

**Iowa Department of Natural Resources  
Environmental Protection Commission**

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ITEM

4

INFORMATION

TOPIC

**Notice of Intended Action – Chapter 133, Rules for Determining Cleanup Actions and Responsible Parties**

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The Department presents these rules for information to the Commission.

In part, Chapter 133 provides for compensation to the state and public for damages to natural resources and wildlife resulting from a hazardous condition. For fish loss specifically, the rule authorizes the use of the American Fisheries Society's special publication on fish counting methods and restitution valuation.

The Fisheries Bureau is making changes to AFS-based policy and procedure and updating their fish restitution rules in chapter 571 IAC 113 accordingly. For internal consistency, Chapter 133 must be amended to reflect those changes as well.

The following changes are to be made: (1) update the definition of "AFS" in the rule to state the most-current version of AFS's special publication shall be used and (2) revise the fish species to be valued at \$15 a fish unless the AFS publication requires a higher value, in which case the higher value shall be applied.

Dave Wornson  
Legal Services Bureau  
June 15, 2009

## ENVIRONMENTAL PROTECTION COMMISSION [561]

### Notice of Intended Action FOR INFORMATION

Pursuant to the authority of Iowa Code subsections 455A.6(6)“a” and 455B.392(1)“c”, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 133, “Rules for Determining Cleanup Actions and Responsible Parties,” Iowa Administrative Code.

The rule will be changed in the following manner: First, the rule will redefine the meaning of “AFS,” the acronym used for the American Fisheries Society’s special publications on fish counting methods and restitution valuation. The rule will be updated to state that the most-current AFS publication regarding fish counting methods and restitution valuation shall be used by the Department. Iowa Code section 455B.392(1)“c” authorizes the Department to collect liquidated damages for damage to the state’s wildlife resulting from a hazardous condition. And second, the amendments will revise the fish species to be valued at \$15 a fish unless the AFS publication requires a higher value, in which case the higher value shall be applied.

Any interested person may make written suggestions or comments on the proposed amendment on or before September 1, 2009. Such written materials should be directed to Tamara Mullen, Department of Natural Resources, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-7147; or E-mail [tamara.mullen@dnr.iowa.gov](mailto:tamara.mullen@dnr.iowa.gov). Persons who wish to convey their views orally should contact Tamara Mullen at (515)281-8934 or at the Legal Bureau offices on the Third Floor.

Also, there will be a public hearing on August 21, 2009, at 3 p.m. in the Fourth Floor Conference Room, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa. At the public hearing, persons may present their views either orally or in writing. Participants will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who attend the public hearing and have special needs such as hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code sections 455B.392, 456A.23, and 481A.2.

The following amendments are proposed.