

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to adopt a new Chapter 410. The chapter will replace 223—Chapter 35, which was adopted by the State Historic Preservation Office (SHPO) prior to its alignment with the Authority in 2023 Iowa Acts, Senate File 514. 223—Chapter 35 is proposed to be rescinded as part of a concurrent rulemaking (**RA 26-134**, IAB 6/24/26).

The new chapter describes the responsibilities and generally applicable policies of SHPO.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

This proposed rulemaking does not impose any costs.

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

Persons interested in the responsibilities and generally applicable policies of SHPO may benefit from the improved clarity of this proposed chapter.

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:**

This proposed rulemaking does not impose any costs.

- **Qualitative description of impact:**

Persons interested in the responsibilities and generally applicable policies of SHPO may benefit from the improved clarity of this proposed chapter.

3. Costs to the State:

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

Authority staff time is required to provide the activities described in this proposed chapter.

- **Anticipated effect on State revenues:**

This proposed rulemaking has no anticipated effect on State revenues.

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

This proposed rulemaking does not impose any costs.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Authority has not identified any less costly methods or less intrusive methods of describing the organization of the SHPO.

6. Alternative methods considered by the agency:

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

The Authority did not consider any alternative methods.

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

The Authority did not consider any alternative methods because the Authority did not identify a less costly or less intrusive method.

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?

This proposed chapter does not have a substantial impact on small business. The proposed chapter does not establish compliance or reporting requirements and does not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** 261—Chapter 410:

CHAPTER 410

STATE HISTORIC PRESERVATION OFFICE

261—410.1(15) Definitions. For purposes of this chapter, unless the context otherwise requires:

“*Act*” means the National Historic Preservation Act of 1966, Public Law 89-665, 54 U.S.C. Subtitle III, Division A.

“*Advisory council*” means the advisory council on historic preservation established under the Act.

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Certified local government*” means a unit of local government that is certified by the National Park Service to carry out the purposes of the National Historic Preservation Act in accordance with Sections 101(c), 103(c) and 301 of the Act and 36 CFR Part 61.

“*Historic preservation*” includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, research, interpretation, conservation, and education and training regarding the foregoing activities or any combination of the foregoing activities.

“Investment tax credit” means a federal income tax credit for the substantial rehabilitation of historic buildings for commercial, industrial, and rental residential and nonresidential purposes.

“National Register of Historic Places” means the national list of historic properties maintained by the Secretary of the Interior.

“Section 106” means the section of the Act that requires federal agencies to take into account the effects of the undertakings that the agencies carry out, fund, license, permit or approve on historic properties and afford the advisory council a reasonable opportunity to comment. The regulations of 36 CFR Part 800 define the process used by an agency to meet these responsibilities and the role of the state historic preservation officer in review and comment on these undertakings.

“State historic preservation officer” or *“SHPO”* means the officer appointed and certified pursuant to Iowa Code section 15.121.

261—410.2(15) Responsibilities. The SHPO oversees the following:

410.2(1) Certification of local governments and providing grants to certified local governments. More information can be found in 261—Chapter 417.

410.2(2) Review and evaluation of applications for investment tax credits. More information can be found in 261—Chapter 411.

410.2(3) Processing nominations for the National Register of Historic Places and state register of historic places. More information can be found in 261—Chapter 412.

410.2(4) Survey and inventory of cultural resources. More information can be found in 223—Chapter 41.

410.2(5) Review and compliance for undertakings pursuant to Section 106 and its implementing regulations at 36 CFR Part 800. More information can be found in 261—Chapter 414.

410.2(6) Technical assistance services provided for the development of skills or the provision of knowledge relative to the background, significance, operation, or implications of activities under the purview of the SHPO. More information can be found in rule 261—410.6(15).

410.2(7) Review of historical preservation districts and areas of historical significance pursuant to Iowa Code chapter 15, subchapter II, part 27.

410.2(8) Other duties identified in Iowa Code section 15.121.

261—410.3(15) Eligibility. Eligibility for financial and technical assistance under the oversight of the SHPO is determined by the terms of the source of funds for the financial assistance and by applicable federal requirements.

261—410.4(15) Contracts and grants.

410.4(1) Federal contracts and grants shall be administered pursuant to the applicable federal requirements for such contracts and grants. This includes but is not limited to terms relating to match, reporting, and auditing.

410.4(2) Applications shall be submitted on the appropriate forms and with the requested supporting materials to be considered for funding. All applications for grants or contracts must be submitted according to instructions provided by the SHPO.

410.4(3) All applications for funding shall be reviewed by a staff person. An advisory committee may be appointed to assist in the review process. All grant or contract awards shall receive the written approval of the state historic preservation officer.

410.4(4) Evaluation criteria. The following evaluation criteria shall be applied to all grant or contract applications:

- a.* Compliance with state and federal standards and grant guidelines.
- b.* Clearly stated or specific goals that can be realistically attained within the funding period and proposed budget.

- c.* Measurable results or products (number, quality).
- d.* Linkage with goals and objectives embodied in state or local preservation plans.
- e.* Past grant/contract performance of applicant.

410.4(5) Appeals of final agency action by the SHPO and the authority will be governed by Iowa Code chapter 17A.

261—410.5(15) Advisory committees.

410.5(1) Advisory committees may be appointed by the state historic preservation officer for the purpose of conducting peer reviews of grant products, reviewing and rating grant applications for funding, nominating historic resources to the National Register of Historic Places, and providing other professional input.

410.5(2) Advisory committees may be permanent or temporary. The term of office on temporary advisory committees shall be determined by the state historic preservation officer.

410.5(3) Recommendations by all advisory committees shall be nonbinding on the state historic preservation officer.

410.5(4) Members of an advisory committee shall not submit an application for a grant or contract from the authority. Action by an advisory committee member shall be in accordance with Iowa Code chapter 68B. Members of an advisory committee who have a conflict of interest shall disclose the interest to the authority. The affected member shall not participate in any discussion or action by the board with and shall be disqualified from voting with respect to the subject of the conflict of interest. The quorum of the committee shall not be changed as the result of a conflict-of-interest disqualification.

410.5(5) Members of advisory committees may be reimbursed for travel, lodging, and expenses at the discretion of the state historic preservation officer.

410.5(6) An Iowa state national register of historic places nominations review committee is created as a permanent advisory committee. The committee is described in 261—Chapter 412.

261—410.6(15) Technical assistance.

410.6(1) Technical assistance is provided as resources permit. First priority is given to projects relating to the National Register of Historic Places, the Certified Local Government program, or a local preservation commission.

410.6(2) Technical assistance may be provided in these four areas:

a. Planning assistance. On-site or other forms of consultation in the preparation and review of a community or county historic preservation plan.

b. Project monitoring. On-site or other forms of project monitoring and facilitation.

c. Local ordinance review and local historic district organization. In accordance with Iowa Code section 15.459(4), the local commission shall submit the draft or final ordinance for review and approval by staff. An existing commission shall similarly submit proposed local historic district designations for review and approval to staff. Comments by the appropriate staff shall be supplied within 45 days from the receipt of complete documentation.

d. General technical assistance. Technical assistance in the physical preservation of properties is provided by staff. This service is provided on an individual-request-and-time-available basis. The services provided by the staff shall not substitute for private professional services.

410.6(3) All inquiries and requests may be directed as instructed on the authority's website.

261—410.7(15) References. All references to the Act, United States Code, or Code of Federal Regulations in this chapter are to the laws as in effect on [effective date of rulemaking].

These rules are intended to implement Iowa Code section 15.121 and 54 U.S.C. Subtitle III, Division A.