

IOWA UTILITIES BOARD

IN RE: REVIEW OF UTILITY RECORDS [199 IOWA ADMINISTRATIVE CODE CHAPTER 18]	DOCKET NO. RMU-2023-0018
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ORDER OPENING DOCKET AND SETTING TECHNICAL CONFERENCE AND COMMENT DEADLINE

On January 10, 2023, Gov. Kim Reynolds issued Executive Order Number 10 (Executive Order), which put a moratorium on agency rule making and directed agencies, including the Utilities Board (Board), to engage in a comprehensive evaluation of existing rules. The goals of the Executive Order include increasing public input in the rule-making process, eliminating rules that do not provide substantial benefits to Iowans, reducing the page and word count of the Iowa Administrative Code, and reducing restrictive language. As part of the comprehensive review, agencies are required to repeal each rules chapter and evaluate whether the chapter, or a portion of the chapter, should be re-promulgated. To assist agencies in performing their comprehensive reviews, the Iowa Department of Management developed and published forms and processes. (See <https://dom.iowa.gov/resource/red-taperulemaking-processes/executive-order-10-rulemaking-processes> (last accessed on June 14, 2023).)

Pursuant to the Executive Order, the Board is conducting comprehensive reviews of each chapter of its administrative rules, and the Board will open the above-captioned docket for purposes of conducting a comprehensive review of chapter 18, which

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contains the Board's Utility Records rules. Attached to this order as Attachment A is the Board's retrospective analysis (Red Tape Review Rule Report) of chapter 18, which the Board will direct staff to publish on the Board's website as required by section III.B of the Executive Order. Attached to this order as Attachment B is the Board's draft regulatory analysis of chapter 18, which the Board will direct staff to submit in the legislative Rules Management System for publication in the Iowa Administrative Bulletin. Finally, attached to this order as Attachment C is a draft version of chapter 18 that the Board is evaluating whether to re-promulgate.

Most of the current proposed changes to chapter 18 center on the removal of unnecessary and restrictive language. The proposed version of chapter 18 attached to this order would result in the reduction of 169 words and the elimination of 29 restrictive terms.

The Board is also scheduling a technical conference for September 13, 2023. The technical conference will be led by Board staff, and participation may occur in person or by webinar. The purpose of the technical conference is to receive comments regarding the draft regulatory analysis and the proposed version of chapter 18 to be re-promulgated. Additionally, the Board will accept written comments concerning the regulatory analysis and the proposed re-promulgated version of chapter 18 through September 13, 2023. The Board will use the oral and written comments received to prepare a final version of the regulatory analysis, which will be uploaded in this docket and published on the Board's website.

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IT IS THEREFORE ORDERED:

1. Docket No. RMU-2023-0018 is opened for the purpose of conducting a comprehensive review of 199 Iowa Administrative Code chapter 18 pursuant to Executive Order Number 10.

2. A technical conference is set for 9 a.m. September 13, 2023, in the Utilities Board hearing room, located at 1375 East Court Avenue, Des Moines, Iowa. Interested persons may appear in person or by webinar. Information for attending by webinar can be found on the Utilities Board's website on the Hearing and Meeting Calendar webpage.

3. Comments regarding the draft regulatory analysis or the proposed re-promulgated version of chapter 18 shall be filed by 3:30 p.m. September 13, 2023.

UTILITIES BOARD

Erik M. Helland Date: 2023.07.25
12:35:49 -05'00'

Joshua Byrnes Date: 2023.07.25
14:40:46 -05'00'

ATTEST:

Keetah Horras 2023.07.25
15:02:49 -05'00'

Sarah Martz Date: 2023.07.25
11:28:19 -05'00'

Dated at Des Moines, Iowa, this 25th day of July, 2023.

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

Department Name:	Iowa Utilities Board	Date:	July 11, 2023	Total Rule Count:	7
IAC #:	199	Chapter/ SubChapter/ Rule(s):	chapter 18	Iowa Code Section Authorizing Rule:	Iowa Code sections 476.31 and 546.7
Contact Name:	Kerri Russ	Email:	kerri.russ@iub.iowa.gov	Phone:	515-725-7331

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of this chapter is to ensure the Board has a methodology to review any necessary records that may pertain to the rules or policies of rate-regulated public utilities and the rates or charges for utility service. As the Board regulates different industries and within the different industries, there may be different levels of regulation or oversight.

Each industry has specific records that need to be maintained and preserved; therefore, it is important to have the information public that shows exactly what the Board expects each industry and utility type to retain.

Is the benefit being achieved? Please provide evidence.

Yes. With the information being contained within chapter 18, it is publicly available and easily accessible. Additionally, it explicitly provides what certain information is required to be kept at the utility's principal office and may also be available by the Board's electronic filing system or IUB 24/7 interface.

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

There are no direct costs incurred by the public to comply with this chapter. Viewing information on the Board's electronic filing system is free as far as direct costs; however, there would be the indirect costs associated with having a computer, smartphone, tablet, etc., and a phone or internet connection to access the website.

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

There are no additional costs beyond the everyday costs of the agency to implement or enforce this rule. There are no costs to any other agency.

Do the costs justify the benefits achieved? Please explain.

Yes, the costs justify the benefits achieved. For the Board to ensure rates and charges are just and reasonable, there needs to be a method to review the information, and this chapter allows for that. As there are no additional costs to the agency or the state, the costs justify the benefits.

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 records required to be maintained by the utility are records that should be maintained as part of doing business; therefore, there are no less restrictive alternatives.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or un-necessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Rules 18.1-18.7 were modified to remove restrictive language and update outdated language.

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

None at this time.

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

CHAPTER 18
UTILITY RECORDS

199—18.1(476) Definitions. The following words and terms, when used in this chapter, have the meanings shown below:

“*FCC rules*” are the rules and regulations of the Federal Communications Commission under the Communications Act of 1934 as published in the Code of Federal Regulations (CFR).

“*FERC rules*” are the rules and regulations of the Federal Energy Regulatory Commission under the Federal Power Act and Natural Gas Act as published in the CFR.

“*NARUC guidelines*” are the guidelines published by the National Association of Regulatory Utility Commissioners.

“*RUS rules*” are the rules and regulations of the Rural Utilities Service, 7 CFR Part 1767, of the United States Department of Agriculture applicable to electric and telephone borrowers of the RUS under the terms of their mortgages to the RUS.

199—18.2(476) Location of records. All records kept pursuant to any rules of the board, or necessary for the administration thereof, are to be kept or made accessible within this state unless otherwise authorized by the board, including:

18.2(1) The utility’s tariffs.

18.2(2) A record of the telephone number and business location of the utility’s administrative, technical, and operating personnel within the state.

18.2(3) The most recent inspection report.

18.2(4) The most recent rate case filing.

18.2(5) Annual reports for the past five years.

18.2(6) Shareholder’s reports for the past five years.

18.2(7) Form IG-1 (gas utilities).

18.2(8) Form IE-1 (electric utilities).

18.2(9) Information regarding the location of other books, records, and accounts to be maintained or made accessible pursuant to statute or rule.

199—18.3(476) Availability of records. All records kept pursuant to any rules of the board which are of a general corporate nature or otherwise pertain to the utility’s operations as a whole, are to be made available for examination by the board at the utility’s principal place of business within this state during normal business hours, unless otherwise authorized by the board. However, any records that pertain to the utility’s operations in only a specific location or geographic region, and which are customarily kept at a local office of the utility at that location or within that region, may be made available at that local office. The board may instruct a utility to notify the board of the nature of records kept at a local office and the locations of the offices.

Upon receipt by a utility of a formal request in writing from the board for records or information pertaining to records required by any board rule, the utility is to provide the requested information to the board within 15 days of receiving the written request from the board unless the utility files an objection to the request or a request for an extension of time within seven days of the utility’s receipt of the information request. The objection or request for extension of time is to be filed in writing and state the concise grounds for relief. If the board finds that the objection or request for

extension of time does not have merit, the information originally requested is to be provided immediately upon receiving notice of the board's decision.

199—18.4(476) Electric utilities other than rural electric cooperatives.

18.4(1) *Units of property.* Electric utilities subject to rate regulation are to maintain an accounting system for Units of Property in Accounting for Additions and Retirements of Electric Plant in accordance with 199—16.2(476).

18.4(2) *Preservation of records.* All electric utilities subject to regulation by the board are to preserve the records of their operations in accordance with the provisions of Part 125 of the FERC rules, 18 CFR Part 125, Preservation of Records of Public Utilities and Licensees, as issued on August 15, 2000. Rate-regulated companies further ensure the preservation of records of associated companies, whether or not the associated companies are themselves utilities, as necessary to support the cost of services rendered to the utility by the associated companies.

199—18.5(476) Rural electric cooperatives.

18.5(1) *Units of property.* Rural electric cooperatives (RECs) subject to rate regulation by the board are to adopt the RUS rules contained in RUS 7 CFR Part 1767 published May 27, 2008. The REC is to maintain sufficient records to support additions to plant, retirement units, and replacements of electric plant, in accordance with 7 CFR Part 1767.10, Definitions; 7 CFR Part 1767.15, General Instructions; 7 CFR Part 1767.16, Electric Plant Instructions; and 7 CFR Part 1767.20, Plant Accounts.

18.5(2) *Preservation of records.* RECs are to preserve the records of their operations in accordance with the provisions of the RUS rules contained in RUS Bulletin 180-2, Record Retention Recommendations for RUS Electric Borrowers, issued June 26, 2003.

199—18.6(476) Gas utilities.

18.6(1) *Units of property.* Gas utilities subject to rate regulation are to maintain an accounting system for Units of Property in Accounting for Additions and Retirements of Gas Plant in accordance with 199—16.3(476).

18.6(2) *Preservation of records.* All gas utilities subject to regulation by the board are to preserve the records of their operations in accordance with the provisions of FERC rules, 18 CFR Part 225, Preservation of Records of Natural Gas Companies. Rate-regulated companies further ensure the preservation of records of associated companies, whether or not the associated companies are themselves utilities, as necessary to support the cost of services rendered to the utility by the associated companies.

199—18.7(476) Water, sanitary sewage, and storm water drainage utilities.

18.7(1) *Units of property.* Water, sanitary sewage, and storm water drainage utilities subject to rate regulation are to maintain an accounting system for Units of Property in Accounting for Additions and Retirements of Water Plant in accordance with 199—16.4(476).

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rendered to the utility by the associated companies.

These rules are intended to implement Iowa Code sections 476.31 and 546.7.

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

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	169
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	29

ARE THERE ANY RULES YOU WOULD RECOMMEND BE CODIFIED IN STATUTE?

Not at this time.

Regulatory Analysis

TEXT BOXES WILL EXPAND AS YOU TYPE

Agency Name Iowa Utilities Board **Rule #** Chapter 18

Iowa Code Section Authorizing Rule Iowa Code sections 476.31 and 546.7

State or Federal Law(s) Implemented by the Rule Iowa Code sections 476.31 and 546.7

Public Hearing

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

Date/Time: 09/13/2023 9 a.m.

Location: Iowa Utilities Board Hearing Room, 1375 E. Court Ave., Des Moines, IA 50319

Any interested person may submit written comments concerning this regulatory analysis. Written comments in response to this regulatory analysis must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Contact Name

Kerri Russ

Address

1375 E. Court Ave., Des Moines, IA 50319

Email and/or phone number

kerri.russ@iub.iowa.gov/515-725-7331

Purpose and summary of proposed rule:

The purpose of this chapter is to ensure the Board has a methodology to review any necessary records that may pertain to the rules or policies of rate-regulated public utilities and the rates or charges for utility service.

Analysis of Impact of Proposed Rule

1. Persons affected by the proposed rule

- Classes of persons that will bear the costs of the proposed rule:

Electric, gas, water, sanitary sewage, and storm water drainage utilities.

- Classes of persons that will benefit from the proposed rule:

Regulatory Analysis

Customers of electric, gas, water, sanitary sewage, and storm water drainage utilities. Public utilities that are provided notice of the specified requirements.

2. Impact of the proposed rule, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred

- Quantitative description of impact:

This is part of the everyday work to the Board so there is no additional impact to the Board, economic or otherwise. The utilities may have costs due to the record retention requirements.

- Qualitative description of impact:

This chapter ensures that utilities have accurate and detailed information if needed by the Board to be able to review any concerns within the Board's jurisdiction.

3. Costs to the state

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

There are no additional costs to any agency other than the normal every day costs of operation of the Board.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rule to the costs and benefits of inaction

There is a benefit in ensuring the utilities are compliant in retaining necessary records to allow the Board to function as the utility regulator with regards to issues within its jurisdiction. For administering this chapter, there is minimal costs involved. Inaction could make it more difficult for the Board to determine where to locate necessary documentation.

5. Determination if less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule

The Board does not believe there are any less costly methods of addressing the purpose of this rule.

6. Alternative methods considered by the agency

- Description of any alternative methods that were seriously considered by the agency:

Inaction.

- Reasons why they were rejected in favor of the proposed rule:

Inaction is not feasible due to a statutory mandate requiring the Board adopt rules and policies.

Regulatory Analysis

Small Business Impact

If the rule 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 rule on small business:

- Establish less stringent compliance or reporting requirements in the rule for small business.
- Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small business.
- Consolidate or simplify the rule's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rule for small business.
- Exempt small business from any or all requirements of the rule.

If legal and feasible, how does the rule use a method discussed above to reduce the substantial impact on small business?

There is not a substantial impact on small businesses.

Text of Proposed Rule:

Regulatory AnalysisCHAPTER 18
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