

May 2, 2022

LSA Rules Analysis of 2022 Acts

This memorandum describes the framework for drafters to carry out administrative rules analyses for their bills enacted in the 2022 regular session. You will continue to use the tool established last year to enter in and submit your analysis for each bill. The tool is unchanged from last year.

If you have any questions, please contact Jack. **Thank you for your work on this project!**

2022 Administrative Rules Drafter Analyses Completion Date

The target date for drafters to complete administrative rules analyses of their enacted bills is **Friday, July 1, 2022**. This date may be adjusted depending on when session adjourns for the year.

Purpose and Background of LSA Rules Analysis

The Legal Services Division's analysis of rulemaking potentially required by newly enacted bills began at the direction of the Administrative Rules Review Committee (ARRC). The ARRC has expressed concern that necessary rulemaking is either not being carried out in a timely manner or not carried out at all. The charts drafters prepare for their enacted bills, after review by Jack, are used as the basis for a report to the ARRC on potentially required rulemaking. Content from the report is provided to affected agencies for review and feedback and is ultimately used as a means of tracking potentially untimely rulemaking. This project regularly induces agencies to carry out rulemaking that otherwise would likely not have occurred. The ARRC, Governor's Office, and individual agencies have expressed appreciation for the LSA's efforts on this project.

Scope of Analyses

These analyses concern rulemaking by executive branch agencies pursuant to Code chapter 17A. Other matters such as regulations by local governments or Iowa court rules are outside of the scope of these analyses and do not need to be included in the charts.

Accessing and Submitting the Chart for Rules Analysis of a Bill

Drafters will complete a separate rules analysis chart for each of their enacted bills. The rules analysis tool can be accessed here under Applications:

<https://www.legis.iowa.gov/portal>

Instructions for using the tool can be found here:

<https://www.legis.iowa.gov/docs/publications/HELP/1216003.pdf>

A video of last year's training on the tool is available below. After the training is a review of the framework for doing this analysis if you need it. The review uses [HF 384](#) from 2021 as an example.

<https://www.youtube.com/watch?v=uiCXxv8wJwM>

When finished with a chart, change the status dropdown, toward the top of your screen, to “drafter analysis complete.” Then you are done.

Charts do not need to be completed all at once. Jack will follow up if anything further is needed.

Chart Explained

A chart for each enacted bill will appear in the rules analysis tool shortly after it is enacted. It will typically appear before the bill is sent to or signed by the governor. **For a bill that does not involve any rulemaking at all**, select the “No Rules Required” button in the upper left of your screen in the rules analysis tool, then change the status dropdown to “drafter analysis complete,” and you are done. **For all other bills**, each row in the bill chart in the rules analysis tool will cover one or more bill sections. The six columns of the chart are explained below.

1. **Section #:** Each bill will be analyzed section by section. All bill sections are automatically listed in this column. However, bill sections on the same specific subject can be merged into a single row if one set of rules on that subject would likely account for multiple bill sections. **The tool can run slow for very large bills, so merging sections on the same subject can improve your experience.**

2. **Rules Analyses:** This column is where the rules analysis of the bill section or sections is entered. The column has a dropdown with the following three categories for describing possible rulemaking resulting from a bill section. This analysis will at times involve judgment calls on the drafter’s part. Use the dropdown by clicking and selecting one of the three options.

- a. *Rules required:* This category is used in two situations:
 - i. Where a bill section requires rulemaking. This analysis entails reading a bill section in its broader statutory context. At times a bill section may not explicitly reference rulemaking, but other provisions within the bill section’s statutory context may explicitly require rulemaking that would involve the bill section.
 - ii. Where a bill section, when read in its statutory context, does not require rulemaking, but has the effect of rendering current rules out of date. This analysis requires review of existing rules and assumes that agencies should keep their existing rules up to date, even if that does not always occur in practice. See also column 5, described below.
- b. *Rules authorized or implicated:* This category is used in two situations:
 - i. Where a bill section, when read in its broader statutory context, authorizes but does not require rulemaking, generally using the word “may.”
 - ii. Where the drafter cannot determine whether or not the bill section may require rulemaking.
- c. *No rules involved:* This category is used when neither of the above categories applies: A bill section does not require, authorize, or implicate rulemaking. This category can also be used for bill sections that have been **completely** item vetoed.

3. **Rulemaking Agency:** List the executive branch agency from the dropdown that would carry out the rulemaking. If a bill section would involve rulemaking by multiple agencies, you can have multiple rows for the same section. List each agency in its own row for the section unless the same rule would be jointly adopted by multiple agencies.

4A. **Code Section Relating to Rulemaking in Act:** For bill sections that will be codified, the bill section should already be listed here. For bill sections that will not be codified, this box will be empty. Rules analysis is carried out for both codified and non-codified bill sections.

4B. **Code Section Relating to Rulemaking Not in Act, if any:** This column is used if a bill section does not explicitly reference rulemaking but implicitly concerns rulemaking when analyzed in its broader statutory context or when existing rules are considered. It may be appropriate to cite to a different portion of the bill section's specific statutory context or to a statute that gives broad rulemaking authority to the relevant agency. Where a bill section itself references rulemaking or where no other statutory provisions relating to rulemaking are relevant to the bill section, this box can be left empty.

5. **Current Agency Rules in IAC, if any:** Review the Iowa Administrative Code in Folio or online and list any existing rules by the agency that may need to be amended or rescinded. Where significant rule revisions may be necessary, rule chapters may be cited instead of specific rules. When conducting this analysis, the following web page may be helpful as a starting point. It shows relationships between sections in the 2022 Iowa Code and current rules. It is automatically generated by the Computer Services Division using tagging, so it is **not** comprehensive:

<https://www.legis.iowa.gov/law/administrativeRules/additionalInfo/rulesImplementingStatutes>

Because this page is not comprehensive and is computer generated, it should not be the sole research tool used. Drafters should independently determine whether rules and chapters in the Iowa Administrative Code need to be amended or rescinded.

6. **ARC # or other status:** This column will be filled out by Jack.