Regulatory Analysis

Notice of Intended Action to be published: 261—Chapter 405
"Alternate Energy Revolving Loan Program"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 15.120 and 476.46
State or federal law(s) implemented by the rulemaking: Iowa Code section 476.46

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

October 21, 2025	1963 Bell Avenue
9:15 to 9:30 a.m.	Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Economic Development Authority (Authority) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Email: lisa.connell@iowaeda.com

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 405 and adopt a new chapter in lieu thereof. The chapter describes the policies and procedures applicable to the Alternate Energy Revolving Loan Program. The program encouraged the development of alternate energy production facilities and small hydro facilities within the State. New applications for loans ceased as of June 30, 2021, pursuant to 2021 Iowa Acts, Senate File 619, but the chapter continues to apply to outstanding loans. The updated chapter will be clearer and more concise throughout and omits language relating to the approval of new loans.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

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

Entities with outstanding loans through the program will bear the costs of the rulemaking.

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

Entities with outstanding loans through the program will benefit from the rulemaking.

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:**

Recipients of financial assistance may incur costs to comply with reporting and monitoring requirements of the program. Some recipients may choose to rely on an external service provider to complete these tasks, such as a consultant. The amount of the costs will vary depending on the compensation of staff or service providers involved.

- **Qualitative description of impact:**

The program encouraged the development of alternate energy production facilities and small hydro facilities within the State.

3. **Costs to the State:**

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

Authority staff time is required to administer outstanding loans and communicate with program recipients.

- **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:**

Only the entities that benefit from financial assistance bear the costs of the rulemaking. The costs to the State to administer the program are proportional to the activities supported by financial assistance.

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 or less intrusive methods for administering the program.

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?

The rulemaking impacts only small businesses that have received financial assistance. The rules regarding compliance and reporting requirements are no more stringent than necessary to implement the purposes of the program. The rules do not establish schedules or deadlines. The rules do not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Rescind 261—Chapter 405 and adopt the following **new** chapter in lieu thereof:

CHAPTER 405
ALTERNATE ENERGY REVOLVING LOAN PROGRAM

261—405.1(15) Definitions.

"Alternate energy production facility" means the same as defined in Iowa Code section 476.42.

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Board" means the governing board of the Iowa energy center established pursuant to Iowa Code section 15.120(2).

"Iowa energy center" or *"IEC"* means the Iowa energy center established by Iowa Code section 15.120.

"Project" means the construction of an alternate energy production facility or a small hydro facility.

"Small hydro facility" means the same as defined in Iowa Code section 476.42.

261—405.2(15) Loan amounts and terms.

405.2(1) The minimum loan amount is $25,000 per project, and the maximum loan amount shall not exceed the amount set forth in Iowa Code section 476.46(2)*"d."*

405.2(2) The board shall not lend more than 50 percent of eligible project costs.

405.2(3) Loan terms will be consistent with Iowa Code section 476.46(2)*"e."*

405.2(4) A borrower shall be eligible for not more than $1 million in loans outstanding at any time under this program.

405.2(5) The board shall not issue a loan that exceeds the value of the collateral provided.

405.2(6) The board will accept security for a loan. The following forms of collateral will be accepted:

a. Real property;

b. Dedicated certificate of deposit;

c. Irrevocable letter of credit;

d. Corporate guarantee;

e. Other forms of collateral if approved by the board and only if the forms of collateral listed in paragraphs 405.2(6)*"a"* through *"d"* are inadequate.

405.2(7) Term. The duration of the loan shall be for 20 years, the estimated useful life of the project that is financed by the loan, the terms of any other loans used to finance the project, or the estimated return on investment time period for the project, whichever is shortest.

261—405.3(15) Borrowers.

405.3(1) *Eligible borrowers.* The project shall be wholly owned by an eligible borrower. Eligible borrowers include:

a. Persons whose primary residence is in Iowa.

b. Businesses registered and domiciled in Iowa. For businesses organized as limited liability companies, each member of the limited liability company must be domiciled in Iowa and be an eligible borrower.

c. Water and wastewater utilities subject to Iowa Code chapter 388, rural water districts subject to Iowa Code chapters 357A and 504, and sanitary districts subject to Iowa Code chapter 358.

405.3(2) *Ineligible borrowers.* Ineligible borrowers include:

a. An organization that is lending to a project and also owns the project or is a member of an organization that owns the project.

b. An individual or an organization with a history of defaulted loans or compliance violations with other state programs or rules.

c. Regents institutions.

d. Community colleges.

e. State agencies.

f. Cities, but not water or wastewater utilities subject to Iowa Code chapter 388.

g. Counties.

h. School districts.

i. Nonprofit organizations.

j. Gas and electric utilities subject to Iowa Code chapter 388 or rural electric cooperatives subject to Iowa Code chapter 476.

261—405.4(15) Administration.

405.4(1) *Amendment.* Any substantive change to a project shall require an amendment to the loan agreement. The borrower shall request the amendment in writing. No substantive amendment shall be valid until approved by the board. The authority may execute nonsubstantive or corrective changes to the loan agreement without board approval.

405.4(2) *Closeout.* Upon project completion, the authority will initiate project closeout procedures.

405.4(3) *Recordkeeping and retention.* Borrowers shall retain all financial records, all supporting documents, and all other records pertinent to the loan for five years after the loan agreement is closed or the date the authority issues a written notice of default if the default is not cured.

405.4(4) *Reporting and compliance.* The authority reserves the right to conduct a site visit of all awarded projects to ensure the projects were built as proposed and to provide verification of ongoing operation. The authority will monitor all loans to ensure that loan proceeds have been spent as identified in the contract and that all other sources of financing have been committed to the project. Borrowers shall be required to notify the authority of any change in ownership.

405.4(5) *Default.*

a. At any time during the construction of a project or the repayment of the loan, the authority may find that a borrower is in default under the terms of the loan agreement. The authority will take prompt, appropriate, and aggressive debt collection action to recover any funds misspent by borrowers.

b. If the authority determines that a borrower is in default, the authority may seek recovery of the loan plus interest or other penalties as authorized pursuant to Iowa Code section 476.46, negotiate alternative payment schedules, suspend or discontinue collection efforts, and take other action as the authority deems necessary.

c. The authority shall attempt to collect the amount owed. Any negotiated settlement, write-off, or discontinuance of collection efforts is subject to final review by and approval of the board.

d. If the authority refers a defaulted loan to outside counsel for debt collection, then the terms of the contract between the authority and the outside counsel regarding the scope of counsel's authorization to accept settlements shall apply.

261—405.5(15) Applicability after June 30, 2021. To the extent allowed by other provisions of law, the rules adopted in this chapter shall continue to apply to agreements entered into on or before June 30, 2021.

These rules are intended to implement Iowa Code sections 15.120 and 476.46.