

## Red Tape Review Rule Report (Due: September 1, 2024)

|                         |                              |                                      |                             |  |              |
|-------------------------|------------------------------|--------------------------------------|-----------------------------|--|--------------|
| <b>Department Name:</b> | Department of Transportation | <b>Date:</b>                         | 03/15/2024                  | <b>Total Rule Count:</b>                   | 9            |
| <b>IAC #:</b>           | 761                          | <b>Chapter/ SubChapter/ Rule(s):</b> | 112                         | <b>Iowa Code Section Authorizing Rule:</b> | 307.12       |
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**PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE**

**What is the intended benefit of the rule?**

The intended benefit of the rules is the protection of the safety and welfare of the traveling public and efficient operations along primary highways.

**Is the benefit being achieved? Please provide evidence.**

Yes, Iowa State University completed studies and published results in four different Transportation Research Board papers on the topic of access management. The studies show that the relationship between crashes and distance between access connections is exponential and the larger the distance the less the risk for a crash to occur. These studies were then used to help create the administrative rules that were effective in November of 2022. Reducing driveway density can have a 5-23% reduction in total crashes along two-lane rural roads and a 25-31% reduction in fatal and injury crashes along urban/suburban arterials.

**What are the costs incurred by the public to comply with the rule?**

The only costs incurred by the public to comply with the rules is the cost of constructing the entrance they want to construct. This is a cost they would incur even if the administrative rules for Chapter 112 did not exist, so these rules have no effect on costs incurred.

**What are the costs to the agency or any other agency to implement/enforce the rule?**

There are no costs to the agency or any others to implement and enforce these administrative rules.

**Do the costs justify the benefits achieved? Please explain.**

Since there are no costs incurred from the implementation and enforcement of these administrative rules the benefits are greatly justified. These rules will reduce crashes and potentially save lives, so the benefits are tangible.

**Are there less restrictive alternatives to accomplish the benefit?  YES  NO**

**If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.**

These rules balance roadway safety with the property owners' rights because property owners have a protected right to access their property and every access connection creates a conflict point. The rules ensure the safety and welfare of the public by managing the location and design of access connections while regulating the Department's actions to protect property owner rights and ensure due process.

**Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]**

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This chapter was rescinded and replaced in November of 2022 with significant reductions e.g., it went from 26 pages to 9 pages.

Rule 112.2 **Definitions** contained unnecessary language originally written as, “The following terms, when used in this chapter, shall have the following meanings unless the context otherwise requires:” and is proposed to read, “As used in this chapter.”

Subrule 112.3(3) is redundant of Iowa Code 318.8 and is proposed to be rescinded.

Paragraph 112.4(1)“c” is duplicative of paragraph 112.4(2)“c” and is proposed to be rescinded.

Paragraph 112.5(1)“h,” the next to last statement included redundant language about emergency use of access. The statement currently reads, “The access shall not be open for nonemergency uses and shall be maintained by the permittee as a closed access except during emergencies.” The proposed statement removes ‘shall not be open for nonemergency uses and’ to then read, “The access shall be maintained by the permittee as a closed access except during emergencies.”

In paragraph 112.5(3)“a,” the last statement and paragraph 112.5(5)“b,” the phrase ‘without exception’ is redundant/unnecessary and is proposed to be removed.

In paragraph 112.5(3)“c” and subparagraph 112.5(3)“f”(2) the statement, “Preference shall be given to public intersections.” is unnecessary and proposed to be removed.

In paragraph 112.5(3) “d,” in the third statement the phrase, ‘and spacing’ is unnecessary and proposed to be removed.

In paragraph 112.5(3)“e,” the last statement, “No access shall be permitted across a controlled access line.” is redundant/unnecessary language and proposed to be removed.

In subrule 112.6(5) the phrase, ‘the allowable’ is unnecessary and proposed to be removed.

In paragraph 112.7(1)“f,” the last statement, “A department utility permit shall be obtained for utility work within highway right-of-way.” is duplicative of Iowa Code 318.8, unnecessary and is proposed to be removed.

**RULES PROPOSED FOR REPEAL (list rule number[s]):**

Subrule 112.3(3) is duplicative of Iowa Code 318.8 and is proposed to be rescinded.

**\*RULES PROPOSED FOR RE-PROMULGATION\* (list rule number[s] or include text if available):**

Rules 112.1, 112.2, 112.3, 112.4, 112.5, 112.6, 112.7, 112.8, and 112.9 are all being proposed for re-promulgation. See attached RTF with proposed changes.

***\*For rules being re-promulgated with changes, you may attach a document with suggested changes.***

#### METRICS

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| <b>Total number of rules repealed:</b>   | 0   |
| <b>Proposed word count reduction after repeal and/or re-promulgation</b>                   | 143 |
| <b>Proposed number of restrictive terms eliminated after repeal and/or re-promulgation</b> | 39  |

#### **ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?**

Yes. The administrative rules for access control have been in place for nearly 60 years and were rescinded and replaced in November 2022 with no issues. However, the Department currently does not have specific rulemaking authority for this chapter.

The Department has two recommendations for changes to Iowa Code to obtain clear and concise rulemaking authority for Chapter 112.

The Department recommends amending Iowa Code 307.12 to grant the Department interpretive authority. The Department is proposing to amend Iowa Code 307.12(1)(j) to read, "1. The director shall: j. Adopt rules in accordance with chapter 17A as the director deems necessary for the administration of the department and the exercise of the director's and department's powers and duties and interpret chapters 306, 306A, 307, 313, and 318."

The Department recommends amending Iowa Code 306A to grant the Department rulemaking authority for access control. Iowa Code 306A.3 grants rulemaking authority for the utility accommodation policy and the establishment of controlled access facilities, but not rulemaking authority for access control. First, the Department is proposing to amend Iowa Code 306A.3 to then read, "Authority to establish controlled-access facilities – utility accommodation policy and primary highway access control." Second, the Department is proposing to add subrule 306A.3(3) as follows: "The state department of transportation shall adopt rules, pursuant to chapter 17A, embodying primary highway access control. The rules may include the process for permitting an access connection, the terms and conditions of access permits, the process for appeal, the access types and their definitions, assigning the category classification of highway segments, the required amount of access rights to be acquired, the location and design requirements for access connections, construction requirements, temporary access requirements, drainage requirements, and the process for handling violations of the rules."

These rules are necessary in order to regulate access management, and Iowa Code should reflect the need for them and grant the Department interpretive and explicit authority. Several other state departments regulate access control through administrative rules or state code, so granting the Department interpretive and explicit authority would not be unusual.