

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Insurance and Financial Services	Date:	8/31/2023	Total Rule Count:	36
IAC #:	191	Chapter/ SubChapter/ Rule(s):	20	Iowa Code Section Authorizing Rule:	CH. 515 CH. 515A CH. 515F
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PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The chapter sets forth the form and rate requirements, and the rules governing the Iowa Fair Access to Insurance Requirements (FAIR) Plan.

Is the benefit being achieved? Please provide evidence.

Yes. This rule making is being proposed pursuant to Executive Order 10.

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

There are no known costs.

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

There are no known costs.

Do the costs justify the benefits achieved? Please explain.

Yes. The proposed changes streamline and eliminate redundant language.

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 Division did not find any less restrictive alternatives. The proposed changes align the rules with industry and FAIR Plan practices.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language?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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191—20.1
191—20.5
191—20.11
191—20.43
191—20.44
191—20.45
191—20.47
191—20.52
191—20.53
191—20.54
191—20.55

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

None.

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

The following rulemaking action proposed:

ITEM 1. Amend rule 191—20.1(505,509,514A,515,515A,515F) as follows:

191—20.1(505,509,514A,515,515A,515F) General requirements for filing rates and forms.

20.1(1) ~~Insurance companies~~ Insurers required to file rates or forms with the division shall submit required rate and form filings and any fees required for the filings electronically using the National Association of Insurance Commissioners' System for Electronic Rate and Form Filing (SERFF). ~~Insurance companies~~ Insurers must comply with the division's requirements for submissions, including both the Iowa general instructions and the specific submission requirements for the type of insurance for which the companies are submitting forms or rates, as set out on the SERFF website at serff.com.

20.1(2) No rate filing shall include any adjustment designed to recover underwriting or operating losses incurred out of state. Upon request by the commissioner, insurers doing business in Iowa shall segregate in their rate filings data from any state identified by the commissioner, and the filings shall include a certification that no portion of any rate increase is designed to recover underwriting or operating losses incurred in another state.

ITEM 2. Amend rule 191—20.5(515A) as follows:

191—20.5(515A) Rate or manual rule filing.

20.5(1) Every insurer shall determine and file its final rates with the commissioner pursuant to provisions of Iowa Code chapter 515F, except for insurers of workers' compensation who are specifically excluded by Iowa Code section 515F.3(2) and residual market mechanisms.

a. Advisory organizations, defined in Iowa Code section 515F.2 and licensed pursuant to Iowa Code section 515F.8, may file on behalf of their member and subscriber companies prospective loss costs, supplementary rating information and supporting information as defined in Iowa Code section 515F.2. Advisory organization filings shall be filed and made effective in accordance with the provisions of Iowa Code sections 515F.4 to 515F.6 or 515F.23 to 515F.25 that apply to the filing and approval of rates and supplementary rating information.

b. An insurer may satisfy its obligation to make rate filings and supplementary rating information by becoming a participating insurer of a licensed advisory organization that makes reference filings of advisory

prospective loss costs and by authorizing the commissioner to accept such filings on its behalf, subject to any modifications filed by the insurer. The insurer's rates shall be the prospective loss costs filed by the advisory organization which have been put into effect in accordance with paragraph 20.5(1) "a," combined with the loss cost adjustments which are filed in accordance with paragraph 20.5(1) "a."

~~e. — An insurer may satisfy its obligation to make filings of supplementary rating information by becoming a participating insurer of a licensed advisory organization that makes such filings and by authorizing the commissioner to accept such filings on its behalf, subject to any modifications filed by the insurer.~~

d.c. If an insurer has previously filed forms modifying coverage provided by the applicable advisory organization forms, such fact should be noted in the rate filing.

20.5(2) Rate filings shall reflect that due consideration has been given to the factors enumerated in Iowa Code section 515F.4(1), and shall be accompanied by supporting statistical exhibits. In addition, each filing shall note the date of the last revision of rates affecting this coverage and briefly describe the nature of that revision. Such filings shall identify each page filed by placing their own name thereon.

~~**20.5(3)** Insurers making filings on their own behalf and advisory organizations making a filing on behalf of an insurer shall identify each page filed by printing, typing or stamping their own name thereon.~~

20.5(43) If a company filing rates used the manuals of an advisory organization in its filings, any portion of the manuals of the advisory organization that will not be followed by the filing must be clearly shown as deleted or amended by use of an appropriately numbered exception page.

20.5(54) For residual market mechanisms, insurers making filings on their own behalf shall identify the submission as an independent filing or a deviation from the previously filed form, rate, or rule. A deviation filing is a submission which represents modification of a form or rate or rule previously filed by an authorized rating organization or advisory organization on behalf of its member and subscriber companies. ~~If an insurer has~~ An insurer shall note in its filing if it has previously filed forms modifying coverage provided by the applicable standard forms, ~~such fact should be noted in the rate filing.~~

ITEM 3. Amend rule 191—20.11(515) as follows:

191—20.11(515) Exemption from form and rate filing requirements.

20.11(1) The following lines of insurance shall be exempt from the form and rate filing requirements of Iowa Code section 515.102:

- a. Aircraft hull and aviation liability.
- b. Difference-in-conditions.
- c. Kidnap-ransom.
- d. Manuscript policies and endorsements issued to not more than two insureds in Iowa.
- e. Political risk.
- f. Reinsurance.
- g. Terrorism.
- h. War risk.
- i. Weather insurance.

~~**20.11(2)** Insurers shall be exempt from filing rates for the lines of insurance exempted in 20.11(1).~~

20.11(32) An insurer shall, within 30 days of the commissioner's request, provide the commissioner with any of the information which is exempted from form and rate filing requirements.

ITEM 4. Amend rule 191—20.43(515,515F) as follows:

191—20.43(515,515F) Definitions. In addition to the definitions of Iowa Code sections 514F.2 and 515F.32 and rule 191—20.1(505,509,514A,515,515A,515F), the following definitions apply:

~~“Basic property insurance” means insurance against direct loss to property as defined in the standard fire policy and extended coverage, vandalism, and malicious mischief endorsements; homeowners insurance; and such other coverage or classes of insurance as may be added to the FAIR Plan by the commissioner. Basic property insurance shall include:~~

~~1. Coverage provided in the customary fire policy and in the customary extended coverage and builders risk endorsements.~~

~~2. Coverage against loss or damage by burglary or theft, or both.~~

~~3. Coverage at least equivalent to that provided in a modified coverage form homeowners policy.~~

~~“Habitational risk” means:~~

~~1. Dwellings, permanent or seasonal, designed for occupancy by not more than four families or containing not more than four apartments.~~

~~2. Private outbuildings used in connection with any of the risks described in “1.”~~

~~3. Trailer homes at a fixed location.~~

~~4. Household and personal property in risks described in “1” to “3.”~~

~~5. Tenants’ contents in dwellings or apartment houses.~~

~~“Iowa FAIR Plan Association” or “the Plan” means the nonprofit, unincorporated mandatory risk-sharing facility established and governed by Iowa Code sections 515F.30 through 515F.38 and this division to provide for basic property insurance.~~

~~“Location” means a single building and its contents, or contiguous buildings and their contents, under one ownership.~~

~~“Manufacturing risks” means those risks eligible to be written under the customary manufacturing business interruption policy forms approved by the commissioner. The following are not considered manufacturing risks:~~

~~1. Dry cleaning and laundering—Carpet, rug, furniture, or upholstery cleaning; diaper service or infants’ apparel laundries; dry cleaning; laundries; linen supply.~~

~~2. Installation, servicing and repair—Electrical equipment; electronic equipment; glazing; household furnishings and appliances; office machines; plumbing, heating and air conditioning; protective systems for premises, vaults and safes.~~

~~3. Laboratories—Blood banks; dental laboratories; medical or X-ray laboratories.~~

4. Duplicating or similar services—Blueprinting and photocopying services; bookbinding; electrotyping; engraving; letter service (mailing or addressing companies); linotype or hand composition; lithographing; photo engraving; photo finishing; photographers (commercial).

5. Warehousing—Cold storage (locker establishments); cold storage warehouse; furniture or general merchandise warehouse.

6. Miscellaneous—Barber shops; beauty parlors; cemeteries; dog kennels; electroplating; equipment rental (not contractors' equipment); film and tape rental; funeral directors; galvanizing, tinning, detinning; radio broadcasting, commercial wireless and television broadcasting; taxidermists; telephone or telegraph companies; textiles (bleaching, dyeing, mercerizing or finishing of property of others); veterinarians and veterinary hospitals.

“*Motor vehicles*” means vehicles which are self-propelled.

“Weighted premiums written” means:

1. Gross direct premiums less return premiums, dividends paid or credited to policyholders, or the unused or unabsorbed portions of premium deposits, with respect to property in this state excluding premiums on risks insured under the Plan, for basic property insurance, for homeowners multiple peril policies, for farm dwelling policies and for the basic property insurance premium components of all other multiple peril policies.

2. In addition, 100 percent of the premiums obtained for homeowners multiple peril policies shall be added to 100 percent of the premiums obtained for basic property insurance and the basic property insurance premium components of all other multiple peril policies. The basic year for the computation shall be the first preceding calendar year.

ITEM 5. Amend rule 191—20.44(515,515F) as follows:

191—20.44 (515,515F) Eligible risks.

20.44(1) All risks at a fixed location shall be eligible for inspection and considered for insurance under the Plan except motor vehicles, inland marine risks, and manufacturing risks as defined above.

~~20.44(2) The maximum limits of coverage for the type of basic property insurance for customary fire and extended coverage which may be placed under the Plan are those established by the governing committee from time to time.~~

~~20.44(3) The maximum limits of coverage for the type of basic property insurance for burglary and theft which may be placed under the Plan are those established by the governing committee from time to time.~~

~~20.44(4) The maximum limits of coverage for the type of basic property insurance for homeowners coverage which may be placed under the Plan are those established by the governing committee from time to time.~~

ITEM 6. Amend rule 191—20.45(515,515F) as follows:

191—20.45 (515,515F) Membership.

~~20.45(1) Every insurer licensed to write one or more components of basic property insurance shall be considered a member of the Plan. Any other insurer may, upon application to and approval by the governing committee, become a member.~~

~~20.45(2) An insurer's membership terminates when the insurer is no longer authorized to write basic property insurance in Iowa, but the effective date of termination shall be the last day of the fiscal year of the Plan in which termination occurs. Any insurer so terminated shall continue to be governed by the provisions of this division until the insurer completes all of its obligations under the Plan.~~

~~20.45(3) Any voluntary insurer member may terminate its membership only as of the last day of the fiscal year of the Plan by giving written notice to the Plan 30 days prior to the last day of the fiscal year of the Plan. The governing committee upon a majority vote may terminate the membership of a voluntary insurer. Any such terminated member shall continue to be governed by the provisions of this division until the insurer completes all of its obligations under the Plan.~~

~~20.45(4) Subject to the approval of the commissioner, the governing committee may charge a reasonable annual membership fee.~~

ITEM 7. Amend rule 191—20.47(515,515F) as follows:

191—20.47(515,515F) Duties of the governing committee.

20.47(1) The governing committee shall meet as often as may be required to perform the general duties of the administration of the Plan, or on the call of the commissioner. Four members of the committee present or by proxy shall constitute a quorum. Members of the committee who choose to appoint a proxy shall give a written proxy to the person elected to act as proxy. The written proxy shall then be filed with the governing committee, thus ensuring the validity of the proxy's actions as the governing committee performs its duties.

20.47(2) The governing committee shall be empowered to appoint a manager, who shall serve at the pleasure of the committee, to budget expenses, levy assessments, disburse funds, and perform all other duties of the Plan. The adoption of or substantive changes in pension plans or employee benefit programs for the manager and staff shall be subject to approval of the governing committee.

20.47(3) The governing committee may designate an independent inspection firm to make inspections as required under the Plan and to perform such other duties as may be authorized by the governing committee.

~~**20.47(4)** The manager shall annually prepare an operating budget which shall be subject to approval of the governing committee.~~

20.47(54) The governing committee shall submit to the commissioner periodic reports setting forth information as the commissioner may request. On or before April 1 of each year, the governing committee shall submit a report summarizing any new programs or reforms in operation undertaken during the preceding calendar year in order to comply with any new legislation, regulations or directives affecting the Plan. This report shall contain a statistical tabulation on business written in accordance with the Plan.

20.47(65) The governing committee shall separately code all policies written by the Plan so that appropriate records may be compiled for purposes of performing loss prevention and other studies of the operation of the Plan.

20.47(76) The governing committee shall authorize the manager to file rates, surcharge schedules and forms for prior approval by the commissioner.

20.47(87) The governing committee shall prepare such agreements and contracts as may be necessary for the execution of this division consistent with its provisions.

ITEM 8. Amend rule 191—20.52(515,515F) as follows:

191—20.52 (515,515F) Reasonable underwriting standards for property coverage.

20.52(1) The following characteristics may be used in determining whether a risk is acceptable for property coverage. Where there is more than one cause for declination, all causes shall be listed and complied with before the property may be accepted for insurance purposes.

a. Physical condition of property; however, the mere fact that a property does not satisfy all current building code specifications will not, of itself, suffice as a reason for declination.

b. The property's present use as extended vacancy or extended unoccupancy of the property for 60 consecutive days. Properties that are vacant or unoccupied for more than 60 days may be insured while rehabilitation or reconstruction work is actively in process, meaning that the insured or owner should make monthly progress in order to complete the rehabilitation or reconstruction within a one-year time frame.

c. Other specific characteristics of ownership, condition, occupancy or maintenance that violate the law and that result in substantial increased exposure to loss. Any circumstance considered under this paragraph must relate to the peril insured against.

d. Physical condition of buildings which results in an outstanding order to vacate, in an outstanding demolition order or in being declared unsafe in accordance with the applicable law.

e. One or more of the conditions for nonrenewal as listed in 191—20.54(515,515F) currently exist. The Plan shall upon notice that conditions at the buildings have changed consider new application for coverage.

~~f. Vandalism and malicious mischief coverage shall not be provided for a dwelling or commercial property where the property has been subject to two vandalism and malicious mischief losses, each loss amounting to at least \$500, in the immediately preceding 12 month period, or three or more such losses in the immediately preceding 24 month period.~~

~~g.~~ Previous loss history or matters of public record concerning the applicant or any person defined as an insured under the policy.

~~h.~~ Any other guidelines which have been approved by the commissioner.

20.52(2) Reserved.

ITEM 9. Amend rule 191—20.53(515,515F) as follows:

191—20.53 (515,515F) Reasonable underwriting standards for liability coverage.

20.53(1) The following characteristics may be used in determining whether a risk is acceptable for liability insurance on homeowner policies:

a. Broken, cracked, uneven or otherwise faulty steps, porches, decks, sidewalks, patios and similar areas.

b. Downspouts or drains which discharge onto sidewalks or driveways.

c. Unsafe conditions including inadequate lighting of stairways.

d. Animals known to be vicious or animals that have caused a liability claim.

e. Swimming pools or private ponds not fenced in accordance with local regulations.

f. Unsafe, or the absence of, handrails.

g. Junk cars, empty refrigerators, trampolines or other potentially dangerous objects in the yard which are an attraction to children.

h. Previous loss history or matters of public record concerning the applicant or any person defined as an insured under the policy.

i. Any other guidelines which have been approved by the commissioner.

20.53(2) Liability insurance shall only be provided as contained in the Iowa FAIR Plan homeowners policy.

20.53(3) Liability insurance shall not be provided for risks with any of the deficiencies set forth in paragraphs 20.53(1) “a” through “g,” as disclosed by the application or inspection, until the deficiencies have been corrected.

~~**20.53(4)** Liability insurance may not be provided where there is a business operating at the insured location, unless the applicant has in force a business liability policy with limits of at least \$100,000 per occurrence providing premises liability coverage.~~

~~**20.53(5)** Liability insurance shall not be provided where the applicant owns three or more horses or other riding animals, unless the applicant has in force a liability policy with limits of at least \$100,000 per occurrence providing coverage for the ownership and use of the horses or other riding animals.~~

ITEM 10. Amend rule 191—20.54(515,515F) as follows:

191—20.54 (515,515F) Cancellation; nonrenewal and limitations; review of eligibility.

20.54(1) The Plan shall not cancel or refuse to renew a policy issued by the Plan except for the following reasons:

a. Facts as confirmed by inspection or investigation which would have been grounds for nonacceptance of the risk by the Plan had they been known to the Plan at the time of acceptance.

b. Changes in the physical condition of the property or other changed conditions as confirmed by inspection or investigation that make the risk uninsurable pursuant to paragraphs “*j*” and “*k*.”

c. Nonpayment of premiums.

d. At least 65 percent of the rental units in the building are unoccupied, and the insured has not received prior approval from the Plan of a rehabilitation program which necessitates a high degree of unoccupancy.

e. Unrepaired damage exists and the insured has stated that repairs will not be made, or such time has elapsed as clearly indicates that the damage will not be repaired. ~~The elapsed time under this paragraph is a length of time over 60 days where the damage remains unrepaired, unless there are known to be extenuating circumstances.~~

f. After a loss, permanent repairs have not been commenced within 60 days following payment of the claim, unless there are known to be extenuating circumstances. The 60-day period starts upon acceptance of payment of the claim.

~~*g.* Property has been abandoned for 90 days or more.~~

~~*h.g.* There is good cause to believe, based on reliable information, that the building will be burned for the purpose of collecting the insurance on the property. The removal of damaged salvageable items, such as normally permanent fixtures, from the building shall be considered under this paragraph when the insured can provide no reasonable explanation for such removal.~~

~~*h.* A named insured or loss payee or other person having a financial interest in the property being convicted of the crime of arson or a crime involving a purpose to defraud an insurance company. The fact that an appeal has been entered shall not negate the use of this paragraph.~~

~~*h.i.* The property has been subject to more than two losses, each loss amounting to at least \$500 or 1 percent of the insurance in force, whichever is greater, in the immediately preceding 12-month period, or more than three such losses in the immediately preceding 24-month period, provided that the cause of such losses is due to the conditions which are the responsibility of the owner named insured or due to the actions of any person defined as an insured under the policy.~~

~~*k.* Theft frequency in which there have been more than two thefts, each loss amounting to at least \$500, in a 12-month period.~~

~~*h.j.* Material misrepresentation in any statement to the Plan.~~

~~*h.k.* On homeowners policies, excessive theft or liability losses. If a given property has been subject to two vandalism and malicious mischief losses, each loss amounting to at least \$500, in the immediately~~

~~preceding 12 month period, or three or more such losses in the immediately preceding 24 month period, the Plan may convert the homeowners policy to a dwelling policy without vandalism and malicious mischief coverage.~~

20.54(2) The Plan shall terminate all insurance contracts in accordance with Iowa Code sections 515.125, 515.127, and 515.128.

20.54(3) At the completion of 36 months of coverage and prior to the completion of 48 months, each risk shall be reviewed for its eligibility for coverage in the voluntary market. The risk shall be submitted by the Plan to the producer of record, if any, for a search of the voluntary market. If the producer resubmits the risk to the Plan, the risk must be resubmitted with a new application and a written statement from the producer that a search of the voluntary market was performed.

ITEM 11. Amend rule 191—20.55(515,515F) as follows:

191—20.55 (515,515F) Assessments.

20.55(1) Participation and assessments by and upon each insurer in the Plan for losses and expenses in connection with Plan business shall be levied and assessed by the governing committee of the Plan on the basis of participation factors determined annually, giving effect to the proportion which such insurer's weighted premiums written bears to the aggregate weighted premiums written by all insurers in the Plan.

20.55(2) De minimis assessments. Any assessment of less than ~~\$20~~ \$100 shall not be billed to an insurer; ~~but will be accumulated as a deferred assessment until the cumulative amount deferred is at least \$20.~~

20.55(3) Late payment fee. Assessments shall be due and payable when billed. If any member fails to pay an assessment within 60 days after it is due, the insurer shall pay interest from the billing date at the rate of 1.5 percent per month. In the event that an insurer fails to pay any applicable late payment fee with an assessment, the amount of such unpaid late payment fee will be included in the amount of the insurer's next assessment.

20.55(4) Credits for voluntary writings. The Plan may develop a voluntary writing credit policy, subject to approval by the commissioner. Credits may be used as offsets to member company assessments made by the Plan.

****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	838
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	8

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

None.