

### Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 361—Chapters 2 and 7  
“Contingent Fund—Disaster Aid”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 29C.20  
State or federal law(s) implemented by the rulemaking: Iowa Code section 29C.20

### *Public Hearing*

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

November 27, 2023  
11:45 a.m.

Room G9, Iowa State Capitol  
1007 East Grand Avenue  
Des Moines, Iowa

### *Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Executive Council no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Nate Ristow  
Governor’s Office, Iowa State Capitol  
1007 East Grand Avenue  
Des Moines, Iowa 50319  
Phone: 515.314.2998  
Email: [nate.ristow@governor.iowa.gov](mailto:nate.ristow@governor.iowa.gov)

### *Purpose and Summary*

The purpose of this proposed rulemaking is to enumerate policies, responsibilities, and procedures adopted by the Executive Council of the State of Iowa in order to provide guidance for administering the state Disaster Contingency Fund.

### *Analysis of Impact*

1. Persons affected by the proposed rulemaking:
  - Classes of persons that will bear the costs of the proposed rulemaking:  
Communities seeking to prepare and recover from natural disasters will bear the costs of the proposed rulemaking.
  - Classes of persons that will benefit from the proposed rulemaking:  
Communities seeking to prepare and recover from natural disasters will benefit from the proposed rulemaking.
  
2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
  - Quantitative description of impact:  
Eleven communities have benefited from \$5,822,770 in state contingency loans since 2010. The fund has disbursed about \$1 million per year over the past four years to address disaster readiness and recovery.
  - Qualitative description of impact:  
The rules impose minimal costs on the public. Local governments have an obligation to use their own resources as much as possible before seeking assistance from the Fund.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:  
The Department of Homeland Security and Management incurs costs to process applications.

- Anticipated effect on state revenues:

The rulemaking is unlikely to have any impact on state revenues, though it may improve the efficiency of processing applications.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The cost of inaction is high since some communities may face greater damages from natural disasters without the ability to access these funds to prepare for natural disasters.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The process could be simply first come, first served.

6. Alternative methods considered by the agency:

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

Elimination of the application process and making awards on a first-come, first-served basis was considered.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

A process without oversight could lead to inefficient use of state resources or fraud, and a first-come, first-served basis would not allow for evaluation and prioritization of projects based on need, impact, and viability.

### *Small Business Impact*

If the rulemaking 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 rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.

- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The rules have no significant impact on small business.

### *Text of Proposed Rulemaking*

ITEM 1. Adopt the following **new** 361—Chapter 2:

## CHAPTER 2 CONTINGENT FUND—DISASTER AID

**361—2.1(29C) Purpose.** The purpose of these rules is to enumerate policies, responsibilities, and procedures adopted by the executive council of the state of Iowa in order to provide guidance for administering the state disaster contingency fund as described in Iowa Code section 29C.20.

**361—2.2(29C) Definitions.** The definitions set forth in Iowa Code chapter 29C are incorporated herein by reference.

**361—2.3(29C) Policy.** It is the policy of the state of Iowa to maintain an organization and procedures for providing supplemental assistance by the state to governmental subdivisions in the achievement of improved disaster readiness and to recover from the effects of a disaster.

**361—2.4(29C) Program responsibilities and procedures.**

**2.4(1) Governor.** The governor may proclaim a state of disaster emergency in accordance with Iowa Code section 29C.6.

**2.4(2) Government subdivisions.** Governmental subdivisions will:

- a. Make every effort to avert and recover from the disaster with their own resources.
- b. Maintain detailed accounts of disaster expenses.
- c. Submit to the department a request for a loan. The initial request constitutes a letter on official agency letterhead briefly describing the effect of the disaster or action on the governmental subdivision and the immediate financial inability to meet the continuing obligations of local government.
- d. Include in the initial letter request Form SDA-1, Form SDA-2, Form SDA-3, and Form SDA-3A as well as the State of Iowa Contingent Fund Loan Contact and Information Sheet.
- e. Initiate action to implement annual emergency levy as authorized by Iowa Code sections 24.6 and 384.8, in order to expedite repayment of loan.

**2.4(3) Director.** The director will:

- a. Prepare and maintain current rules for issuance by the executive council, providing for the administration of the contingent fund—disaster aid.
- b. Coordinate, as necessary, actions by other departments and agencies necessary to the administration of the contingent fund—disaster aid.
- c. Report each fiscal year to the governor and the executive council on activities in connection with administration of the contingent fund—disaster aid including, but not limited to, a description of each disaster of a magnitude sufficient to warrant recommendations concerning applications for loans to the executive council. Such description is to include the kind and scope of the disaster, the disposition of government subdivision applications for loans, and the total of loan approvals for the fiscal year.
- d. The director, upon receipt of an initial request for assistance supported by all appropriate forms and documentation, will advise the secretary of the executive council of such request and will furnish copies of all accompanying documents.
- e. The director will submit a recommendation to the executive council as to eligibility and entitlement of the requesting governmental subdivision on Form SDA-4 and Form SDA-4A.

**2.4(4) Executive council.** The executive council will:

- a. Decide if the contingent fund—disaster aid is justified by the application and showing, and, if so, the amount of the loan(s) to be made.
- b. Develop and publish the form and procedures for applying for the contingent fund—disaster aid and issue rules describing the administration of the contingent fund – disaster aid.
- c. Designate and instruct appropriate state departments and agencies to assist the director, the department, in the administration of the contingent fund—disaster aid by loan or use of personnel equipment and facilities.
- d. Consider the information furnished by the governmental subdivisions requesting loans, the report and recommendation of the director and decide which of the governmental subdivisions are eligible, and if so, the amount and terms reflecting approved eligibility.

The aggregate total of the loans cannot exceed \$1 million during a fiscal year.

**2.4(5) *Department of management.*** The department of management will execute loans in the amounts, and as scheduled, to government subdivisions as approved by the executive council and maintain appropriate accounts.

**2.4(6) *State auditor actions.*** The auditor will audit the accounts of government subdivisions to ensure that loans have been applied in accordance with determined eligibility and will make an audit report to the executive council.

**361—2.5(29C) Eligibility for contingent fund—disaster aid loans.**

**2.5(1)** To be eligible for contingent fund—disaster aid loans, a governmental subdivision demonstrates an immediate financial inability to meet the continuing obligations of local government through a showing of obligations and expenditures necessitated by an actual or potential disaster proclaimed a state of disaster emergency by the governor.

**2.5(2)** The loan, if made, may only be up to a limit of 75 percent of the showing of obligations and expenditures. The loan, without interest, may be repaid by the maximum annual emergency levy as authorized by Iowa Code sections 24.6 and 384.8. The loan shall be repaid within 20 years.

**361—2.6(29C) Forms and documents.**

**2.6(1)** SDA forms.

- a.* Form SDA-1 “Certified True Copy of Resolution of Governing Body.”
- b.* Form SDA-2 “Certificate by Authorized Requesting Official to Accompany Application for State Disaster Aid.”
- c.* Form SDA-3 “Application for Financial State Disaster Aid.”
- d.* Form SDA-3A “Resolution.”
- e.* Form SDA-4 “Report and Recommendation of the Director, Iowa Department of Homeland Security and Emergency Management on Application for State Disaster Aid.”
- f.* Form SDA-4A “Review of Application for State Disaster Aid.”

**2.6(2)** “Request from Applicant” as described in 2.4(2) “c.”

**2.6(3)** “State of Iowa Contingent Fund Loan Contact and Information Sheet.”

These rules are intended to implement Iowa Code section 29C.20.

ITEM 2. Rescind and reserve **361—Chapter 7.**