

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

Department Name:	Revenue	Date:	September 1, 2024	Total Rule Count:	22
IAC #:	701	Chapter/ SubChapter/ Rule(s):	Chapter 258	Iowa Code Section Authorizing Rule:	453C.1(10), 453D.5(5), 453D.7(3)
Contact Name:	Matt Bishop	Email:	matt.bishop@iowa.gov	Phone:	515-452-9205

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This chapter contains rules required or necessary to ascertain the amount of excise tax paid on cigarettes sold by participating and nonparticipating tobacco manufacturers in Iowa each year and ensure tobacco product manufacturers comply with the Master Settlement Agreement (MSA). Additionally, the rules establish provisions for escrow accounts and provides for periodic compliance reports. Iowa’s model directory and escrow statutes, and corresponding rules, are required to conform to the MSA. All settling states have enacted qualifying statutes. Violations of the model statutes threatens the integrity of the tobacco master settlement agreement, the fiscal soundness of the state, and the public health. The statutes authorize the Department and attorney general to establish rules for compliance and enforcement that harmonize with the statutes.

Is the benefit being achieved? Please provide evidence.

Yes. The MSA’s independent auditor has consistently determined that Iowa and its statutes are qualifying and therefore our enforcement efforts have been found to be diligent. To the extent the Department proposes to re-promulgate rules, the Department has determined the rules are necessary and aid the public to better understand what is required of tobacco product manufacturers under the Master Settlement Agreement (MSA).

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

There are no costs to comply with the rules incurred by the general public. Any costs to comply with the rules are associated with the MSA itself and the underlying statutes relating to the MSA. These costs are borne by tobacco product manufacturers and other industry actors in the supply chain. These costs are used to compensate state parties to the MSA for performing their regulatory functions.

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

There are no costs to the agency to implement the rules beyond those that would otherwise be required to administer the MSA and the underlying statutes relating to the MSA. There are tax administration expenses associated with administering any tax statute, including report processing and enforcement program work.

Do the costs justify the benefits achieved? Please explain.

Yes. Any costs associated with the MSA are required to diligently enforce the provisions of an agreement that goes into perpetuity so long as there are cigarette and tobacco sales. There are no costs of the rules themselves. The rules that are proposed to be re-promulgated have been determined to be necessary and to comply with the statutory rulemaking requirement in Iowa Code chapter 453C.

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.

All states that are a party to the MSA are required to have model escrow and directory statutes. The rules that will be re-promulgated describe the requirements for tobacco product manufacturers under the MSA and the underlying statutes. There is no less restrictive alternative to achieve the benefit of additional certainty.

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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Yes, chapter 258 contains language that is outdated, unnecessary or duplicative of statute. Outdated citation references to Iowa Acts will be removed throughout.

NOTE: The historic references to the statutes implemented and years of passage by the general assembly are considered substantive as they evidence that the rules comply with the MSA. References of that nature are thus not being removed, even if it duplicates a reference in the statutes, which is there to serve the same purpose.

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

258.2, 258.7 to 258.20 previously reserved.

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

Most rules will be re-promulgated to ensure the state's regulatory framework continues to meet the strict provisions of the MSA with the following changes:

258.1 is amended for clarity and the language of rule 258.2 is incorporated for better organization.

258.3 is amended for clarity and to add updated information and remove obsolete and unnecessary information. The language of 258.4 is incorporated for clarity and for better organization.

258.5 is amended for clarity and to remove restrictive and outdated information.

258.6 is amended to remove outdated information.

258.21 is amended for clarity and better organization and to remove obsolete information.

258.22 is amended for clarity and better organization and to remove unnecessary and obsolete information

The text of the proposed rules will be published with the regulatory analysis in the Iowa Administrative Code Bulletin in the coming months.

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

METRICS

Total number of rules repealed:	15
Proposed word count reduction after repeal and/or re-promulgation	78
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	4

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

The Department would like to require all returns, reports, and other documents that are filed with the under chapters 421B, 453A, 453C, and 453D to be filed electronically using GovConnectIowa. The Department believes electronic filing will streamline the customer experience and will improve the Department's ability to administer the cigarette and tobacco tax chapters. The Department believes it has statutory authority to require electronic filing by rule, but the Department would prefer a statutory change to ensure compliance.