impact estimated by the Legislative Services Agency for 2024 Iowa Acts, Senate File 2261.

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 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 17, 2025. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 17, 2025 11 to 11:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 619 667 972
January 17, 2025 3:30 to 4 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 831 788 850

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Tracy George and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 620 and adopt the following **new** chapter in lieu thereof:

CHAPTER 620
OWI AND IMPLIED CONSENT

761—620.1(321J) Definitions.

“*Final compliance report*” means a report as described in Iowa Code section 321J.17A(3) as enacted by 2024 Iowa Acts, Senate File 2261, section 7.

“*Medical doctor*” for purposes of this chapter means a licensed physician under Iowa Code chapter 148 (doctor of medicine or osteopathy) or the equivalent licensed in another state.

“*Violation*” means a violation as described in Iowa Code section 321J.17A(4)“*a*” as enacted by 2024 Iowa Acts, Senate File 2261, section 7.

“*Violation occurrence*” means an occurrence as described in Iowa Code section 321J.17A(1) as enacted by 2024 Iowa Acts, Senate File 2261, section 7. A “violation occurrence” as described in Iowa Code section 321J.17A(1)“*d*” as enacted by 2024 Iowa Acts, Senate File 2261, section 7, does not include when the ignition interlock device is transferred to a different vehicle.

761—620.2(307,321J) Information and location. Information relating to this chapter is available by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Boulevard, Ankeny, Iowa; by telephone at 515.244.9124; by email at driver.services@iowadot.us; or by facsimile at 515.239.1837.

761—620.3(307,321,321J) Issuance of temporary restricted license.

620.3(1) Application. An application for a temporary restricted license may be submitted, at any time before or during the revocation period, by completing Form 430400. The application form should be furnished by the arresting officer. It may also be obtained upon oral or written request to the motor vehicle division in person or by mail at the address in rule 761—620.2(307,321J) or online at www.iowadot.gov/mvd/driverslicense/suspensions-and-revocations.

620.3(2) Additional requirements. A person applying for a temporary restricted license will comply with all of the following requirements:

- a. Submit proof of financial responsibility under Iowa Code chapter 321A for all motor vehicles owned or operated under the temporary restricted license.
- b. Provide certification of installation of an approved ignition interlock device on each vehicle required pursuant to Iowa Code section 321J.20(2).
- c. Pay the \$200 civil penalty.
- d. Pay the applicable reinstatement and license fees.
- e. Pass the appropriate examination for the type of vehicle to be operated under the temporary restricted license.

620.3(3) Medical certification and waiver.

a. Upon certification from a medical doctor provided to the department on Form 430034, the minimum breath sampling size on an ignition interlock device may be lowered by the ignition interlock device provider to a level permissible under the National Highway Traffic Safety Administration's Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs) as published in the Federal Register, Vol. 78, May 8, 2013, pages 26849 – 26867.

b. Upon certification from a medical doctor provided to the department on Form 430034, the requirement to install an ignition interlock device as a condition of a temporary restricted license may be waived by the department if the applicant has a verifiable medical condition rendering the applicant incapable of providing a deep lung breath sample necessary for analysis by an ignition interlock device at either the standard level or lower level specified in the BAIIDs.

c. A temporary restricted license issued to a person with a medical waiver is subject to the restrictions identified in Iowa Code section 321J.20A(3) as enacted by 2024 Iowa Acts, Senate File 2261, section 9, and must comply with rule 761—615.45(321).

620.3(4) Restrictions. Upon receipt and approval of an application, the department will determine the restrictions to be imposed by the temporary restricted license. The licensee is to apply to the department in writing with a justification for any requested change in license restrictions.

620.3(5) Denial. A person who has been denied a temporary restricted license or who contests the restrictions imposed by the department may contest the decision at any time in accordance with rule 761—620.5(17A,307,321J).

761—620.4(321J) Ignition interlock device provider reports.

620.4(1) Access and approval. An approved ignition interlock provider seeking to access department records to perform the electronic reporting outlined in this rule must apply to the department in a manner approved by the department and in compliance with 761—Chapter 301.

620.4(2) Electronic reporting.

a. An approved ignition interlock device provider shall electronically report a notice of violation occurrence and a final compliance report to the department in a manner approved by the department.

b. An approved ignition interlock provider shall retain all data, information and records associated with a notice of violation occurrence and final compliance report for a period of at least five years and make such data available to the department upon request.

620.4(3) *Notice of violation occurrence.* The notice of violation occurrence shall be generated and sent by the ignition interlock device provider to the department no earlier than the same day the occurrence meets the criteria under Iowa Code section 321J.17A(1) as enacted by 2024 Iowa Acts, Senate File 2261, section 7, and no later than seven business days after the occurrence meets the criteria under Iowa Code section 321J.17A(1) as enacted by 2024 Iowa Acts, Senate File 2261, section 7.

a. The notice of violation occurrence shall specify the applicable paragraph in Iowa Code section 321J.17A(1) “a” through “d” as enacted by 2024 Iowa Acts, Senate File 2261, section 7, to which the occurrence corresponds.

b. For purposes of determining when the periods referenced in Iowa Code section 321J.17A(1) “a” and “b” as enacted by 2024 Iowa Acts, Senate File 2261, section 7, begin and end, the following applies:

(1) The 30-day period described in Iowa Code section 321J.17A(1) “a” as enacted by 2024 Iowa Acts, Senate File 2261, section 7, begins on the date the first violation occurs and ends 30 days after the date the first violation occurred. All violations that occur within that 30-day period count toward one occurrence. Any new violation occurring after the end date of the initial 30-day period counts toward an additional occurrence.

(2) The 24-hour period described in Iowa Code section 321J.17A(1) “b” as enacted by 2024 Iowa Acts, Senate File 2261, section 7, begins when the first violation occurs and ends 24 hours after the time the first violation occurred. All violations that occur within that 24-hour period count toward one occurrence. Any new violation occurring after the end of the initial 24-hour period counts toward an additional occurrence.

c. Any violation will count toward an occurrence under both Iowa Code section 321J.17A(1) “a” and “b” as enacted by 2024 Iowa Acts, Senate File 2261, section 7.

d. Failing to provide a detectable breath sample in Iowa Code section 321J.17A(4) “a”(1) as enacted by 2024 Iowa Acts, Senate File 2261, section 7, means the failure occurred during a random retest.

e. An event described in Iowa Code section 321J.17A(4) “b” as enacted by 2024 Iowa Acts, Senate File 2261, section 7, is not a violation if the immediate retest is successful and occurs within ten minutes of the first failed test.

f. Upon request, the ignition interlock device provider shall also provide the applicable underlying violation category under Iowa Code section 321J.17A(4) “a” as enacted by 2024 Iowa Acts, Senate File 2261, section 7, and any other identifying information requested by the department for each occurrence.

g. Each notice of violation occurrence requires a separate 60-day time extension to the period of time a person is required to maintain an ignition interlock device pursuant to Iowa Code section 321J.17A(1) as enacted by 2024 Iowa Acts, Senate File 2261, section 7.

h. Nothing in this subrule prevents a 60-day time extension from being added if the notice of violation occurrence is sent after the time required under this subrule due to the person’s failure to have the ignition interlock device reset once it has entered lockout condition.

620.4(4) *Final device download and compliance report.*

a. Upon receipt of notification from the department that the person’s requirement to maintain installation of the ignition interlock device has ended, the ignition interlock device provider shall complete a final download of the ignition interlock device to determine if the person has had any violation occurrences prior to or on the end date reported by the department. If no violation occurrences are detected, the ignition interlock device provider shall generate and send to the department a final compliance report, in the form and manner prescribed by the department, no later than seven business days following the date of the final download of the ignition interlock device. The ignition interlock device provider may uninstall the ignition interlock device if the final download detects no violation occurrences prior to or on the end date reported by the department.

b. If, during the final download, a violation occurrence is detected that occurred on or prior to the date the person’s requirement to maintain installation of an ignition interlock device ends as reported by the department, all of the following apply:

(1) The ignition interlock device provider shall report the violation occurrence to the department in the same manner as any other violation occurrence is reported.

(2) The time extension under Iowa Code section 321J.17A as enacted by 2024 Iowa Acts, Senate File 2261, section 7, applies and the ignition interlock device cannot be uninstalled until all time extensions have ended.

761—620.5(17A,307,321J) Hearings and appeals.

620.5(1) *Contested case hearing.*

a. A person may request a contested case hearing by submitting Form 432034 to the department or by submitting a written request to the motor vehicle division. The request is to include the person's name, date of birth, driver's license number, complete address and telephone number.

b. A request for a hearing to contest a revocation is to be submitted within ten days following receipt of the revocation notice. The request will be deemed timely submitted if it is delivered to the motor vehicle division or properly addressed and postmarked within this time period.

c. Failure to timely request a hearing on a revocation is a waiver of the right to a hearing under Iowa Code chapter 321J, and the revocation shall become effective on the date specified in the revocation notice.

d. After a hearing, a written decision will be issued by the presiding officer.

620.5(2) *Appeal.* A decision by a presiding officer shall become the final decision of the department unless either party appeals the decision in accordance with this subrule.

a. An appeal is to be decided on the basis of the record made before the presiding officer in the contested case hearing, and no additional evidence shall be presented.

b. An appeal is to include a statement of the specific issues presented for review and the precise ruling or relief requested.

c. An appeal of the presiding officer's decision shall be submitted in writing to the motor vehicle division.

d. An appeal is deemed timely submitted if it is received by the motor vehicle division or properly addressed and postmarked within ten days after receipt of the presiding officer's decision.

e. The motor vehicle division will forward the appeal to the director of transportation or director's designee (director). The director may affirm, modify, or reverse the decision of the presiding officer or may remand the case to the presiding officer.

f. Failure to timely appeal a decision shall be considered a failure to exhaust administrative remedies.

620.5(3) *Final agency action.* The decision of the director is the final decision of the department and constitutes final agency action for purposes of judicial review. No further steps are necessary to exhaust administrative remedies.

620.5(4) *Default.*

a. If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no continuance is granted, either enter a default decision or proceed with the hearing and render a decision in the absence of the party.

b. Any party may move for default against a party who has requested the contested case proceeding and who has failed to appear after proper service.

c. A default decision or a decision rendered on the merits after a party has failed to appear or participate in a contested case proceeding becomes final agency action unless, within ten days after receipt of the decision, either a motion to vacate is filed and served on the presiding officer and the other parties or an appeal of a decision on the merits is timely submitted in accordance with subrule 620.5(2). A motion to vacate is to state all facts relied upon by the moving party that establish that good cause existed for that party's failure to appear or participate.

d. The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

e. Timely filed motions to vacate are to be granted only for good cause shown. The burden of proof is on the moving party. Adverse parties are to respond to a motion to vacate within ten days.

f. “Good cause” for the purpose of this rule means surprise, excusable neglect, or unavoidable casualty.

g. A decision denying a motion to vacate is subject to further appeal in accordance with subrule 620.5(2).

h. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party in accordance with subrule 620.5(2).

i. If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case is to proceed accordingly.

620.5(5) *Petition to reopen a hearing.*

a. A petition to reopen a hearing pursuant to Iowa Code section 17A.16 is to be submitted in writing to the motor vehicle division. If a petition is based on a court order, a copy of the court order shall be submitted with the petition. If a petition is based on new evidence, the petitioner shall submit a concise statement of the new evidence and the reason(s) for the unavailability of the evidence at the original hearing.

b. A petition to reopen a hearing may be submitted at any time even if a hearing to contest the revocation was not originally requested or held.

c. A person may appeal a denial of the petition to reopen. A timely appeal is delivered to the motor vehicle division or properly addressed and postmarked within 20 days after issuance of the decision denying the petition to reopen.

761—620.6(321J) Reinstatement. The department may reinstate the driver’s license when the revocation has ended if the person has satisfied the requirements under paragraphs 620.3(2) “a” and “c” through “e” and Iowa Code section 321J.17.

761—620.7(307,321,321J) Issuance of temporary restricted license after revocation period has expired. The department may issue a temporary restricted license under Iowa Code section 321J.20(6) for six months from the end of the original revocation, unless a longer period of time is necessary to complete the requirements for driver’s license reinstatement.

620.7(1) An applicant for a temporary restricted license under this rule must demonstrate to the satisfaction of the department one of the following:

a. That a course for drinking drivers was not readily available to the person during the revocation period and that the applicant has enrolled in a course for drinking drivers. The applicant must furnish the dates the class will begin and end.

b. That substance use disorder evaluation and treatment have not been completed because of an inability to schedule them or because they are ongoing.

c. That due to surprise, excusable neglect, or unavoidable casualty, the applicant has been unable to meet the requirements under rule 761—620.3(307,321,321J) and needs additional time for completion.

620.7(2) An applicant for a temporary restricted license under this rule must meet all other conditions for issuance of a temporary restricted license under rule 761—620.3(307,321,321J) and Iowa Code section 321J.20.

761—620.8(307,321J) Revocation for deferred judgment. The revocation period under Iowa Code section 321J.4(3) shall be 90 days.

761—620.9(125,321J) Substance use disorder evaluation and treatment. When the department revokes a person’s driver’s license under Iowa Code chapter 321J, the department shall also order the person to submit to substance use disorder evaluation and, if recommended, substance use disorder treatment. A provider of substance use disorder evaluation and treatment shall be licensed by the Iowa department of health and human services pursuant to Iowa Code chapter 125.

620.9(1) *Reporting.*

a. When a person has satisfactorily completed substance use disorder evaluation and treatment, the program provider shall electronically report completion to the department in a manner approved by the department.

b. Reporting to the department shall be in accordance with Iowa Code sections 125.84 and 125.86 and 42 CFR §2.13 effective April 16, 2024.

620.9(2) *Payment.* Payment of substance use disorder evaluation and treatment shall be in accordance with Iowa department of health and human services rules.

761—620.10(321J) Drinking drivers course. When a person who has been ordered to enroll, attend, and satisfactorily complete a course for drinking drivers under Iowa Code chapter 321J has successfully completed the course, the program provider under Iowa Code section 321J.22(2)“*a*” shall electronically report completion to the department in a manner approved by the department.

These rules are intended to implement Iowa Code chapter 17A; chapter 321J as amended by 2024 Iowa Acts, Senate File 2261, sections 6, 7 and 9; and sections 125.84, 125.86, 307.12(1)“*j*,” 321.193, 321.201, 321.215, 321.376 and 707.6A.

MV-2025-89

Stuart Anderson, Director, Transportation Development Division

The rulemaking proposes to rescind and repromulgate Chapter 620 in accordance with Executive Order 10. Proposed Chapter 620 implements Iowa Code chapter 321J and outlines the requirements for a person who has violated Iowa's operating while intoxicated laws. The chapter explains the issuance requirements for a temporary restricted license, the hearings and appeals procedures, and the reinstatement requirements. The proposed chapter also implements 2024 Iowa Acts, Senate File 2261, related to ignition interlock device requirements for persons who commit OWI offenses. The legislation requires the Department to adopt a new process to allow an IID requirement to be waived upon certification from a medical doctor, to increase the amount of time a person is required to maintain an IID if violations are detected, and to outline the IID provider electronic reporting requirements necessary to implement the compliance-based IID removal provisions of Senate File 2261.

The public comment period ended on January 17, 2025. The department received eleven comments from the Iowa Association for Justice (IAJ) that were addressed as described in the Commission Order.

The department plans to remove all unnecessary references to 2024 Iowa Acts, Senate File 2261 and make the following changes to the chapter in response to IAJ comments:

- Amend the definition of "violation" so it encompasses all of Iowa Code section 321J.17A(4) and not just Iowa Code section 321J.17A(4)"a."
- Add new paragraph 620.4(3)"i."

It is recommended that the Commission approve repromulgating Chapter 620 with the noted changes.

Commissioner Mulgrew Gronen moved and Commissioner Rielly seconded a motion to approve. There were no further questions or comments.

The vote to approve was unanimous.

**DEPARTMENT OF TRANSPORTATION
COMMISSION ORDER**

Division/Bureau/Office Transportation Development Division
Program Management Bureau Order No. TD-2025-90
 Submitted by Shawn Majors Phone No. 515-239-1288 Meeting Date April 8, 2025
 Title Program Objectives (2026-2030 Highway Program)

DISCUSSION/BACKGROUND:

Through ongoing workshop discussions, review of funding forecasts, review of project cost/schedule updates, and analysis of system and project level data, the Commission has identified program objectives to guide their development of the 2026-2030 Highway Program. These objectives are consistent with, and organized by, the four system objectives identified by the Commission in their adopted State Transportation Plan – Iowa in Motion 2050. Below is the list of program objectives:

- Projects in the 2026-2030 Highway Program will continue to be programmed with cost and schedule updates
- **System Objective: Safety**
 - Maintain increasing funding levels for safety
 - Complete statewide centerline rumble strip implementation
 - Continue enhanced pavement markings to non-interstate highways
- **System Objective: Sustainability**
 - Maintain Interstate funding levels for pavement reconstruction, modernization, bridges, pavement patching/maintenance, rest areas, and other miscellaneous projects
 - Maintain funding levels for non-interstate pavement modernization
 - Maintain funding levels for non-interstate bridge modernization
 - Invest in additional stewardship projects
 - Transfer of jurisdiction for portions of primary roadways to cities and counties
- **System Objective: Accessibility**
 - Invest in truck parking at Interstate Rest Areas
 - Continue to invest in vault toilets at parking only sites
 - Complete installation of adult changing stations at modernized rest areas
 - Invest in corridor improvements
- **System Objective: Flow**
 - Invest in intelligent transportation systems infrastructure
 - Invest in Super-2 improvements
 - Invest in operational and Integrated Corridor Management improvements

PROPOSAL/ACTION RECOMMENDATION:

It is recommended the Commission approve the program objectives listed above for the 2026-2030 Highway Program.

COMMISSION ACTION:		Aye	Vote Nay	Pass
		Anderson	x	_____
		Arnold	x	_____
		Gaesser	x	_____
Moved by <u>Juckette</u>	Seconded by <u>Gaesser</u>	Juckette	x	_____
		Mulgrew Gronen	x	_____
		Rielly	x	_____
		Stutsman	x	_____
_____ Division Director	_____ Legal	_____ State Director	82	

TD-2025-90

Shawn Majors, Director, Program Management Bureau

Through ongoing workshop discussions, review of funding forecasts, review of project cost/schedule updates, and analysis of system and project level data, the Commission has identified program objectives to guide their development of the 2026-2030 Highway Program. These objectives are consistent with, and organized by, the four system objectives identified by the Commission in their adopted State Transportation Plan – Iowa in Motion 2050.

It is recommended the Commission approve the program objectives for the 2026-2030 Highway Program.

Commissioner Juckette moved and Commissioner Gaesser seconded a motion to approve.

There were no further questions or comments.

The vote to approve was unanimous.

The meeting adjourned at 8:15 am.