

Red Tape Review Rule Report

(Due: September 1, 2025)

Department Name:	IEDA	Date:	8/20/25	Total Rule Count:	8
IAC #:	261	Chapter/ SubChapter/ Rule(s):	Chapter 406	Iowa Code Section Authorizing Rule:	15.120, 476.46A
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PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of chapter 406 is to describe the policies and procedures applicable to the energy infrastructure revolving loan program (program). The program provides loans for the development and construction of energy infrastructure.

Is the benefit being achieved? Please provide evidence.

Yes. The authority is able to effectively award and administer loans made under the program.

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

Entities interested in applying for the program may require staff time to complete an application to receive financial assistance. Recipients of financial assistance may similarly incur costs to comply with reporting and monitoring requirements of the program. Some applicants/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. The application and reports require minimal time to complete.

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

IEDA staff time is required to review and prepare applications for approval, draft and execute program contracts, disburse funds, review reports, and communicate with program applicants and recipients.

Do the costs justify the benefits achieved? Please explain.

Yes. Only entities that will potentially benefit from the program incur any costs. The costs to the state to administer the program are proportional to the activities incited.

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.

The application and administrative requirements of the rules are no more than necessary to implement the purposes of the program.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language?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.

Rule 406.1 should be updated to be clearer and more concise. A reference to 2021 Iowa Acts, Senate File 619 can be removed. A reference to a specific paragraph in 261—Chapter 403 that establishes the loan committee for the program should be replaced with a reference to that chapter as a whole.

Rule 406.2 should be rescinded.

Rule 406.3 should be updated to be clearer and more concise.

Rule 406.4 should be updated to omit language that duplicates statute.

Rule 406.5 should be updated to be clearer and more concise and to remove a reference to 2021 Iowa Acts, Senate File 619.

Rule 406.6 should be updated to remove feasibility studies and engineering and final design from the list of ineligible costs.

Rule 406.7 should be updated to be clearer and more concise. An outdated reference to IEDA's website should be updated.

Rule 406.8 should be updated to be clearer and more concise. The rule should require borrowers to retain records for five years, instead of three, for consistency with other Iowa Energy Center programs.

The implementation sentence should be updated to remove a reference to 2021 Iowa Acts, Senate File 619.

Rules throughout the chapter should be renumbered due to the rescission of rule 406.2.

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

405.2

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

CHAPTER 406
ENERGY INFRASTRUCTURE REVOLVING LOAN PROGRAM

261—406.1(15,476) Definitions.

“*Affiliates*” means any entity which 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” to “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) Record keeping and retention. Borrowers shall retain all financial records, 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 section 15.120 and Iowa Code section 476.46A.

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

METRICS

Total number of rules repealed:

1

Proposed word count reduction after repeal and/or re-promulgation	293
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	6

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

No.