Regulatory Analysis

Notice of Intended Action to be published: 261—Chapter 406
"Energy Infrastructure Revolving Loan Program"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 15.120 and 476.46A
State or federal law(s) implemented by the rulemaking: Iowa Code section 426.46A

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:

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Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 406 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 provides loans for the development and construction of energy infrastructure. The updated chapter will be clearer and more concise throughout. Rule 261—406.6(15,476) currently lists feasibility studies, engineering, and final design as ineligible costs. The new rule regarding eligible and ineligible costs (261—406.5(15,476)) will not list those items as ineligible costs since they may be included as project costs under certain circumstances.

Analysis of Impact

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

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

Entities interested in applying for or receiving assistance through the program will bear the costs of the rulemaking.

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

Entities interested in applying for or receiving assistance 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:**

Entities interested in applying for financial assistance may require staff time to complete an application for financial assistance. Entities that receive funds may similarly incur costs to administer an award, including requests for disbursement. Some applicants or recipients may choose to rely on an

external service provider to complete these tasks. The amount of the costs will vary depending on the compensation of staff or service providers.

- **Qualitative description of impact:**

The program supports the development and construction of energy infrastructure.

3. **Costs to the State:**

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

Authority staff time is required to review and approve applications, draft and execute program contracts, disburse funds, and communicate with program applicants and 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 will potentially 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 methods 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 seeking financial assistance or 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 406 and adopt the following **new** chapter in lieu thereof:

CHAPTER 406
ENERGY INFRASTRUCTURE REVOLVING LOAN PROGRAM

261—406.1(15,476) Definitions.

"Affiliates" means any entity that directly or indirectly, through one or more intermediaries controls, is controlled by, or is under common control with another entity or person. "Control" as used in this definition means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an enterprise through ownership, by contract, or otherwise. A voting interest of 10 percent or more creates a rebuttable presumption of control.

"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).

"Borrower" means an applicant for the program that is approved for a loan.

"Energy infrastructure" means the same as defined in Iowa Code section 476.46A(3)*"a."*

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

"Loan" means an award of assistance with the requirement that the award be repaid with term, interest rate, and other conditions specified as part of the conditions of the award.

"Loan committee" means the committee of the board established to review loan applications pursuant to 261—Chapter 403.

"Program" means the energy infrastructure revolving loan program administered pursuant to Iowa Code section 476.46A and this chapter.

"Project" means an activity or set of activities, proposed in an application by a borrower, that are designed to accomplish the energy infrastructure goals of the program.

261—406.2(15,476) Loan amounts and terms.

406.2(1) The minimum loan amount is $50,000 per project.

406.2(2) The board shall not lend more than 75 percent of total project costs for any project type. For purposes of determining the amount the board may lend pursuant to this subrule, total project costs include eligible costs pursuant to subrule 406.5(1) as well as other costs determined by the board to be necessary to the development of energy infrastructure.

406.2(3) The board shall not issue a loan that exceeds the value of the collateral provided.

406.2(4) 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. Utility revenue or reserve funds, if applicable.

f. Other forms of collateral if approved by the board and only if the forms of collateral listed in paragraphs 406.2(4)*"a"* through *"e"* are inadequate.

406.2(5) The board may consider the borrower's credit rating in determining what form of collateral is acceptable.

406.2(6) The board may consider the projected payback date of the project in determining the duration of the loan, which shall not exceed 15 years.

406.2(7) The interest rate shall not exceed the Wall Street Journal prime rate as of the date of approval.

261—406.3(15,476) Eligible and ineligible borrowers.

406.3(1) *Eligible borrowers.* Iowa Code section 476.46A(2) describes the entities eligible for financial assistance under this program.

406.3(2) *Ineligible borrowers.* Ineligible borrowers include:

a. A business that is not located in or operating in Iowa. A business that will be located and operating in Iowa upon completion of an eligible project may be eligible.

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, except municipal utilities that are eligible borrowers pursuant to Iowa Code section 476.46A(2).

g. Counties.

h. School districts.

i. Nonprofit organizations.

261—406.4(15,476) Eligible and ineligible projects.

406.4(1) Only projects meeting the following criteria are eligible for a loan under this program:

a. The project shall be located in Iowa or be for the primary use or benefit of Iowans. If any portion of the project is located outside of Iowa, the applicant bears the burden of demonstrating that the project as a whole will be for the primary use or benefit of Iowans.

b. The project shall develop and construct energy infrastructure pursuant to Iowa Code section 476.46A(3)*"a."*

c. The borrower shall be the owner, contract purchaser, lessee, or other interest holder of the real property where the project is located.

406.4(2) A project that generates energy for use only at a borrower's personal residence is not an eligible project.

261—406.5(15,476) Eligible and ineligible costs.

406.5(1) *Eligible costs.* Examples of project costs that are eligible for financial assistance include but are not limited to:

a. Real and personal property comprising a project.

b. Materials and equipment required for necessary site preparation, construction, and installation.

c. Labor for site preparation, construction, and installation of a project.

d. Costs associated with maintenance, operation, or repair of a project during the term of the loan.

406.5(2) *Ineligible costs.* Examples of project costs that are not eligible for financial assistance include but are not limited to:

a. Administrative costs or employee salaries of the borrower or any affiliates that are not associated with site preparation, construction, and installation of a project.

b. Costs incurred prior to the committee's recommendation to approve a loan. Costs incurred prior to the committee's recommendation may be eligible for assistance if the borrower demonstrates the necessity to begin incurring costs sooner.

c. Permitting or regulatory costs.

d. Other costs that the board determines to be ineligible.

261—406.6(15,476) Application process.

406.6(1) Application forms are available at iowagrants.gov.

406.6(2) Applications will be accepted only during the established application periods identified by the authority on its website at www.opportunityiowa.gov.

406.6(3) The authority will review applications for completeness, eligibility, and technical and financial merit. The authority may engage outside reviewers to complete technical, financial, or other reviews of applications as needed. The authority may request additional information from applicants to complete review of applications.

406.6(4) The authority will prepare recommendations for the loan committee. The loan committee will review the applications and staff recommendations and then make recommendations to the board. The board will approve, defer, or deny applications for loans. The authority may negotiate the amount, terms, and other conditions of each loan before an award is approved.

261—406.7(15,476) Administration.

406.7(1) *Notice of approval or denial.* The authority will notify applicants in writing of the board's approval or denial of an application. If the application is approved, the notice will include any conditions and terms of the loan.

406.7(2) *Loan agreement.* A borrower shall enter into a loan agreement with the authority. The borrower will execute and return the loan agreement to the authority within 90 days of the transmittal of the final loan agreement from the authority. Failure to do so may be cause for the board to terminate the award.

406.7(3) *Disbursement of funds.* Borrowers shall submit requests for disbursement of funds in the manner proscribed by the authority.

406.7(4) *Amendment.* Any substantive change to the scope of work for a project or request to renegotiate loan terms shall require an amendment to the loan agreement. The borrower shall request amendments in writing. No substantive amendment shall be valid until approved by the board. The authority may execute nonsubstantive or ministerial changes to the loan agreement without board approval.

406.7(5) *Loan forgiveness.* The board may consider requests for loan forgiveness if the borrower demonstrates forgiveness is necessary to avoid a negative material impact on the project or potential default.

406.7(6) *Closeout.* Upon project completion, the authority will initiate project closeout procedures.

406.7(7) *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.

406.7(8) *Reporting and compliance.* The borrower shall complete all reports required by the loan agreement. The borrower shall submit any information reasonably requested by the authority in sufficient detail to permit the authority to prepare any reports required by the authority, the board, the general assembly or the governor's office. The authority reserves the right to conduct site visits 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 loan agreement and that all other sources of financing have been committed to the project.

406.7(9) *Default.*

a. At any time during the 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, 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.

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