

ARC 0339C

SECRETARY OF STATE[721]**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1) "b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of 2012 Iowa Acts, House File 675, section 25, as amended by 2012 Iowa Acts, House File 2465, section 41 (Iowa Code section 572.13A), the Secretary of State hereby gives Notice of Intended Action to adopt Chapter 45, "Mechanics' Notice and Lien Registry," Iowa Administrative Code.

The rules in Chapter 45 apply to the creation and administration of a mechanics' notice and lien registry.

Any interested person may make written suggestions and comments on these proposed rules no later than October 9, 2012. Such written materials should be directed to Carla Pope at the Title Guaranty Division, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312; fax (515)725-4901; e-mail carla.pope@iowa.gov.

There will be a public hearing on October 9, 2012, from 2 to 4 p.m., at which time persons may present their views either orally or in writing. The hearing will originate from the Iowa Communications Network (ICN) and will be accessible over the ICN at the following locations. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed rules.

Department of Education (Origination Site)
Grimes State Office Building, Second Floor
E. 14th and Grand Avenue
Des Moines, Iowa

North Iowa Area Community College - 1
Activity Center, Room 106
500 College Drive
Mason City, Iowa

Iowa Lakes Community College
Spencer Attendance Center, Fiber Optic Room 118
1900 North Grand Avenue
Spencer, Iowa

Kirkwood Community College
Room 117
1816 Lower Muscatine Road
Iowa City, Iowa

Iowa Western Community College - 1
Looft Hall, Room 024
2700 College Road
Council Bluffs, Iowa

Department of Workforce Development
Room Location: will be directed by receptionist after sign in
1000 East Grand Avenue
Des Moines, Iowa

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Iowa Central Community College - 4
 Liberal Arts Building, Room 204
 One Triton Circle
 Fort Dodge, Iowa

National Guard Armory
 2858 North Court Road
 Ottumwa, Iowa

Department of Human Services
 Pinecrest Office Building
 1407 Independence Avenue
 Waterloo, Iowa

Eastern Iowa Community College District - 1
 Kahl Educational Center, Room 300
 326 West 3rd Street
 Davenport, Iowa

Kirkwood Community College - 4
 123 Jones Hall
 6301 Kirkwood Boulevard, SW
 Cedar Rapids, Iowa

Matilda J. Gibson Memorial Library
 200 West Howard Street
 Creston, Iowa

Buena Vista University, Le Mars Campus
 940 Lincoln Street SW
 Le Mars, Iowa

Any person who intends to attend the public hearing and has special requirements, such as those relating to hearing or mobility impairments, should contact the Secretary of State's office at (515)281-5866 and advise of specific needs.

After analysis and review of this rule making, a positive impact on jobs exists. This rule making streamlines the process for small businesses to file liens on construction projects and enhances the ability of homeowners to know which small businesses are providing labor and materials for the homeowners' construction projects. The statute is intended to improve the ability of small businesses to receive payment for the labor and materials furnished on residential construction projects.

The Secretary of State will continue to collaborate with stakeholders to maximize this rule making's positive impact on jobs.

These rules are intended to implement Iowa Code chapter 572 as amended by 2012 Iowa Acts, House File 675, as amended by 2012 Iowa Acts, House File 2465.

The following amendment is proposed.

Adopt the following **new** 721—Chapter 45:

CHAPTER 45
 MECHANICS' NOTICE AND LIEN REGISTRY

721—45.1(572) General provisions.

45.1(1) Scope. This chapter applies to the creation and administration of a mechanics' notice and lien registry under Iowa Code chapter 572. The effective date of this chapter is January 1, 2013. All mechanics' liens filed on or after January 1, 2013, must be filed in the office of the administrator in accordance with these rules, and the notice provisions of these rules relating to residential construction apply only to labor performed on and materials supplied to a residential construction project on or after January 1, 2013.

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Mechanics' liens filed prior to January 1, 2013, shall remain with the clerk of the district court of the county in which the building, land, or improvement charged with the lien is situated.

Rules 721—45.4(572) and 721—45.5(572) apply only to residential construction. All other rules in this chapter apply to both residential and commercial construction.

45.1(2) Definitions. The following terms shall have the respective meanings provided in this rule.

"Administrator" means the secretary of state.

"Building" shall be construed as if followed by the words "erection, or other improvement upon land."

"Claimant" means a person entitled to a lien under Iowa Code chapter 572.

"Filing office" means the office of the secretary of state. The address of the office is Lucas State Office Building, First Floor, 321 East 12th Street, Des Moines, Iowa 50319.

"General contractor" means every person who does work or furnishes materials by contract, express or implied, with an owner. "General contractor" does not include a person who does work or furnishes materials on contract with an owner-builder.

"Index" means the categories by which a posted notice, lien or record may be searched and retrieved.

"Labor" means labor completed by the claimant.

"Material," in addition to its ordinary meaning, includes machinery, tools, fixtures, trees, evergreens, vines, plants, shrubs, tubers, hedges, bushes, sod, soil, dirt, mulch, peat, fertilizer, fence wire, fence material, fence posts, tiles and the use of forms, accessories, and equipment furnished by the claimant.

"Mechanics' notice and lien registry" means a centralized computer database maintained on the Internet by the administrator that provides a central repository for the submission and management of preliminary notices, notices of commencement of work on residential construction properties, and mechanics' liens on all construction properties.

"Mechanics' notice and lien registry number" means a number provided by the administrator for all construction properties posted to the mechanics' notice and lien registry.

"MNLN" means the mechanics' notice and lien registry.

"MNLN number" means the mechanics' notice and lien registry number.

"Owner" means the legal or equitable titleholder of record.

"Owner-builder" means the legal or equitable titleholder of record who furnishes material for or performs labor upon a building, erection, or other improvement, or who contracts with a subcontractor to furnish material for or perform labor upon a building, erection, or other improvement and who offers or intends to offer to sell the owner-builder's property without occupying or using the structures, properties, developments, or improvements for a period more than one year from the date the structure, property, development, or improvement is substantially completed or abandoned.

"Owner notice" means notification to the owner as set forth in Iowa Code sections 572.13(1) and 572.13A.

"Post" or *"posting"* means to enter notices, liens and records on the mechanics' notice and lien registry.

"Residential construction" means construction on single-family or two-family dwellings occupied or used, or intended to be occupied or used, primarily for residential purposes, and includes real property pursuant to Iowa Code chapter 499B.

"Subcontractor" means every person furnishing material or performing labor upon any building, erection, or other improvement, except those having contracts directly with the owner. "Subcontractor" shall include those persons having contracts directly with an owner-builder.

"Submit" or *"submission"* means to mail, fax, or deliver by hand or personal courier a paper document.

721—45.2(572) Creation of mechanics' notice and lien registry. The administrator shall create and administer a mechanics' notice and lien registry, hereafter known as the MNLN.

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45.2(1) Access to MNLR by the general public. The MNLR is accessible to the general public through the administrator's Web site at <http://sos.iowa.gov/>. A notice, lien or record posted is immediately accessible to the general public.

45.2(2) MNLR searchable by index category. The MNLR shall be searchable by the following indexes:

- a. Owner name.
- b. General contractor name.
- c. MNLR number.
- d. Property address.
- e. Legal description.
- f. Tax parcel identification number.
- g. County.

45.2(3) Acknowledgment of receipt provided. The administrator shall provide a receipt acknowledging submission of a notice if the submission of information is by U.S. mail or facsimile transmission, or acknowledging submission of a lien if the submission of information is by U.S. mail. The acknowledgment shall be sent to the e-mail address provided by the person submitting the required information to post a notice or lien.

45.2(4) MNLR user registration. To post information on the MNLR Internet Web site, the person must register as a user on the MNLR.

721—45.3(572) Administrator identification. In addition to the promulgation of these rules, the administrator will disseminate the administrator's location, mailing address, telephone and facsimile numbers and the administrator's Internet and other electronic "addresses" through usual and customary means.

721—45.4(572) Posting of notice of commencement of work.

45.4(1) Posting by general contractor or owner-builder. A general contractor or owner-builder who has contracted or will contract with a subcontractor to provide labor or furnish material for residential construction shall post a notice of commencement of work to the MNLR within ten days of commencement of work on the property.

45.4(2) Information in notice of commencement of work. The information provided shall, at a minimum, include:

- a. The name and address of the owner.
- b. The name, address and telephone number of the general contractor or owner-builder.
- c. The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.
- d. The legal description of the property.
- e. The date work commenced.
- f. The tax parcel identification number.
- g. The county in which the building, land, or improvement to be charged with the lien is situated.
- h. The e-mail address of the person posting or submitting the notice of commencement of work or the e-mail address of another individual or entity designated to receive electronic correspondence on behalf of this person.

45.4(3) Owner notice. At the time a notice of commencement of work is posted on the MNLR, the administrator shall mail a written owner notice to the owner's address. If the owner's address is different than the property address, a copy of the notice shall also be sent to the property address, addressed to the owner. The owner notice shall contain the following language:

"Persons or companies furnishing labor or materials for the improvement of real property may enforce a lien upon the improved property if they are not paid for their contributions, even if the parties have no direct contractual relationship with the owner. The mechanics' notice and lien registry provides a listing of all persons or companies furnishing labor or materials who have posted a lien or who may post a lien upon the improved property. If the person or company has posted its notice or

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lien to the mechanics' notice and lien registry, you may be required to pay the person or company even if you have paid the general contractor the full amount due. Therefore, check the mechanics' notice and lien registry internet website for information about the property including persons or companies furnishing labor or materials before paying your general contractor. In addition, when making payment to your general contractor, it is important to obtain lien waivers from your general contractor and from persons or companies registered as furnishing labor or materials to your property. The information in the mechanics' notice and lien registry is posted on the internet website of the mechanics' notice and lien registry."

45.4(4) Failure to post notice of commencement of work on the MNLR. A general contractor for residential construction who fails to post a notice of commencement of work on the MNLR within ten days following commencement of work is not entitled to a lien or remedies provided in Iowa Code chapter 572.

721—45.5(572) Posting of preliminary notice.**45.5(1) Posting by subcontractor.**

a. A subcontractor who has provided or will provide labor or furnish material for residential construction shall post a preliminary notice to the MNLR.

b. Prior to the posting of a preliminary notice, a notice of commencement of work must be posted on the MNLR. If the general contractor or owner-builder has not posted a notice of commencement of work on the MNLR within ten days of commencement of work on the property, then the subcontractor may post a notice of commencement of work on the MNLR prior to posting the preliminary notice. In order to post a notice of commencement of work on the MNLR, the subcontractor must comply with subrule 45.4(2).

45.5(2) Contents of preliminary notice. The information provided by the subcontractor shall, at a minimum, include:

- a.* The name of the owner.
- b.* The MNLR number.
- c.* The name, address and telephone number of the subcontractor furnishing the labor, service, equipment, or material.
- d.* The name and address of the person who contracted with the claimant for the furnishing of the labor, service, equipment, or material.
- e.* The name of the general contractor or owner-builder under which the claimant is performing or will perform the work.
- f.* The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.
- g.* The legal description of the property.
- h.* The date the material or materials were first furnished or the labor was first performed.
- i.* The tax parcel identification number.
- j.* The county in which the building, land, or improvement to be charged with the lien is situated.
- k.* The e-mail address of the subcontractor or the e-mail address of another individual or entity designated to receive electronic correspondence on behalf of the subcontractor.

45.5(3) Owner notice. At the time that a preliminary notice is posted on the MNLR, the administrator shall mail a written owner notice to the owner's address. The owner notice may not be sent to owner-builders.

45.5(4) Affidavit of mailing of owner notice. The administrator shall post an affidavit of mailing of the owner notice on the MNLR. The subcontractor may obtain a copy by downloading the affidavit from the record of postings by MNLR number.

45.5(5) Failure to post preliminary notice on the MNLR. A subcontractor for residential construction who fails to post a preliminary notice on the MNLR is not entitled to a lien or remedies provided in Iowa Code chapter 572.

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721—45.6(572) Posting of mechanic's lien.

45.6(1) *Posting of mechanic's lien.* A person must post on the MNLR a verified statement of account of the demand due the person, after allowing all credits.

45.6(2) *Contents of the statement of account.* The verified statement of account provided by the person shall include:

a. The date when such material was first furnished or labor first performed, and the date on which the last of the material was furnished or the last of the labor was performed.

b. The legal description of the property to be charged with the lien.

c. The name and last known mailing address of the owner of the property.

d. The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.

e. The tax parcel identification number.

45.6(3) *Owner notice.* At the time that a lien is posted on the MNLR, the administrator shall mail a written notice to the owner's address.

45.6(4) *Limits to lien.* A lien posted to the MNLR under this rule shall be limited to the county in which the building, land, or improvement to be charged with the lien is situated. The county identified on the MNLR Web site at the time of posting the required notices in rules 721—45.4(572) and 721—45.5(572) shall be the only county in which the building, land, or improvement may be charged with a mechanic's lien.

45.6(5) *Lien information contained in posting.* The liens posted in the MNLR shall contain the following items:

a. The name of the person by whom posted.

b. The date and hour of posting.

c. The amount thereof.

d. The name of the person against whom the lien is posted.

e. The legal description of the property to be charged.

f. The tax parcel identification number of the property to be charged.

g. The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.

45.6(6) *Additional information for posting of a mechanic's lien for commercial property.* The person posting the mechanic's lien for a commercial property must register as a user with the MNLR and must provide the following additional information:

a. The name and mailing address of the owner.

b. The name, address and telephone number of the general contractor or owner-builder.

c. The county in which the building, land, or improvement to be charged with the lien is situated.

d. The e-mail address of the person posting or submitting the mechanic's lien or the e-mail address of another individual or entity designated to receive electronic correspondence on behalf of the person posting the lien.

721—45.7(572) Discharge of mechanic's lien by submission of a bond.

45.7(1) *Submission or posting of a bond.* Any person may submit or post a bond to the administrator to discharge a mechanic's lien. The submitter of the bond shall provide the MNLR number so that the administrator can determine to which lien to apply the bond.

45.7(2) *Acceptance of a bond.* The administrator may accept a bond in twice the amount of the sum for which the claim for the lien is filed, with surety or sureties authorized to issue surety bonds in this state.

721—45.8(572) Forfeiture and cancellation of mechanics' liens.

45.8(1) *Posting of demand for acknowledgment of satisfaction of claim.* A claimant shall post an acknowledgment of satisfaction of claim within 30 days of receipt of a written demand served pursuant to Iowa Code section 572.23. A mechanic's lien is forfeited and canceled upon the posting of a copy

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of the demand for acknowledgment of satisfaction of claim, posting of endorsed proofs of service, and expiration of 30 days.

45.8(2) Posting of demand to commence action to enforce the lien. A claimant shall commence action to enforce the lien within 30 days of receipt of a written demand served pursuant to Iowa Code section 572.28. A mechanic's lien is forfeited and canceled upon the posting of a copy of the demand to commence action to enforce the lien, posting of endorsed proofs of service, and expiration of 30 days.

45.8(3) Notice to both parties. At the time that a demand is posted on the MNLR, the administrator shall mail a date- and time-stamped copy of the demand to both parties.

721—45.9(572) Action against general contractor or owner-builder to recover amount due.

45.9(1) Giving of a bond. The general contractor or owner-builder may post or submit a surety bond to the administrator for purposes of preventing exemplary damages. The bond shall be in an amount not less than the amount necessary to satisfy the nonpayment for which the notice has been given, and in a form approved by a judge of the district court.

45.9(2) Acceptance of a bond. The administrator shall accept a bond in an amount and form approved by a judge of the district court.

721—45.10(572) Delay by administrator. Delay by the administrator beyond a time limit prescribed in these rules is excused if:

1. The delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the administrator.
2. The administrator exercises reasonable diligence under these circumstances.

721—45.11(572) Nondisclosure of e-mail address. An e-mail address provided in compliance with this chapter shall not be viewed as a public record under Iowa Code chapter 22 and shall not be disclosed by the administrator.

721—45.12(572) Obligation to update information. The administrator may use e-mail for official correspondence with a registered user, except when law requires delivery by U.S. mail. If the registered user wants to receive timely notice by the administrator, it is the obligation of the registered user to update the user's contact information on the MNLR.

721—45.13(572) Fees and services.

45.13(1) Fee for posting and mailing. The following fees shall be charged for posting on the MNLR and for the mailing of notices:

a. The fee for posting a notice of commencement of work using the Internet Web site is \$7. The fee for posting a notice of commencement of work by submitting the notice to the administrator by U.S. mail, facsimile, or personal or courier delivery is \$10.

b. The fee for posting a preliminary notice on the MNLR using the Internet Web site is \$7. The fee for posting a preliminary notice by submitting the notice to the administrator by U.S. mail, facsimile, or personal or courier delivery is \$10.

c. The fee for posting a mechanic's lien using the Internet Web site is \$30. The fee for posting a mechanic's lien by submitting the lien to the administrator by U.S. mail is \$40.

d. The fee for mailing a copy of the demand for acknowledgment is \$5.

e. The fee for mailing a copy of the demand to commence action is \$5.

45.13(2) MNLR search fee; fee for paper copies. The following fees shall be charged for searches of the MNLR performed by the administrator or for paper copies supplied by the administrator:

a. The fee for an MNLR search request, per MNLR number, communicated verbally, on paper, in a paper-based format, or electronically by means other than the MNLR is \$5 per MNLR number.

b. The fee for a paper copy of a document posted on the MNLR is \$1 per page.

45.13(3) Public records services. Public records services are provided on a nondiscriminatory basis to any member of the public on the terms described in these rules. The following fees shall be charged

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for obtaining copies of MNL documents and copies of data from the MNL information management system by the following methods:

a. A search of the MNL by index list is available at no cost via the administrator's Web site.

b. Paper copies of individual documents.

(1) U.S. mail delivery — \$1 per page.

(2) Facsimile delivery — \$2 per page.

Documents will not be delivered via e-mail.

c. Bulk copies of MNL records.

(1) Subscription basis — 4 cents per page of the PDF image, plus \$25 per week (delivered by Internet download).

(2) Document image master file — 4 cents per document.

d. Data from the information management system — county extract via download — \$50.

e. Data from the information management system — full extract via download — \$200.

45.13(4) *Methods of payment.* Fees for posting, mailing, and searching rendered by the administrator may be paid to the administrator by the following methods:

a. Check. Checks made payable to Administrator, including checks in an amount to be filled in by the administrator but not to exceed a particular amount, will be accepted for payment if they are cashier's checks or certified checks drawn on a bank acceptable to the administrator or if the drawer is acceptable to the administrator.

b. Electronic funds transfer. The administrator may accept payment via electronic funds transfer under National Automated Clearing Housing Association (NACHA) rules from remitters who have entered into appropriate NACHA-approved arrangements for such transfers and who authorize the relevant transfer pursuant to such arrangements and rules.

c. Accounts receivable. Payment for services shall be in accordance with rule 721—2.3(17A).

d. Credit card. The administrator may accept payments made by credit card issued by an approved credit card issuer.

45.13(5) *Receipt of required fees verified.*

a. In order for a posting to appear and remain on the MNL, receipt of the required fee must be verified by the administrator. The administrator may reject a record or post a withdrawal statement on the MNL if the administrator is notified of insufficient funds, a disputed credit card charge, or other failure.

b. In order for the administrator to provide a requested copy of an MNL search or public record, receipt of the required fee must be verified by the administrator.

45.13(6) *Overpayment and underpayment policies.*

a. The administrator shall refund the amount of an overpayment exceeding \$15, less the administrative cost of processing a refund.

b. Upon receipt of a submission with an insufficient fee, the administrator shall return the document as provided in rule 721—45.14(572). A refund of partial payment may be included with the document or delivered under separate cover.

721—45.14(572) *Grounds for refusal of MNL document.* An MNL document may be refused by the administrator on the following grounds:

1. A posting or submission does not provide complete information as required under subrule 45.4(2) for a notice of commencement of work, subrule 45.5(2) for a preliminary notice, subrule 45.6(5) for a mechanic's lien, or subrules 45.6(5) and 45.6(6) for a mechanic's lien for a commercial property;

2. A submission does not include an MNL number, except for a submission to which subrule 45.17(2) applies;

3. The required fee is not paid for a submission or posting or the fee paid for the submission or posting is insufficient;

4. A submission is not on a form provided by the administrator for the purpose of performing the requested posting; or

5. A submission is not legible, as determined by the administrator.

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Additional grounds for the administrator's refusal to accept an MNLN document for posting may be established by policy. The policy shall be noticed to the public by the posting of the policy on the MNLN Web site.

721—45.15(572) Posting of a filing office statement, correction statement, or withdrawal statement.

45.15(1) Filing office statement. The administrator may post a filing office statement to correct information that was incorrectly transcribed from a paper submission.

45.15(2) Correction statement. A correction statement can only be posted by a registered MNLN user.

45.15(3) Withdrawal statement.

a. A withdrawal statement of an original posting of a notice or lien shall be made by the general contractor, owner-builder, or subcontractor, or party authorized on behalf of the original party, who originally posted the record on the MNLN. The MNLN number is required at the time the withdrawal statement is posted to identify the posting to be withdrawn.

b. A withdrawal statement of an original posting of a notice or lien may be made by the administrator as provided in subrule 45.13(5).

45.15(4) Notice of filing office statement, correction statement, or withdrawal statement to registered users. At the time of the posting of a filing office statement, a correction statement, or a withdrawal statement, a notice will be sent by e-mail to all registered users, except the administrator, who have posted to the MNLN number.

721—45.16(572) Removal of record. Documents posted on the MNLN information management system shall remain active records for not less than five years after the date of the last posting to the MNLN number.

721—45.17(572) Assignment of date and time stamp and MNLN number.**45.17(1) Method and time of posting.**

a. For a notice of commencement of work, preliminary notice, demand for acknowledgement of satisfaction of claim, or demand to commence action to enforce the lien, the posting will be date- and time-stamped as follows:

(1) If posted electronically on the MNLN, the time of posting will be upon submission of all required information and payment of the required fees.

(2) If the required information and fee are submitted by U.S. mail to the filing office, the administrator will post to the MNLN within three business days of receipt.

(3) If the required information and fee are submitted by facsimile transmission to the filing office, the administrator will post to the MNLN within three business days of receipt.

(4) If the required information and fee are submitted by personal delivery or courier delivery to the filing office's street address, the administrator will post to the MNLN within three business days of receipt.

b. For a mechanic's lien, the posting will be date- and time-stamped as follows:

(1) If posted electronically on the MNLN, the time of posting will be upon submission of all required information and payment of the required fees.

(2) If the required information and fee are submitted by U.S. mail to the filing office, the administrator will post to the MNLN within three business days of receipt.

c. For a filing office statement, a correction statement, or a withdrawal statement, the posting will be date- and time-stamped at the time the statement is posted electronically on the MNLN by the registered MNLN user.

45.17(2) Assignment of an MNLN number. The administrator shall assign an MNLN number at the time that a notice of commencement of work or a mechanic's lien on a commercial property is posted on the MNLN.

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721—45.18(572) Penalties. Submission of fictitious, forged, or false information to the MNLR by a general contractor, owner-builder or subcontractor is a civil offense punishable by a civil penalty of not more than \$750 for each violation or, if the infraction is a repeat offense, a civil penalty not to exceed \$1,000 for each repeat offense.

721—45.19(572) Preservation of records and access by the public. This rule relates to the maintenance of archives and the ability of those archives to be searched.

45.19(1) Paper documents. Paper documents are scanned into the MNLR. The paper documents are not retained.

45.19(2) MNLR information management system. The MNLR information management system is backed up to magnetic tape every business day.

45.19(3) Archives—data retention. Data in the MNLR information management system is retained for ten years from the date of commencement of work.

45.19(4) Archival search. Archival searches may be available through arrangements with the administrator in the administrator's sole discretion.

These rules are intended to implement Iowa Code chapter 572 as amended by 2012 Iowa Acts, House File 675, as amended by 2012 Iowa Acts, House File 2465.

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TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 150, "Improvements and Maintenance on Primary Road Extensions," Iowa Administrative Code.

This proposed amendment provides for additional Departmental participation in the cost of constructing curb ramps on existing sidewalks within the right-of-way of primary road extensions to meet the requirements of the Americans with Disabilities Act (ADA). This change allows the Department to move forward with the ADA transition plan without being dependent on funding sources under the control of other jurisdictions and removes the Department's participation cap of \$1.5 million per year and 55 percent of the construction cost.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning this proposed amendment or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)817-6511; Internet e-mail address: tracy.george@dot.iowa.gov.
5. Be received by the Office of Policy and Legislative Services no later than October 9, 2012.