

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

Department Name:	Dept. of Management	Date:	7/23/2024	Total Rule Count:	5
IAC #:	543	Chapter/ SubChapter/ Rule(s):	Chapter 2	Iowa Code Section Authorizing Rule:	25.2(3), 24.30, 24.31, 24.32
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PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The current rule has Tort Claims as the first set of rules in Chapter 1. We've proposed moving the Tort Claims provisions down to Chapter 2 and using Chapter 1 to outline basic information about the board. The propose restructuring should make the rules must more easy to navigate.

Is the benefit being achieved? Please provide evidence.

Yes. The existing rules have not been the source of any controversy. The update to the rules is simply being made to adapt the rules to EO10 requirements. In fiscal year 2024, the State Appeal Board received 816 claims, of which 647 were tort claims and the remainder general claims. Also in fiscal years 2024, the board authorized payment of \$12,175,831.83 to claimants, with funds being drawn from the General Fund or the Road Use Fund.

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

Submission costs are minimal, and the board's rules provide a good roadmap of how to interact with the board. Citizens may choose to interact with the board through an attorney, resulting in costs there, but this is not mandatory. The new Chapter 1 should minimize impact on citizens and make interaction with the board as simple and straightforward as possible.

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

Very minimal. Agencies costs are limited to responding to information requests. Costs to the Department of Management are limited to small administrative costs.

Do the costs justify the benefits achieved? Please explain.

Yes. Costs are minimal currently and are not in any way increasing going forward.

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.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language?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. The current chapter has provisions requiring “verification” of claims, but the concept of claim verification is no longer used in the Iowa Rules of Civil Procedure, which appears to be the source of the obligation. We have also proposed just updating the language from limited language such as “X-rays” to “medical imaging.” Other obligations such as an injured employee’s obligation to provide employer information is not necessary to address claims, so the provision is proposed for removal.

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

Chapter 2 in its entirety.

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

CHAPTER 2. TORT CLAIMS

543—2.1(669) *Form of claims.*

2.1(1) *Place of filing.* Tort claims will be filed with the executive secretary at the board’s address. The board may make forms available to facilitate submission of a claim.

2.1(2) *Names and signatures.* To be valid, a claim needs to be legible and state the name, address, telephone number, and age of the person making the claim and the name, address and telephone number of the claimant’s attorney, if any, preparing the claim, and their signatures.

2.1(3) *Designation by number.* The executive secretary will assign a number to each claim. Thereafter claims may be referred to the assigned number.

543—2.2(669) *Content.* Valid claims need to set forth the following information:

2.2(1) Whether the claim is against an employee or the state, including the name of the employee and the department where they are employed. Separate claims need to be filed for each type of claim by each claimant.

2.2(2) All known facts and circumstances regarding the damage or injury, identifying persons and property involved and the cause in detail.

2.2(3) In connection with personal injuries or death, a detailed description of the nature, extent and duration of all injuries, including:

(a) The names and addresses of all physicians, surgeons, dentists or other medical personnel providing treatment or services.

(b) The dates and places of the treatments or services.

(c) The date of the final treatment or service and the name of the physician or other person providing treatment or services.

(d) If treatment or services are continuing, the name and address of each physician or other person rendering treatment or service, and the nature of the treatment or service.

(e) The name and address of any hospital in which claimant is or was confined and the dates of admission and discharge.

(f) The name and address of all persons who have taken medical imaging of claimant, the dates of such medical imaging and a statement as to what the medical imaging purportedly established.

(g) A statement as to any preexisting injury, illness or condition, the nature of the preexisting injury, illness or condition, and the name and present address of each physician or other person who has rendered or who is rendering treatment or services for such disability.

(h) If other loss of income, profit or earnings is claimed, the amount of such loss or losses and how computed, the

source of such loss, the date of deprivation thereof, the period of time and whether it is continuing.

(i) Name and address of present employer, if claimant has returned to work, the position or job held, the nature of the work being performed, and present weekly wages, earnings, income or profits.

(j) Itemization in detail of all moneys expended or expenses incurred in connection with this claim.

(k) Names and addresses of all persons who have personal knowledge of any facts relating to the claim.

2.2(4) In connection with property damage or loss and concerning a motor vehicle:

(a) The vehicle's make, model, and year.

(b) Purchase date and price paid.

(c) Cost estimates for repairs or actual costs of repairs with copies of estimates or bills.

(d) Specific part or parts allegedly damaged.

(e) Names and addresses of all persons having personal knowledge of any facts relating to the claim.

2.2(5) In connection with other property damage:

(a) Nature and description of other property that is the subject of the claim separately listed.

(b) Method by which this other property was acquired. If purchased, then the name of the person or place from which purchased, the price, date and usage made of the property.

(c) Depreciated value at date of damage or loss.

(d) Documentation of repair costs paid or repair estimates.

(e) Names and addresses of all persons having personal knowledge of any facts relating to the claim.

2.2(6) The amount of compensation requested from the board.

543—2.3(669) *Attorney general*. The executive secretary will convey each claim to the special assistant attorney general assigned to the board. The special assistant attorney general will investigate the claim and is empowered to administer oaths, take testimony, and conduct discovery in accordance with the Iowa Rules of Civil Procedure. The special assistant attorney general may compel the attendance of witnesses and certify to any district court for contempt.

543—2.4(669) *Notification*. The special assistant attorney general will notify the claimant or the claimant's attorney, in writing, of the board's determination and any award.

543—2.5(669) *Release*. The claimant is obligated to execute a release of the claim and covenant not to sue in consideration of acceptance of the award.

543—2.6(669) *Acceptance*. Return of the executed release and covenant not to sue will constitute acceptance of the award in full settlement of the claim.

543—2.7(669) *Warrant*. Upon acceptance of the award, completion of the release, and a determination by the board that attorneys' fees requested are reasonable, the board will issue a warrant in the agreed amount, payable to claimant and the claimant's attorney.

543—2.8(669) *Withdrawal*. Submitted claims may be withdrawn at any time through written notice addressed to the board at the board's mailing address.

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

METRICS

Total number of rules repealed:	5
Proposed word count reduction after repeal and/or re-promulgation	Increase of 355 words (as compared to the original Chapter 2, which was "General Terms." As compared to the comparable terms in the current rules, reduction of 377 words.
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	As compared to the current Chapter 2, 6 restrictive terms were removed.

This takes Title 543 down to zero restrictive words/phrases.

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

The State Appeal Board authority seems to be spread between Chapter 24 (24.26) and Chapter 25. Section 25.2 just starts talking about the State Appeal Board without saying that it is established. Section 24.26 speaks to the State Appeal Board and what it consists of but doesn't necessarily formally establish the board. At some point, it might make sense to consolidate the text, formally establish the board, and put in one chapter that the board has basic authority, such as rulemaking authority.