

PUBLIC SAFETY DEPARTMENT[661]

Regulatory Analysis

Notice of Intended Action to be published: 661—Chapter 323
“Temporary Emergency Use of Factory-Built Structures – Commercial Use”

Iowa Code section authorizing rulemaking: 103A.7 and 103A.9
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 103A

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 29, 2025
2-3 p.m.

6200 Park Avenue
Des Moines, Iowa 50321

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this regulatory analysis must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Jeremiah Junker
Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.672.4745
Email: jeremiah.junker@dia.iowa.gov

Purpose and Summary

This proposed rulemaking repromulgates Chapter 661—323, “Temporary Emergency Use of Factory-Built Structures – Commercial Use” and implements Iowa Code section 103A, in accordance with the goals and directives of Executive Order 10 (January 10, 2023). Iowa Code section 103A.7(1) empowers and directs the state building code commissioner, with the approval of the state building code advisory council, to formulate and adopt and from time to time amend or revise and to promulgate, in conformity with and subject to the conditions set forth in chapter 103A, reasonable rules designed to establish minimum safeguards in the erection and construction of buildings and structures, to protect the human beings who live and work in them from fire and other hazards, and to establish regulations to further protect the health, safety, and welfare of the public. Pursuant to section 103A.7(2)(c), the rules shall include reasonable provisions for the manufacture and installation of factory-built structures. Section 103A.9 states that the state building code shall contain provisions relating to the manufacture and installation of factory-built structures and provides requirements for factory-built structures.

Specifically, this rulemaking allows and provides criteria for use of factory-built structures as temporary locations for businesses or commercial operations in areas subject to a disaster emergency proclamation issued by the governor.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Owners of businesses or commercial operations seeking to utilize the benefits of this rule during a disaster proclamation would incur indirect costs by the nature of needing to meet the requirements of these rules. Costs to the public are minimized as much as safely possible and still maintain businesses and commercial facilities in times of need.

However, this rule should not be viewed as a cost, as it rather provides an alternative, less restrictive means for businesses and commercial operations to utilize factory-built structures during disaster proclamations. Such businesses and commercial operations may not otherwise be able to operate if it were not for this rule.

- **Classes of persons that will benefit from the proposed rulemaking:**

Iowans who are included in an area with a disaster proclamation, and the businesses and commercial operations who will assist Iowans during a disaster, will all benefit from these rules.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- **Quantitative description of impact:**

Notably, for purposes of this rule only, factory-built structures are not required to display an installation seal as would otherwise be required under 661—Chapter 16.

- **Qualitative description of impact:**

Costs of compliance are not easily quantified, but these rules should not be viewed as a cost, as discussed above.

3. Costs to the State:

- **Implementation and enforcement costs borne by the agency or any other agency:**

The department's costs related to implementation of Iowa Code chapter 103A, including these rules, include the costs of personnel to administer the state building code. The department maintains approximately nine full-time equivalent positions to administer the state building code, including four full-time equivalent positions (that also perform other duties) to administer the Manufactured Home & Modular Program. The department's total budget to implement and enforce the state building code, including these rules, is \$1,044,794. The costs specifically associated with implementation of this rule chapter are not separately identifiable, but are not a substantial portion of the budget to implement and enforce the state building code.

- **Anticipated effect on state revenues:**

The department does not anticipate a noteworthy effect on state revenue associated with this rule chapter specifically.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The costs to the public and department are minimal, while allowing quick and efficient installations after a disaster and maintaining minimum standards.

5. Determination whether less costly methods or less intrusive methods exist for

achieving the purpose of the proposed rulemaking:

Iowa Code requires the commissioner to promulgate “reasonable rules designed to establish minimum safeguards in the erection and construction of buildings and structures, to protect the human beings who live and work in them from fire and other hazards, and to establish regulations to further protect the health, safety, and welfare of the public.” Iowa Code section 103A.7(1). These rules are expressly required to include reasonable provisions for the manufacture and installation of factory-built structures. Iowa Code sections 103A.7(2)(c) and 103A.9. It is the opinion of the department and the commissioner that these rules reasonably establish such minimum safeguards for the installation of factory-built structures for business and commercial operations during disaster proclamation. The rule is as non-restrictive as possible while maintaining proper support and anchoring, and making it any less restrictive would negatively impact the health, safety, and welfare of Iowans.

6. Alternative methods considered by the agency:

• Description of any alternative methods that were seriously considered by the agency:

See response in Section 5, above.

• Reasons why alternative methods were rejected in favor of the proposed rulemaking:

See response in Section 5, above.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking’s compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

While some of the businesses and commercial operations taking advantage of this rule may be small businesses, as discussed above this rule should not be viewed as a cost or a negative impact on such businesses. Rather, this rule provides an alternative, less restrictive means for businesses and commercial operations to utilize factory-built structures during disaster proclamations. Such businesses and commercial operations may not otherwise be able to operate if it were not for this rule.

Text of Proposed Rulemaking

CHAPTER 323

TEMPORARY EMERGENCY USE OF FACTORY-BUILT STRUCTURES-COMMERCIAL USE

661—323.1(103A) Temporary factory-built structures for commercial use. A factory-built structure, as defined in Iowa Code section 103A.3, may be installed and used as a temporary location for a business or commercial operation, provided that all of the following apply:

323.1(1) The installation is in an area currently subject to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6.

EXCEPTION: If outside any area covered by a current disaster emergency proclamation, the installation is approved in writing by the building code commissioner provided that all of the other requirements of this rule are met.

323.1(2) The structure was manufactured to be installed without a permanent foundation.

323.1(3) The installation fully complies with all applicable installation requirements established by the manufacturer.

EXCEPTION: If specifications provided by the manufacturer provide for the use of both a support system and an anchoring system, a structure may be installed without a permanent support system, provided that an anchoring system is installed in compliance with specifications provided by the manufacturer and the owner or occupant ensures that straps or ties are loosened to prevent the structure from suffering damage from frost heave as needed between November 15 of any year during which it is in use and April 15 of the following year and retightened on or after April 15 and no later than May 15 of the following year.

323.1(4) The owner ensures full compliance with all maintenance requirements established by the manufacturer.

323.1(5) The structure complies with other applicable codes for the use of the structure, except that a structure installed in compliance with this rule is not required to display an Iowa seal as otherwise required by 661—subrules 16.610(21), 16.610(22), and 16.610(24).

323.1(6) The structure is not used as a private residence. For manufactured homes, see 661—322.11(5).

323.1(7) The structure is vacated within 18 months of installation.

323.1(8) No portion of the structure is used as an educational occupancy, unless written permission for such use has been issued by the fire control bureau and the building code commissioner.

323.1(9) No portion of the structure is used as a health care facility unless written permission for such use has been issued by the fire control bureau and the building code commissioner.

This rule is intended to implement Iowa Code sections 103A.7 and 103A.9.