



IOWA GENERAL ASSEMBLY

Administrative Rules Review Committee

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THE RULES DIGEST

March 2009

Scheduled for committee review
Friday, March 6th, 2009.
Senate Committee Room #116

Reference
XXXI IAB No. 17(02/12/09)
XXXI IAB No. 18(02/24/09)

HIGHLIGHTS IN THIS ISSUE:

PRIVATE SEWAGE SYSTEMS, EPC,1
WAIVER OF WAGE REQUIREMENTS, Economic Development Department2

HOMELAND SECURITY AND
EMERGENCY MANAGEMENT
DIVISION

8:30

Community disaster grants, IAB XXXI No. 18, ARC 7581B,
Notice; ARC 7580B, FILED EMERGENCY.

2009 Iowa Acts, House File 64, appropriated
\$22 million to the Homeland Security and
Emergency Management Division for the fiscal
year ending June 30, 2009 to be used to provide
community disaster grants to cities and counties.
The bill requires eligible recipients to submit
written applications. The bill requires every city
or county in a disaster area that submits an
application to receive at least two thousand
dollars. The grants awarded to cities and counties
are on their pro-rata share of damage costs
associated with the presidential disaster
declaration. The grants awarded must be used for
specified disaster-related costs not otherwise
funded by federal or nonfederal sources. The bill
authorizes the Division to undertake emergency
rulemaking to implement the program.

The Division's rules largely coincide with House
File 64 and include additional information on the
application forms and process. The rules went
into effect on February 2, 2009.

ENVIRONMENTAL PROTECTION
COMMISSION

8:40

Private sewage systems, IAB XXXI No. 17, ARC 7308B,
NOTICE.

2008 Iowa Acts, Senate File 261 requires that
the septic system of a home be inspected before
the sale of the home is finalized, and requires the
establishment of a certified "time of transfer"
inspector program. Under this proposal, if a
private sewage system does not provide effective
wastewater treatment or is otherwise improperly
functioning, the private sewage disposal system
must be renovated to meet current construction
standards. If the system is properly treating the
wastewater and not creating an unsanitary
condition in the environment at the time of
inspection, the system is not required to meet
current construction standards. An inspection is
valid for a period of two years for any ownership
transfers during that period. A copy of the
inspection report must be provided both to the
county and the EPC.

System inspectors must be certified by the EPC.
Applicants for certification must take an the
inspection course, pass an examination and have
two years experience in private sewage systems.
As an alternative to the experience requirements,
applicants may obtain additional information. The

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examination fee is \$50 and the certification fee is \$300 for two years. Certified inspectors must obtain 12 contact hours of continuing education each two-year period.

The proposal also establishes standards for new construction. Generally, no private system may be installed *or altered* without a construction permit. The installation of the system must comply with these rules. Every building where persons reside, congregate, or work must be provided with an approved private system.

A private system cannot be installed, repaired, or rehabilitated if a publicly owned treatment works is available within 200 feet or if a local ordinance requires connection to a treatment works. If connection to a treatment works later becomes available, any building then served by a private system must be connected within a time frame or under conditions set by the local authority.

The proposal establishes separation distances between the system and specific locations such as dwellings, wells ponds, etc. Except as specified in the rules a private system cannot discharge to the groundwater, or to the surface of the ground or into any ditch, stream, pond, lake, waterway, county drain tile, surface water drain tile, land drain tile, abandoned well, agricultural drainage well or sinkhole.

ECONOMIC DEVELOPMENT

9:10

Waiver of wage requirements, IAB XXXI No. 17, ARC 7557B, ADOPTED.

These provisions were initially reviewed as "emergency" rules in December. The Department now completes the regular rulemaking process updating rules that govern requests for wage waivers under the high quality job creation program, the Iowa values fund created in 2005, and the Community Economic Betterment Account program (CEBA).

The amendments allow businesses that have sustained substantial physical damage as a result of a natural disaster in a presidentially declared disaster area to obtain a waiver of the average county wage calculation requirements. The term "substantial damage is defined as: "the cost of

restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value". In addition, the business must agree to restore employment to at least 90 percent of its base prior to the closure of the business.

Code §15.335A(3) sets out a variety of *alternative* county wage calculations that may be used, including:

- The wage calculated from the largest employer in the county.
- The average regional wage from up to two adjacent counties.
- The average county wage from the largest city in the county.
- A wage guideline for a specific project based upon unusual economic circumstances.
- The annualized, average hourly wage paid by all businesses in the county located outside the largest city of the county.
- The annualized, average hourly wage paid by all businesses other than the largest employer in the entire county.

The rules sets out detailed criteria to qualify for the waiver; these include economic distress, targeted industry project, and natural disaster. Each criteria is then defined in detail.

The filing also allows the department to waive certain CEBA program requirements for the disaster-damaged businesses.

The amendments also update the high quality jobs program rules by rescinding references to the Board's ability to waive other eligibility requirements because the statutory section that authorized the waiver of other eligibility requirements, Iowa Code section 15.337, has been repealed.

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Small business disaster recovery financial assistance program, IAB XXXI No. 17, ARC 7558B, ADOPTED.

These provisions were initially reviewed by the committee as an "emergency" filing in November, 2008. The purpose of the program is to provide financial assistance to businesses that sustained physical damage or economic loss due to the 2008 natural disasters. Based on public comments received, the Department adopted the following amendments:

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- Clarifying the definition of “business” to include both for-profit and nonprofit businesses and further clarifying that a “business” includes a commercial landlord.
- Expanding the list of allowable lenders to include a rural electric or telephone cooperative with an established EDA-based or USDA-based revolving loan fund program or intermediary relending program.
- Increasing the maximum amount available to an eligible business from \$50,000 to \$55,000. Of this amount, \$5,000 is available for energy-efficient purchases and installation.
- Clarifying the amount eligible for reimbursement for energy-efficient purchases.
- Requiring that an eligible business have executed loan documents from an eligible lender.

EDUCATIONAL EXAMINERS BOARD

X:XX

NCATE-accredited programs, IAB XXXI No. 18, ARC 7600B, Notice.

The Educational Examiners Board proposes to amend its rules relating to standards for teacher preparation programs. Currently, the Board's rules require that such programs be accredited by the National Council for Accreditation of Teacher Education (NCATE). According to the Board, NCATE has changed its criteria for approval of programs and these changes conflict with the current system used by the Board. A public hearing has been scheduled for Wednesday, March 18, 2009, at 1 p.m.

ELDER AFFAIRS DEPARTMENT

Family caregiver support program, IAB XXXI No. 18, ARC 7445B, ADOPTED.

This new program is intended to provide support services for persons acting as caregivers to persons aged 60 and over, persons with Alzheimer's disease and for grandparents or persons who are caregivers of related children or persons with disabilities.

These services will be provided by the local area aging agencies and include such things as counseling services, newsletter or other information services, respite care, and chore services.

UTILITIES DIVISION

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Notification rules for natural gas and electric utilities and electric transmission companies, IAB XXXI No. 18, ARC 7585B, NOTICE.

The Utilities Division proposes amendments to its rules relating to incident and outage notification. The proposed rules also establish notification requirements for electric transmission companies. These rules were most recently amended in March 2008.

The proposed rules require a utility to notify the Utilities Board immediately, or as soon as practical, of an interruption of service of more than two hours to an airport, health care facility, water treatment facility, or other significant public facility, or where there is a significant loss of service in the utility's service area. The proposed rules would allow a utility to provide notice to the Board by electronic message to a specified email address, in lieu of notification by phone. When notice is provided, the utility is required to leave a call-back number for a person who can provide a variety of information about the interruption of service. Under the proposed rules, this information would now include an estimated time that service will be restored. The proposed rules also require a natural gas utility to provide updates to the Board as new or additional information becomes available until all interrupted service is restored.

The proposed rules relating to electric utilities amend provisions to generally coincide with the notification rules for other utilities and specify that notice of outages must be provided to the Board based on certain criteria related to the size of the electric utility and the scope of the outage. The proposed rules also establish reporting rules for electric transmission companies that use the same criteria for reporting that apply to electric utilities.