

Red Tape Review Rule Report (Due: September 1, 2025)

Department Name:	IEDA	Date:	8/27/25	Total Rule Count:	12
IAC #:	261	Chapter/ SubChapter/ Rule(s):	Chapter 65	Iowa Code Section Authorizing Rule:	Chapter 15, subchapter II, part 9
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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 65 is to describe the policies and procedures applicable to redevelopment tax credits available pursuant to Iowa Code chapter 15, subchapter II, part 9 as amended by 2025 Iowa Acts, Senate Files 657 and 975. The program provides tax credits for the acquisition, remediation, or redevelopment of brownfield and grayfield sites.

Is the benefit being achieved? Please provide evidence.

Yes. The authority is able to effectively award tax credits and administer the program.

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

Entities interested in applying for tax incentives may require staff time to complete an application. Entities that receive tax incentives may similarly incur costs to comply with reporting and monitoring requirements of the program. Some applicants and 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 involved.

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, issue tax credit certificates, review reports, and communicate with program applicants and recipients.

Do the costs justify the benefits achieved? Please explain.

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

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Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language?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 65.1 is unnecessary and can be rescinded.

Rule 65.2 should be updated to eliminate language that duplicates statute and unnecessary definitions.

Rule 65.3 should be updated to be more concise and to remove outdated references to the brownfield redevelopment program. The program was repealed by 2025 Iowa Acts, Senate File 875. New subrules should be added to address applicant types and violations of law.

Rule 65.4 should be updated to remove outdated and unnecessary references due to the repeal of the brownfield redevelopment program.

Rules 65.5, 65.6 and 65.7 are unnecessary due to the repeal of the brownfield redevelopment program and can be rescinded.

Rule 65.8 should be updated to eliminate language that duplicates statute and for clarity. The attestation applicable to the examination required pursuant to Iowa Code section 15.293B(5) as amended by 2025 Iowa Acts, Senate File 975 should be specified.

Rule 65.9 is unnecessary due to the repeal of the brownfield redevelopment program and can be rescinded.

Rule 65.10 should be updated to eliminate language that duplicates statute and for clarity.

Rule 65.11 should be updated to eliminate language that duplicates statute and for clarity.

Rule 65.12 is unnecessary and can be rescinded.

Rules throughout the chapter should be renumbered due to the elimination of other rules.

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

65.1
65.5

65.6
65.7
65.9
65.12

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

CHAPTER 65
REDEVELOPMENT TAX CREDITS PROGRAM

261—65.1(15) Definitions. As used in this chapter, unless the context otherwise requires:

“*Acquisition*” means the purchase of brownfield or grayfield property.

“*Affiliate*” or “*affiliated entity*” means any entity to which one or more of the following applies:

1. The entity directly, indirectly, or constructively controls another entity.
2. The entity is directly, indirectly or constructively controlled by another entity.
3. The entity is subject to the control of a common entity. A common entity is one which owns directly or individually more than 10 percent of the voting securities of the entity.

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Board*” means the same as defined in Iowa Code section 15.102.

“*Brownfield site*” means the same as defined in Iowa Code section 15.291.

“*Grayfield site*” means the same as defined in Iowa Code section 15.291.

“*Previously remediated or redeveloped site*” means a site at which prior remediation or redevelopment has occurred, including development for which an award of tax credits under this chapter has been made, and identified by the authority pursuant to the criteria in subrule 65.2(2).

“*Program*” means the redevelopment tax credits program administered pursuant to Iowa Code chapter 15, subchapter II, part 9 and this chapter.

“*Qualifying investment*” the same as defined in Iowa Code section 15.291.

“*Qualifying investor*” means an applicant who has been approved by the authority to receive a redevelopment tax credit.

“*Qualifying redevelopment project*” means the same as defined in Iowa Code section 15.291.

“*Redevelopment*” means construction or development activities associated with a qualifying redevelopment project that are undertaken either for the purpose of constructing new buildings or improvements at a site where formerly existing buildings have been demolished or for the purpose of rehabilitating, reusing or repurposing existing buildings or improvements. Redevelopment typically includes projects that result in the elimination of blighting characteristics as defined by Iowa Code section 403.2.

“*Remediation*” includes characterization, risk assessment, removal and cleanup of environmental contaminants located on and adjacent to a brownfield site in compliance with appropriate Iowa department of natural resources requirements and guidelines.

261—65.2(15) Eligibility. To be eligible for the program, an applicant must meet the criteria for eligibility in Iowa Code chapter 15, subchapter II, part 17 as amended by 2025 Iowa Acts, Senate File 657 and this rule.

65.2(1) Site Control. The applicant must own the brownfield site or grayfield site or the applicant must have an agreement with the owner of a brownfield site or grayfield site, prior to applying for tax credits. The agreement will include:

- a. The total cost for remediating the site.
- b. Agreement that the owner shall transfer title of the property to the applicant upon completion of the remediation of the property. Title transfer is not required when the applicant is the owner of the property and no title transfer occurs.
- c. Agreement that upon the subsequent sale of the property by the applicant to a person other than the original owner, the original owner shall receive not more than 75 percent of the estimated total cost of the remediation, acquisition or redevelopment.

65.2(2) Previously remediated or redeveloped sites. The authority will determine whether a project constitutes subsequent redevelopment at the same site as a previously remediated or redeveloped site by considering factors including but not limited to:

- a. Whether the redevelopment described in multiple proposed projects is planned for a single parcel.
- b. Whether the redevelopment described in multiple proposed projects is planned for adjacent or contiguous parcels or parcels in very close physical proximity.
- c. Whether all involved parcels are owned by the same entity, different entities, or affiliated entities.
- d. Whether a proposed project is the result of the same planning process as another project.
- e. Whether the proposed projects are being developed by the same entity, different entities, or affiliated entities.
- f. Whether the development of one proposed project occurs at or near the same time as another proposed project.

65.2(3) Leaking underground storage tanks. A project that includes remediation of contaminants being addressed

under Iowa's leaking underground storage tank (UST) program is not eligible for the program unless other nonpetroleum contaminants or petroleum substances not addressed under 567—Chapter 135 are present.

65.2(4) *Violations of law.* The authority will determine whether the applicant has a record of violations of law that that over a period of time tends to show a consistent pattern or that establishes intentional, criminal, or reckless conduct in violation of such laws. An applicant with such a record of violations of the law shall be ineligible for the program.

261—65.3(15) Limitations on qualifying investment. For the purposes of identifying qualifying investment for the purposes of the program, the following shall not be included:

1. The portion of the total cost of a project that is financed by federal, state, or local government tax credits, grants, forgivable loans, or other forms of financial assistance that do not require repayment, excluding the tax incentives provided under the program.
2. Any costs, including acquisition costs, incurred before the project is approved by the board.
3. Building permits, building inspection fees, furnishings, appliances, accounting services, legal services, loan origination and other financing costs including interest on construction loans, syndication fees and related costs, developer fees, or the costs associated with selling or renting the property whether incurred before or after completion of the project.

261—65.4(15) Application—registration of projects—agreements.

65.4(1) *Application.*

a. Applications for redevelopment tax credits will only be accepted during the annual application period established by the authority.

b. An investor applying for a tax credit shall provide the authority with all of the following:

- (1) The total costs of the qualifying redevelopment project, including the costs of land acquisition, cleanup, and redevelopment.
- (2) The financing sources of the investment which are directly related to the qualifying redevelopment project for which the investor is seeking approval for a tax credit, as provided in this chapter.
- (3) Any other information deemed necessary to review and score the application pursuant to this rule.

65.4(2) *Scoring.* Each complete and eligible application will be reviewed and scored by the authority pursuant to Iowa Code section 15.293B(1) “f” as amended by 2025 Iowa Acts, House File 975. Review criteria may include but are not limited to, project need, project readiness, financial capacity, and project impact.

65.4(3) *Registration.* The authority will make tax credit award recommendations and register projects pursuant to Iowa Code section 15.293B(1) “e” as amended by 2025 Iowa Acts, House File 975.

65.4(6) *Approval.* Tax credit awards and amounts of tax credit awards are subject to approval by the board pursuant to 15.293B(1) “e” as amended by 2025 Iowa Acts, House File 975. Awards may be conditioned upon commitment of other sources of funds necessary to complete the activity.

65.4(4) *Agreement.*

a. The agreement entered pursuant to Iowa Code section 15.293B(3) will identify the tax credit amount, the award date, the project completion deadline, the qualifying investment and the total costs of the project.

b. The qualifying investor must execute and return the agreement to the authority within 90 days of transmittal of the final agreement from the authority. Failure to do so may be cause for the board to terminate the award.

c. Agreement amendments must comply with Iowa Code chapter 15, subchapter II, part 9, as amended by 2025 Iowa Acts, Senate File 657, and this chapter. Qualifying investors may submit requests for amendments to authority staff.

(1) Except as provided in paragraph 65.4(4)“b,” requests to amend an agreement must be approved by the board.

(2) The board may designate authority staff with authority to approve nonsubstantive changes, including but not limited to the following:

1. Recipient name, address and similar changes.
2. Line-item budget changes that do not reduce overall total project costs or qualifying investment.
3. Extension of a project completion deadline of up to 12 months.

d. Noncompliance with the agreement may result in revocation of all or a portion of the tax credit award pursuant to Iowa Code section 15.293B(3).

65.4(5) *Reports.* Qualifying investors 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.

65.4(6) *Project completion.* The project completion deadline may be extended pursuant to Iowa Code section 15.293B(4). The authority may for good cause within the discretion of the authority extend a qualifying investor's

completion deadline by up to 12 months upon application by the qualifying investor, which application shall be made prior to the expiration of the completion deadline in the manner and form prescribed by the authority. The authority may approve a second extension of up to 12 months if prior to the expiration of the first 12-month extension the qualifying investor applies and substantiates to the satisfaction of the authority that the second extension is warranted due to extenuating circumstances outside the control of qualifying investor.

65.4(6) CPA examination. The attestation applicable to the examination required pursuant to Iowa Code section 15.293B(5) as amended by 2025 Iowa Acts, House File 975 is SSAE No. 10 (as amended by SSAE Nos. 11, 12, 14), AT section 101 and AT section 601 or other comparable attestations identified by the authority. The procedures used by the CPA to conduct the examination should allow the CPA to conclude that, in the CPA's professional judgment, the expenditures claimed are eligible pursuant to the agreement; Iowa Code chapter 15, subchapter II, part 9; and all rules adopted pursuant to Iowa Code chapter 15, subchapter II, part 9, in all material respects. Within ten business days of a request by the authority, the qualifying investor shall make available to the authority the documents reviewed by the CPA unless good cause is shown.

261—65.5(15) Redevelopment tax credit.

65.5(1) Tax credit certificate.

a. Issuance. The authority may issue a redevelopment tax credit certificate upon completion of the project and submittal of proof of completion by the qualifying investor, including the CPA attestation required pursuant to Iowa Code section 15.293B(5) as amended by 2025 Iowa Acts, House File 975 and as described in subrule 65.4(6).

b. Claims. To claim a tax credit under this rule, a qualifying investor shall file a claim with the department of revenue pursuant to the applicable rules adopted by the department of revenue. A tax credit certificate shall not be used or included with a return filed for a taxable year beginning prior to the tax year listed on the certificate. The tax credit certificate or certificates included with the qualifying investor's tax return shall be issued in the qualifying investor's name, expire on or after the last day of the taxable year for which the qualifying investor is claiming the tax credit, and show a tax credit amount equal to or greater than the tax credit claimed on the qualifying investor's tax return.

c. Transfer. Tax credit certificates issued under this rule may be transferred to any person or entity to the extent allowed by Iowa Code section 15.293A(2) "d" and any applicable rules adopted by the department of revenue.

65.5(2) Tax credit amount and limitations.

a. The amount of the tax credit shall equal the applicable percentage of the qualifying investor's qualifying investment specified in Iowa Code section 15.293A(3).

b. The maximum amount of tax credits the board may award in any one fiscal year is specified in Iowa Code section 15.293A(6) as amended by 2025 Iowa Acts, Senate File 657.

65.5(2) Tax credit carryover. If the maximum amount of tax credits available has not been issued at the end of the fiscal year, the remaining tax credit amount may be carried over to a subsequent fiscal year or the authority may prorate the remaining credit amount among other eligible applicants.

These rules are intended to implement Iowa Code chapter 15, subchapter II, part 9 as amended by 2025 Iowa Acts, Senate File 657 and 2025 Iowa Acts, House File 975.

***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	1992
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	66

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

No.