

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT
DEPARTMENT[605]**

Adopted and Filed Emergency

Rule making related to flood recovery fund

The Homeland Security and Emergency Management Department hereby amends Chapter 14, “Flood Mitigation Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in 2019 Iowa Acts, Senate File 638.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, Senate File 638.

Purpose and Summary

This rule making amends Chapter 14 by adding a new rule that deals with the creation of the Flood Recovery Fund. The fund will be administered by the Flood Mitigation Board. The fund will provide financial support to political subdivisions of the state that have experienced or will experience expenses related to flood response, flood recovery, or flood mitigation. The new rule provides details on eligible applicants, eligible projects, and the application process. This rule making was approved by the Flood Mitigation Board on May 20, 2019.

*Reason for Adoption of Rule Making Without
Prior Notice and Opportunity for Public Participation*

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary or impractical because statute so provides. This emergency rule making will allow for the appropriated funds to be directed to impacted eligible political subdivisions.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(a), the Department also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective upon filing on May 22, 2019, because 2019 Iowa Acts, Senate File 638, section 29, allows for this rule making to be made effective immediately upon filing. The immediate effective date will allow for the appropriated funds to be directed to impacted eligible political subdivisions.

Adoption of Rule Making

This rule making was adopted by the Department on May 20, 2019.

Concurrent Publication of Notice of Intended Action

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as **ARC 4498C** to allow for public comment.

Fiscal Impact

The initial balance of the fund is \$15 million. It is anticipated that the fund will be able to function as a revolving fund for some projects while also providing match funding to federally funded projects and full funding to projects that cannot be funded through other means.

Jobs Impact

It is anticipated that this funding will enable eligible political subdivisions to recover more fully from the impacts of recent flooding events, thereby improving the short-term and long-term sustainability of the political subdivisions.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making became effective on May 22, 2019.

The following rule-making action is adopted:

Adopt the following **new** rule 605—14.12(418):

605—14.12(418) Flood recovery fund.

14.12(1) Purpose. A flood recovery fund is established in the state treasury under the control of the board. The fund shall consist of moneys appropriated to the fund by the general assembly and any other moneys available to, obtained by, or accepted by the board for deposit in the fund. Moneys in the fund are appropriated to the department and shall be used for the purposes designated in this rule. Moneys in the fund shall not supplant any federal disaster recovery moneys. Moneys in the fund that remain unencumbered or unobligated at the close of a fiscal year shall not revert to the general fund of the state but shall remain available for expenditure for the purposes designated in this rule. Interest or earnings on moneys deposited in the fund shall be credited to the fund.

14.12(2) An eligible applicant is a political subdivision of the state located in a county designated under presidential disaster declaration DR-4421-IA and also located in a county where the federal emergency management agency's individual assistance program has been activated.

14.12(3) Eligible projects must support flood response, flood recovery, or flood mitigation activities. Eligible project types could include construction and reconstruction of levees, embankments, impounding reservoirs, conduits, or other means that are necessary for the protection of property from the effects of floodwaters and may include the deepening, widening, alteration, change, diversion, or other improvement of watercourses if necessary for the protection of such property from the effects of floodwaters. A project may consist of one or more phases of construction or reconstruction that are contracted for separately if the larger project, of which the project is a part, otherwise meets the requirements of this subrule.

14.12(4) Project applications shall be submitted to the department for consideration by the board. The board shall prescribe application instructions and forms. Applications, instructions, programmatic guidance and forms are available through the department and its website, www.homelandsecurity.iowa.gov. Project applications shall contain all of the following:

- a.* A description of the project and how the project supports flood response, flood recovery, or flood mitigation activities.
- b.* A description of financial assistance needed from the flood recovery fund.

- c.* A description of the necessary expense or serious need of the political subdivision.
- d.* Details on any additional funds to be applied to the project.

14.12(5) The board shall review the project applications. When reviewing a project application, the board shall consider, at a minimum, all of the following:

- a.* Whether the project supports flood response, flood recovery, or flood mitigation activities.
- b.* Whether financial assistance through the flood recovery fund is essential to meet the necessary expenses or serious needs of the political subdivision related to flood response, flood recovery, and flood mitigation.

Upon review of a project application, the board shall approve, defer, or deny the project application. If a project application is approved, the board shall specify the amount of financial assistance from the flood recovery fund awarded to the political subdivision. If the board approves an application for financial assistance from the flood recovery fund, the board shall negotiate and execute on behalf of the department all necessary agreements to provide such financial assistance. If a project application is deferred or denied, the board shall state the reasons for such deferral or denial.

14.12(6) Reports. Following the approval of a project application, the political subdivision shall twice annually, until the project is complete, submit a report to the board detailing the following:

- a.* The current status of the project.
- b.* The total expenditures and types of expenditures that have been made related to the project.
- c.* The amount of total project cost remaining as of the date the report is submitted.

[Filed Emergency 5/22/19, effective 5/22/19]

[Published 6/19/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/19/19.