

Red Tape Review Rule Report (Due: September 1, 20 24)

Department Name:	Department of Transportation	Date:	7/5/2024	Total Rule Count:	8
IAC #:	761	Chapter/ SubChapter/ Rule(s):	620	Iowa Code Section Authorizing Rule:	307.12(1)“j,” 321.193, 321J.3
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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 this chapter is to explain the complex statutory requirements for a driver following an operating while intoxicated (OWI) offense. The chapter implements Iowa Code chapter 321J by explaining the requirements to be issued a temporary restricted license, the hearings and appeals procedures, and driver’s license reinstatement requirements.

Additionally, the benefit it to increase compliance with OWI laws, which are intended to deter impaired driving to ensure highway safety.

Is the benefit being achieved? Please provide evidence.

The benefits are being achieved. The evidence for this benefit is demonstrated by the compliance of drivers that complete the statutory requirements to be issued a temporary restricted license or to reinstate their driver’s license following an OWI revocation based on a conviction or administrative action. The Department issues over 15,000 OWI revocations under the statute each year, and under the processes outlined in this chapter reinstates thousands of driver’s licenses and issues thousands of temporary restricted licenses each year. Additionally, the Department is party to over 2,000 contested case appeals annually under the provisions of this rule chapter.

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

There is no cost to the public to comply with the rules. Any costs to comply with the rules are associated with the requirements of the underlying statute, such as the cost to complete substance use disorder evaluation and treatment and the drinking driver’s course and the cost of obtaining a duplicate or reinstated driver’s license.

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

There are no costs to the Department to implement the rules beyond those that would otherwise be required to administer the statute.

Do the costs justify the benefits achieved? Please explain.

There are no costs to comply with the rules beyond those that would otherwise be required to administer the statute.

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.

There are no less restrictive alternatives available for establishing the statutorily required processes of revoking and reinstating the driver's license of an OWI offender, issuing temporary restricted licenses to qualified persons, providing hearing and appeal rights, and outlining the expectations for submitting completed substance use disorder evaluations and drinking driver's courses.

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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620.1 Definitions. This rule is deleted because it was previously rescinded and is unnecessary.

620.2 Information and location. This rule is revised to remove unnecessary language.

620.3 Issuance of temporary restricted license.

620.3(1) This subrule is revised to remove redundant language.

620.3(2) This subrule is revised because it is duplicative of statutory language.

620.3(3) This subrule is deleted because it is redundant.

620.3(4) This subrule is revised because it is outdated.

620.4 Hearings and appeals.

620.4(1) This subrule is revised because it is redundant.

620.4(2) This subrule is revised to remove outdated language.

620.4(3) This subrule is revised to remove unnecessary language.

620.4(4) This subrule is revised to remove unnecessary language.

620.4(5) This subrule is revised to remove unnecessary language.

620.5 Reinstatement.

620.5(1) This subrule is deleted because it is duplicative of statutory language.

620.5(2) This subrule is deleted because it is duplicative of statutory language.

620.5(3) This subrule is deleted because it is duplicative of statutory language.

620.5(4) This subrule is deleted because it is duplicative of statutory language.

620.5(5) This subrule is deleted because it is duplicative of statutory language.

620.5(6) This subrule is deleted because it is duplicative of statutory language.

620.5(7) This subrule is deleted because it is duplicative of statutory language.

620.6 Issuance of temporary restricted license after revocation has expired.

620.6(1) This subrule is revised to remove unnecessary language.

620.6(2) This subrule is revised to remove language duplicative of statutory language.

620.7 to 620.9 Reserved. These rules are deleted because they are unnecessary.

620.11 to 620.14 Reserved. These rules are deleted because they are unnecessary.

620.15 Substance abuse evaluation and treatment or rehabilitation services.

620.15(1) This subrule is revised to remove outdated language.

620.15(2) This subrule is revised to remove outdated language.

620.16 Drinking drivers course.

620.16(1) This subrule is revised to remove unnecessary language.

620.16(2) This subrule is deleted because it is duplicative of statutory language.

620.17 Sobriety and drug monitoring program. This rule is deleted because it was previously rescinded and not necessary.

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

None.

However, the following rules were either already rescinded or reserved: 620.1, 620.7 to 9, 620.11 to 620.14 and 620.17.

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

620.1
620.2
620.3
620.4
620.5
620.6
620.7
620.8

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

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	491
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	39

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

Yes, the Department recommends that explicit rulemaking authority be added to certain Iowa Code sections for the implementation of certain requirements for OWI offenders under this chapter. While the statute clearly vests the Department with the authority to implement the requirements, the Department relies on general agency rulemaking authority in Iowa Code section 307.12(1)“j” to promulgate the following rules that provide specific procedures implementing the statutory authority:

620.3 – Issuance of a temporary restricted license. We recommend adding rulemaking authority to Iowa Code section 321J.20 confirming the Department’s authority to issue temporary restricted licenses, including setting forth the application process.

620.4 – Hearing and appeals. We recommend adding rulemaking authority to Iowa Code section 321J.13 confirming the Department’s authority to implement requirements under the statute, including setting forth the hearing request process and the processes for defaults and petitions to reopen a hearing.

620.6 – Issuance of a temporary restricted license after revocation period has expired. We recommend adding rulemaking authority to Iowa Code section 321J.20(6) confirming the Department’s authority to issue temporary restricted licenses after a revocation period has expired, the purpose of which is to allow the person additional time to complete all reinstatement requirements.

620.10 – Revocation for deferred judgment. We recommend adding rulemaking authority to Iowa Code section 321J.4(3) confirming the Department’s authority to set the specific revocation length for a deferred judgment as the statute merely sets forth a range.