

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 103A.7, the Building Code Commissioner, with the approval of the Building Code Advisory Council, hereby amends Chapter 301, “State Building Code—General Provisions,” Iowa Administrative Code.

Iowa Code chapter 103A charges the Building Code Commissioner with primary responsibility for adoption and enforcement of construction standards for the state of Iowa. However, there are major exceptions to the applicability of the Building Code Commissioner’s jurisdiction; including jurisdiction over requirements for plumbing installations, which resides with the Plumbing and Mechanical Systems Board created in Iowa Code section 105.3. However, Iowa Code section 104B.1 has required the Building Code Commissioner to adopt requirements for the minimum numbers of plumbing fixtures installed in places of public assembly, restaurants, pubs, and lounges constructed on or after January 1, 1991. This requirement has been implemented by the Building Code Commissioner in subrule 301.6(1).

During the 2011 session of the Iowa General Assembly, 2011 Iowa Acts, Senate File 236, passed and was enacted into law. Section 4 of this Act repealed Iowa Code section 104B.1, which contained the authority of the Building Code Commissioner to adopt requirements for the minimum numbers of plumbing fixtures in places of public assembly, restaurants, pubs, and lounges. The amendment adopted herein rescinds subrule 301.6(1), which implemented the authority of the Building Code Commissioner to adopt requirements for the minimum numbers of plumbing fixtures because that authority has been eliminated by the enactment of 2011 Iowa Acts, Senate File 236, section 4.

Pursuant to Iowa Code section 17A.4(3), the Building Code Commissioner finds that notice and public participation are unnecessary because subrule 301.6(1), which is being rescinded by the amendment adopted herein, has become inconsistent with the Iowa Code. 2011 Iowa Acts, Senate File 236, leaves the Building Code Commissioner with no discretion regarding the decision as to whether or not to regulate the minimum number of plumbing fixtures in places of public assembly, restaurants, pubs, and lounges and therefore renders subrule 301.6(1) invalid.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Building Code Commissioner further finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective July 8, 2011. Rescinding subrule 301.6(1) immediately confers a benefit on the public by avoiding possible confusion as to whether or not the Building Code Commissioner’s previously existing requirement is still in effect.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement 2011 Iowa Acts, Senate File 236, section 4.

This amendment became effective July 8, 2011.

The following amendment is adopted.

Rescind and reserve subrule **301.6(1)**.

[Filed Emergency 7/7/11, effective 7/8/11]

[Published 7/27/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/27/11.