State of Iowa

Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER TEN

WHEREAS, over several decades the proliferation of administrative rules and regulations at all levels of government has imposed high costs on employers, inhibited job growth, impeded private sector investment, and increased the complexity and expense of economic life;

WHEREAS, reducing this regulatory burden on Iowans will promote citizens' freedom to engage in individual, family, and business pursuits;

WHEREAS, the Iowa Administrative Code contains over 20,000 pages and 190,000 restrictive terms;

WHEREAS, a comprehensive evaluation of existing administrative rules is essential to determine the necessity and effectiveness of those rules in light of national economic headwinds facing Iowans;

WHEREAS, obsolete, ineffective, excessively burdensome, or redundant administrative rules and regulations should be repealed;

WHEREAS, rulemaking authority is derived from and limited by the authority delegated to executive agencies by the general assembly;

WHEREAS, an administrative rulemaking moratorium will permit the Administrative Rules Coordinator and executive agencies to devote resources to a comprehensive evaluation and rigorous cost–benefit analysis of existing administrative rules; and

WHEREAS, wherever possible, and without compromising the health and safety of Iowans, this review should result in the elimination or simplification of unnecessary or unduly burdensome rules and regulations.

NOW, THEREFORE, I, Kim Reynolds, Governor of the State of Iowa, by virtue of the authority vested in me by the Constitution and laws of this state, do hereby order the following:

PROCESS FOR REVIEW OF EXISTING RULES

I. Each rule chapter of the Iowa Administrative Code effective on January 1, 2023 shall be reviewed by the agency, board, or commission that promulgated the rule according to a schedule established by the Administrative Rules Coordinator (ARC) as follows:

- **A.** All rule chapters shall be reviewed and, if applicable, be promulgated as specified in this Executive Order no later than December 31, 2026;
- **B.** The agency review schedule shall be staggered across agencies. The ARC shall ensure the volume of rules that are reviewed by the agencies in any given year is such that the public can engage and provide meaningful input in any individual rulemaking; and
- **C.** The agency review schedule shall be posted on the Governor's website as well as the agency's website no later than March 1, 2023.

II. After issuing the rule report under Part III of this Executive Order, each agency must publish a notice of intended action in accordance with the provisions of the Iowa Administrative Procedure Act to repeal the existing rule chapter by the agency review date.

III. An agency wishing to renew a rule chapter beyond the agency review date must promulgate a new rulemaking in accordance with the following requirements in addition to the provisions of the Iowa Administrative Procedure Act:

A. The agency, board, or commission must perform a retrospective analysis that includes a comprehensive evaluation and rigorous cost–benefit analysis of each existing administrative rule to determine whether the benefits the rule is intended to achieve are being realized, whether those benefits justify the costs of the rule, and whether there are less restrictive alternatives to accomplish those benefits. This analysis should be guided by the statutory language giving the agency, board, or commission the authority to promulgate the rule.

i. The ARC, with the assistance of the Department of Management (DOM), shall develop a standardized process for the required retrospective analysis. Any such forms shall be posted on the website of DOM no later than March 1, 2023.

ii. Agencies, boards, and commissions should start the new rulemaking from a zero-base and not seek to reauthorize an existing rule chapter without a critical and comprehensive review. Agencies, boards, and commissions must use the retrospective analysis to guide which regulations, if any, should be re-promulgated in order to carry out the statutory language giving the agency, board, or commission the authority to promulgate the rulemaking. The agency, board, or commission shall remove obsolete, outdated, inconsistent, incompatible, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language.

iii. The agency, board, or commission shall submit a rule report to the ARC by September 1 of the year of the agency review date. The rule report shall contain the retrospective analysis of the rule chapter, a list of rules the agency, board, or commission proposes to repeal and not re-promulgate, and a list of rules the agency, board, or commission proposes to re-promulgate.

B. The agency, board, or commission must publish a notice of intended action and hold at least two public hearings designed to maximize public participation in the rulemaking process. A copy of the retrospective analysis must be published on the agency's website prior to the public hearings.

C. Each new rule chapter finalized by the agency must reduce the overall regulatory burden, or remain neutral, as compared to the previous rule chapter.

D. All proposed amendments to an existing chapter must be contained within a single rulemaking.

PROCESS FOR NEW AND AMENDED RULES

IV. To create a more stable regulatory environment and provide businesses with certainty, there is a moratorium on rulemaking. State agencies shall not initiate, by filing a notice of intended action or an adopted and filed emergency, any new rulemaking from February 1, 2023 through the agency review date established by the ARC, unless the agency is directed by the ARC to take a rulemaking action or all of the following conditions apply and the rulemaking is precleared by the ARC:

A. The rulemaking is narrowly-tailored to achieve one or more of the following objectives:

i. To reduce or remove a regulatory burden, including reducing restrictive terms;

ii. To remove obsolete, outdated, inconsistent, incompatible, redundant, or unnecessary regulations, including instances where rule language is duplicative of statutory language;

iii. To comply with a new statutory requirement, court order, or federal mandate where no waiver is permitted;

iv. To prevent a substantiated and well-documented threat to public health, peace, or safety;

v. To reduce state spending;

vi. To repeal a rule chapter as specified in Part II of this Executive Order; or

vii. To re-promulgate a rule chapter as specified in Part III of this Executive Order.

B. The agency completes a regulatory analysis of the new or amended rulemaking containing the items listed in section 17A.4A(2) of the Iowa Code and complies with the following:

i. At least one public hearing is conducted on the regulatory analysis prior to final publication on the agency's website.

ii. A copy of the final regulatory analysis must be published on the agency's website prior to submission of the rulemaking to the ARC for preclearance.

V. Emergency rules shall be limited to those that are intended to avoid an immediate danger or are required to meet a specific deadline specified in statute, a court order, or by this Executive Order or the ARC.

IMPLEMENTATION AND INTERPRETATION

VI. This Executive Order applies to all departments, agencies, boards, or commissions that have promulgated rules contained within the Iowa Administrative Code but does not apply to statewide constitutional officers or rules promulgated under the authority of those officers.

VII. This Executive Order shall be interpreted in accordance with all applicable laws and regulations and shall not supersede any laws or regulations in place as of its effective date. If any provision of this Executive Order is found to be invalid, unenforceable, or otherwise contrary to applicable law, then the remaining provisions of this Executive Order, as applied to any person or circumstance, shall continue in full force and effect and shall not be affected by such finding of invalidity or unenforceability.

VIII. This Executive Order does not create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the State of Iowa, its departments, agencies, or political subdivisions, or its officers, employees, agents, or any other persons.

IX. This Executive Order shall apply prospectively only as of its effective date.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SUBSCRIBED MY NAME AND CAUSED THE GREAT SEAL OF THE STATE OF IOWA TO BE AFFIXED AT DES MOINES, IOWA THIS TENTH DAY OF JANUARY IN THE YEAR OF OUR LORD TWO THOUSAND TWENTY-THREE.

KIMBERLY K. REYNOLDS
GOVERNOR

ATTEST:

PAUL D. PATE
SECRETARY OF STATE