

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to employer requirements for non-English speaking employees

The Labor Services Division hereby rescinds Chapter 160, “Employer Requirements Relating to Non-English Speaking Employees,” and adopts a new Chapter 160, “Employer Requirements for Non-English Speaking Employees,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 91E.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

This rulemaking in accordance with Executive Order 10 adopts a new Chapter 160 that requires employers to give language assistance to certain non-English speaking employees so that the employees may understand the terms of employment, safety issues, and health issues.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8274C**. A public hearing was held on the following date(s):

- November 19, 2024
- November 20, 2024

No one attended the public hearings. A comment asked that rule 875—160.1(91E) be retained to clarify what employers are covered. Another comment asked that original rule 875—160.8(91E), “inspections,” also be retained.

Two changes from the Notice have been made. Rule 875—160.1(91E) is reinstated to explain that the rules “apply to employees employed on an hourly basis. These rules apply to employers whose total employment of employees paid on an hourly basis in this state exceeds 100.” The language relating to inspections has been retained in rule 875—160.6(91E).

Adoption of Rulemaking

This rulemaking was adopted by the Division on December 4, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on February 12, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 160 and adopt the following **new** chapter in lieu thereof:

CHAPTER 160
EMPLOYER REQUIREMENTS FOR
NON-ENGLISH SPEAKING EMPLOYEES

875—160.1(91E) Purpose and scope. These rules apply to employees employed on an hourly basis. These rules apply to employers whose total employment of employees paid on an hourly basis in this state exceeds 100.

875—160.2(91E) Definitions. The definitions in Iowa Code section 91E.1 are adopted with the following clarifications or additions:

“*Act*” means the non-English speaking employee services Act, Iowa Code chapter 91E.

“*Applicant*” means an employer, employee, or non-English speaking employee as those terms are defined in the Act.

“*Business day*” means those days an office is open and staffed with the person(s) capable of processing employees’ requests for transportation provided in Iowa Code section 91E.3(2).

“*Director*” means the director of the department of inspections, appeals, and licensing or the director’s designee.

“*Work site*” means a single physical location where business is conducted or where services or industrial operations are performed (e.g., a factory, mill, store, hotel, restaurant, movie theatre, farm, ranch, bank, sales office, warehouse, or central administrative office).

875—160.3(91E) Knowledge of English. An employee who can understand the following in English is not covered by these rules:

160.3(1) The hours of work.

160.3(2) The hourly wage.

160.3(3) All mandatory and elective benefits.

160.3(4) The job duties.

160.3(5) The safety and health risks of the job and appropriate methods of protection.

160.3(6) Information and training on hazardous chemicals in the employee’s work area.

160.3(7) Safety signs and symbols that warn of potential dangers and hazards at the work site.

160.3(8) The purpose of forms used by the employer including:

a. Orientation,

b. Insurance,

c. Accidents at the work site, and

d. Other forms the employee is required to complete or answer.

160.3(9) The employer’s requirement to provide an interpreter if more than 10 percent of the employer’s employees speak the same non-English language.

160.3(10) Communication with a nurse or other medical personnel at the work site.

875—160.4(91E) Community services referral agent requirements.

160.4(1) Referral agent available. The employer provides to employees at each work site the name of the person who is designated as having the primary responsibility as the referral agent. The information shall be provided in the language of the non-English speaking employees.

160.4(2) Referral agent's responsibilities. The primary responsibility of the person employed as the employer's referral agent is to develop and maintain a list of contact persons and agencies, telephone numbers, and addresses of the community services provided in the work site's community. The referral agent assists non-English speaking employees in working with and through those services.

875—160.5(91E) Exemptions.

160.5(1) An applicant desiring an exemption may file a written application with the director that shall include:

- a. The name, address and telephone number of the applicant;
- b. The address or location of the work site affected;
- c. A description of the operation or type of work site;
- d. A listing of the section of the Act or rules to which the exemption would apply;
- e. A representation of the impact of compliance on the part of the applicant;
- f. A representation of why the exemption would be reasonable;
- g. If the applicant is an employer, a description of how employees and non-English speaking employees have been informed of the application and their rights to petition the director for a hearing;
- h. If the applicant is an employee or non-English speaking employee, a description of how the employer has been informed of the application and the employer's rights to petition the director for a hearing;
- i. A request for a hearing if one is desired; and
- j. Any other information the director may request.

160.5(2) At the time the application is received, the director shall promptly provide the applicant with a notice of receipt of application that shall be posted where notices are customarily posted for employees. If the applicant is an employee or non-English speaking employee, the employer shall post the notice when provided to the employer.

160.5(3) If the applicant is an employer, any affected employee or an affected non-English speaking employee may request a hearing. If the applicant is an employee or a non-English speaking employee, the affected employer may request a hearing. Any request for a hearing on the application is made by notifying the director within 14 calendar days of posting the notice.

875—160.6(91E) Inspections. This rule pertains to enforcement of the Act.

160.6(1) Inspections shall take place at the times and places directed by the commissioner.

160.6(2) Inspections may be conducted without prior notice.

160.6(3) The commissioner may interview persons at the work site and utilize other reasonable inspection techniques including but not limited to correspondence, telephone conversation, review of written materials, and physical inspection of the work site.

160.6(4) Unnecessary disruptions to the operations at the work site will be avoided.

160.6(5) In the event the commissioner is not permitted to fully conduct an inspection, an administrative warrant may be sought.

875—160.7(91E) Enforcement and penalties. If the director finds a violation subject to a civil penalty, the director will issue a notice of violation to the employer and propose a civil penalty that shall be sent to the employer by certified mail. The employer has 14 calendar days from receipt of the notice of violation or proposed civil penalty to inform the director by mail of the intent to contest the notification or proposed penalty. After receipt of the employer's notification, the director will afford the employer the opportunity for a hearing.

These rules are intended to implement Iowa Code chapter 91E.

[Filed 12/17/24, effective 2/12/25]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/8/25.