

IOWA UTILITIES BOARD

IN RE: EXECUTIVE ORDER 10 — REVIEW OF RULE MAKING RULES [199 IOWA ADMINISTRATIVE CODE CHAPTER 3]	DOCKET NO. RMU-2023-0003
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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 Iowa 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 rule language. As a 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-tape-rulemaking-processes/executive-order-10-rulemaking-processes> (last accessed on July 18, 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 3, which contains

DOCKET NO. RMU-2023-0003

PAGE 2

the Board's Rule Making rules. Attached to this order as Attachment A is the Board's retrospective analysis (Red Tape Review Rule Report) of chapter 3, which the Board will 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 3, which the Board will 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 3 that the Board is evaluating whether to re-promulgate. The draft regulatory analysis attached to this order as Attachment B will be submitted to the Administrative Rules Code Editor for review and publication in the Iowa Administrative Bulletin and may contain changes from the version attached to this order.

The Board is also scheduling a technical conference for October 4, 2023. 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 3 to be re-promulgated. Additionally, the Board is accepting written comments concerning the regulatory analysis and the proposed re-promulgated version of chapter 3 through October 4, 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.

IT IS THEREFORE ORDERED:

1. Docket No. RMU-2023-0003 is opened for purposes of conducting a comprehensive review of 199 Iowa Administrative Code chapter 3 pursuant to Executive Order Number 10.

DOCKET NO. RMU-2023-0003

PAGE 3

2. A technical conference is set for 9 a.m. October 4, 2023, in the Utilities Board hearing room, located at 1375 E. Court Ave., 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 page.

3. Comments regarding the draft regulatory analysis or the proposed re-promulgated version of chapter 3 shall be filed by October 4, 2023.

UTILITIES BOARD

Erik M. Helland 2023.07.31
10:06:13 -05'00'

Joshua Byrnes Date: 2023.07.29
09:58:31 -05'00'

ATTEST:

Kerrilyn Russ 2023.08.01
07:47:11 -05'00'

Dated at Des Moines, Iowa, this 1st day of August, 2023.

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

Department Name:	Iowa Utilities Board	Date:	July 25, 2023	Total Rule Count:	11 rules in Chapter 3
IAC #:	199	Chapter/ SubChapter/ Rule(s):	199 IAC chapter 3	Iowa Code Section Authorizing Rule:	Iowa Code §§ 17A.3(1)“b,” 474.5, and 476.2
Contact Name:	Matt Oetker	Email:	matt.oetker@iub.iowa.gov	Phone:	515-725-7349

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of Chapter 3 is to inform the public of the Iowa Utilities Board’s (IUB) rule making practices and to describe the IUB’s rule making procedures as required by § 17A.3(1)“b.”

Is the benefit being achieved? Please provide evidence.

The agency believes Chapter 3 benefits the public by describing the IUB’s rule making procedures. Further, Chapter 3 constitutes the agency’s compliance with Iowa Code § 17A.3(1)“b,” which requires all agencies, including the IUB, to adopt rules of practice for all formal and informal proceedings.

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

The public may incur a cost if they wish to participate or petition to initiate an IUB rulemaking. However, any such costs associated with a rule making are more directly attributable to the underlying rule making as opposed to the Chapter 3 rules.

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

Chapter 3 does not impose any additional costs to the agency beyond the salary of the employees who work on agency rule makings, which are more directly the cause of the underlying rule making as opposed to the Chapter 3 rules.

Do the costs justify the benefits achieved? Please explain.

Because the public benefit from being informed of the IUB’s rule-making procedures and because Chapter 3 does not directly impose costs, the benefits outweigh the costs.

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.

Chapter 3 informs the public of the availability of information needed, which may assist Iowans in participating or initiating IUB rule-making proceedings, making the process more efficient and streamlined.

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]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

Yes. The agency intends to remove previously rescinded rules 3.5 and 3.6. Additionally, the agency intends to remove unnecessary, duplicative, or restrictive language in current rules 3.1, 3.3, 3.4, 3.7, 3.8, 3.9, and 3.11.

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

Rule 3.5
Rule 3.6
Rule 3.7
Rule 3.10
Rule 3.11

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

CHAPTER 3
RULE MAKING

199—3.1(17A,474) Purpose and scope.

3.1(1) Scope. These rules govern the practice and procedure in all rule-making proceedings of the board.

3.1(2) Rules of construction. If any provision of a rule or the application of a rule to any person or circumstance is itself or through its enabling statute held invalid, the invalidity does not affect other provisions or applications of the rule that can be given effect without the invalid provision or application, and to this end the provisions of the rule are severable.

199—3.2(17A,474) Initial stakeholder input. In addition to seeking information by other methods, the board may solicit comments from the public on the subject matter of possible rule making by issuing an order through its electronic filing system or by causing notice of the subject matter to be published in the Iowa Administrative Bulletin, indicating where, when, and how persons may comment.

199—3.3(17A,474) Petition for adoption of rules.

3.3(1) Petitions. Any interested person may petition the board for the adoption, amendment, or repeal of a rule and the provisions of Iowa Code section 17A.7 govern.

3.3(2) Stakeholder comments. Other interested persons may file written comments containing data, views, or arguments concerning the petition within 20 days of the filing of the petition. Reply comments may be filed within 27 days of the filing of the petition. The board may allow additional time for filing comments and reply comments at its discretion.

199—3.4(17A,474) Commencement of proceedings. Rule-making proceedings are commenced upon written order of the board.

199—3.5(17A,474) Rule-making oral presentation.

3.5(1) Requests. If an oral presentation is not scheduled by the board, any interested person may file a request for an oral presentation.

3.5(2) Written appearance. Any interested person may participate in rule-making oral presentations in person or by counsel.

3.5(3) Oral presentations. Participants in rule-making oral presentations may submit exhibits and present oral statements of position, which may include data, views, comments, or arguments concerning the proposed adoption, amendment, or repeal of the rule. Oral statements are not made under oath and are not subject to cross-examination.

3.5(4) Comments and limitations. The board may, in its discretion, permit reply comments and request the filing of written comments subsequent to the adjournment of the oral presentation. The board may limit the time of any oral presentation and the length of any written presentation.

199—3.6(17A,474) Rule-making decisions.

3.6(1) Adoption, amendment, or repeal. The board may, by written order, adopt, amend, or repeal the rule pursuant to the rule-making proceeding, or dismiss the proceeding in accordance with Iowa Code section 17A.4. The board may, by order, specify the effective date of the adoption, amendment, or repeal of the rule.

3.6(2) Variance between adopted rule and proposed rule. The board may adopt a rule that differs from the rule proposed in the Notice of Intended Action.

3.6(3) Rule-making Statement. An interested person may request the board issue a rule-making statement pursuant to the requirements of Iowa Code section 17A.4(2).

These rules are intended to implement Iowa Code sections 17A.4 through 17A.7 and 476.2.

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

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	1,335
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	37

ATTACHMENT A

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

No.

ATTACHMENT B

Draft Regulatory Analysis

TEXT BOXES WILL EXPAND AS YOU TYPE

Agency Name Iowa Utilities Board

Rule # 199 IAC chapter 3

Iowa Code Section Authorizing Rule Iowa Code §§ 17A.4, 476.2

State or Federal Law(s) Implemented by the Rule Iowa Code § 17A.4

Public Hearing

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

Date/Time: October 4, 2023, at 9 a.m.

Location: Iowa Utilities Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa 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

Matt Oetker

Address

1375 E. Court Avenue, Des Moines, Iowa 50319

Email and/or phone number

Matt.oetker@iub.iowa.gov

Purpose and summary of proposed rule:

To inform the public of Iowa Utilities Board's (IUB) practice and procedures in rule-making proceedings.

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:

Persons participating or initiating board rule-making proceedings may incur costs associated with such activity and agency will incur normal operating costs for those proceedings. However, the costs are more directly attributable to the rule making itself as opposed to the chapter 3 rules.

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

Iowans, especially pro se Iowans, who wish to request IUB rule-making action or who wish to participate in IUB rule-making proceedings.

Draft Regulatory Analysis

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:

These rules are intended to assist the public wishing to initiate or participate in IUB rule-making proceedings by describing and detailing the rules governing such participation. While there may be costs incurred by the public in participating in IUB rule-making proceedings, those costs are more directly caused by the nature and course of the underlying rule-making proceeding.

- Qualitative description of impact:

Chapter 3 has some level of qualitative impact because it assists Iowans who may wish to initiate or participate in an IUB rule-making proceeding.

3. Costs to the state

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

Because chapter 3 merely provides information, there are no costs to the public unless the public chooses to initiate or participate in an IUB rule making. Chapter 3 does not impose any additional costs to the agency beyond the salary of the employees who work on agency rule makings, which are more directly the cause of the underlying rule making as opposed to the chapter 3 rules.

- Anticipated effect on state revenues:

The Board does not anticipate an effect on state revenues.

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

The agency believes that the benefits of providing information regarding the IUB rule-making process outweighs any costs that chapter 3 may indirectly impose. Inaction is not advised because it would disadvantage members of the public who wished to participate in IUB rule-making proceedings but were not familiar with the Iowa Code chapter 17A rule-making process.

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

Because chapter 3 imposes no direct costs, the agency does not believe there is a less costly or intrusive method.

6. Alternative methods considered by the agency

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

Inaction was considered by the Board.

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

Draft Regulatory Analysis

As stated above, inaction is not advisable because there is value provided in informing the public about the IUB’s rule-making process and how to initiate a rule-making request with the IUB.

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?

The agency does not believe chapter 3 has an adverse impact on small business.

Text of Proposed Rule:

CHAPTER 3
RULE MAKING

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3.1(2) Rules of construction. If any provision of a rule or the application of a rule to any person or circumstance is itself or through its enabling statute held invalid, the invalidity does not affect other provisions or applications of the rule that can be given effect without the invalid provision or application, and to this end the provisions of the rule are severable.

199—3.2(17A,474) Initial stakeholder input. In addition to seeking information by other methods, the board may solicit comments from the public on the subject matter of possible rule making by issuing an order through its electronic filing system or by causing notice of the subject matter to be published in the Iowa Administrative Bulletin, indicating where, when, and how persons may comment.

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Draft Regulatory Analysis

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These rules are intended to implement Iowa Code sections 17A.4 through 17A.7 and 476.2.

CHAPTER 3
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