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November 3, 2025

Blake DeRouchey
Iowa Department of Homeland Security and Emergency Management
7900 Hickman Road, Suite 500
Windsor Heights, Iowa 50324

**RE: Proposed Rulemaking Related to the Natural Hazard Mitigation Financing
Program – Chapter 16**

Mr. DeRouchey:

The Iowa Environmental Council (“IEC”) submits the following comments on the proposed rulemaking related to the natural hazard mitigation financing program, chapter 16. IEC is an alliance of more than 100 organizations, over 500 individual members, and an at-large board of farmers, business owners, and conservationists. IEC works to build a safe, healthy environment and sustainable future for Iowa. Our members care about air and water quality across the state, and they hike, recreate, and enjoy the outdoors in Iowa and beyond.

We wish to comment on the review process for the new financing program. We recommend clarification to the process to prevent confusion and potential disputes over the appropriate process.

Proposed section 605-16.1(6) provides opportunity for an applicant to “petition for review” to the director of the department. The procedure is ambiguous as written in the rule. Will the department treat the petition for review as a request for a contested case hearing under Chapter 17A? If so, the rule should call it a petition for a contested case and refer to the procedures in section 17A.12. If that is not the department’s intent, the rule should specify what procedure the department will use.

Similarly, the “right to appeal a decision” in proposed section 16.1(6) is vague. Does the applicant have to exhaust administrative remedies by submitting a “petition for review” first? The language in the same sentence about appealing “pursuant to Chapter 17A or to the state court” also needs to be clarified. Chapter 17A itself provides for judicial review in a state court at 17A.19. It is unclear what other remedy the rule is referring to, unless the agency intends for the “appeal” to be a request for a contested case hearing under Chapter 17A.

We recommend clarifying the appeal procedures by stating whether the “petition for review” triggers a contested case hearing and by referencing specific sections of statute, not the Administrative Procedure Act as a whole, in defining the appeal process.

Thank you for your efforts to develop this chapter of rules and for consideration of our comments. Please do not hesitate to contact us if you have any questions about the comments.

Sincerely,

/s/ Michael Schmidt

Michael Schmidt
General Counsel
Iowa Environmental Council