

Agenda

Natural Resource Commission

Thursday, November 9, 2023

Teleconference: 442-242-3609 PIN: 883 789 392#

Video Conference: meet.google.com/sco-mbns-qva

502 E 9th St, Des Moines, Iowa 50319

DNR 2N Conf Room

Thursday, November 9, 2023

9:30 AM – NRC Business Meeting

Public participation begins at approximately 10:00am. If you are unable to attend the business meeting, comments regarding agenda items may be submitted for public record to Alicia Plathe at Alicia.Plathe@dnr.iowa.gov or 502 East 9th St, Des Moines IA 50319 up to 24 hours prior to the business meeting.

1.	Approval of Agenda Consent Agenda (*within agenda indicates proposed consent agenda item) *5. Donations *6. Subrecipient Grant Agreement with the City of Dubuque *7. Chapter 30-Waters Cost-Share and Grant Programs, Water Recreation Access Cost-Share Grants *9. Contract with Ecosystem Repair US, Inc. (IHAP) *10. Contract with David Mouw (IHAP) *11. Contract with Iowa State University (Urban SGCN) *12. Contract with Polk County Conservation Board (Urban SGCN) *13. Chapter 30-Waters Cost-Share and Grants Program, Low-Head Dam Public Hazard Grant *41. 2024 NRC Meeting Dates *42. Public Land Management Projects (42.1-42.5)	Decision	Commission
2.	Approval of the Minutes	Decision	Commission
3.	Director's Remarks	Information	Kayla Lyon
4.	Division Administrator's Remarks	Information	Pete Hildreth
*5.	Donations	Decision	Pete Hildreth
*6.	Subrecipient Grant Agreement with the City of Dubuque	Decision	Joe Larscheid
*7.	Chapter 30-Waters Cost-Share and Grant Programs, Water Recreation Access Cost-Share Grants	Decision	Joe Larscheid
8.	Contract with Iowa Off-Highway Vehicle Association, Inc	Decision	Sherry Arntzen
*9.	Contract with Ecosystem Repair US, Inc. (IHAP)	Decision	Todd Bishop
*10.	Contract with David Mouw (IHAP)	Decision	Todd Bishop
*11	Contract with Iowa State University (Urban SGCN)	Decision	Todd Bishop
*12	Contract with Polk County Conservation Board (Urban SGCN)	Decision	Todd Bishop
*13.	Chapter 30-Waters Cost-Share and Grants Program, Low-Head Dam Public Hazard Grant	Decision	Travis Baker
14.	Construction-Small Projects-Pavement Patches at Big Marsh WMA	Information	Travis Baker
15.	Large Construction Projects	Decision	Travis Baker
15.1	McIntosh Woods State Park Fishing Cleaning Station-Cerro Gordo County	Decision	Travis Baker
15.2	Pleasant creek State Recreation Area, Pavement Preservation-Linn County	Decision	Travis Baker
15.3	Silver Lake, Shoreline Stabilization-Dickinson County	Decision	Travis Baker
15.4	Sweet Marsh Wildlife Management Area Quail Avenue PCC Pavement Maintenance-Bremer County		
16.	Land Acquisition	Decision	Travis Baker
16.1	Green Island Wildlife Management Area, Jackson County-Clausen	Decision	Travis Baker

16.2	Green Island Wildlife Management Area, Jackson County-Keil Trust	Decision	Travis Baker
16.3	East Fork Des Moines River Wildlife Management Area, Humboldt County-Iowa Natural Heritage Foundation	Decision	Travis Baker
16.4	Sedan Bottoms Wildlife Management Area, Appanoose County-Iowa Natural Heritage Foundation	Decision	Travis Baker
16.5	Merritt Forest State Preserve, Clayton County-Bob L. Behrend	Decision	Travis Baker
17.	Chapter 1, "Operation of Natural Resource Commission" – Notice of Intended Action	Decision	Tamara McIntosh
18.	Chapter 12, "Conservation Education" – Notice of Intended Action	Decision	Tammie Krausman
19.	Chapter 13, "Permits and Easements for Construction and Other Activities on Public Lands and Waters"– Notice of Intended Action	Decision	Travis Baker
20.	Chapter 14, "Concessions" – Notice of Intended Action	Decision	Sherry Arntzen
21.	Chapter 15, "General License Regulations"-Notice of Intended Action	Decision	Mark Warren
22.	Chapter 16, "Docks and Other Structures on Public Waters" – Notice of Intended Action	Decision	Craig Cutts
23.	Chapter 17, "Leases and Permits" – Notice of Intended Action	Decision	Travis Baker
24.	Chapter 20, "Manufacturer's Certificate of Origin" – Notice of Intended Action	Decision	Tammie Krausman
25.	Chapter 21, "Habitat Lease Program" – Notice of Intended Action	Decision	Travis Baker
26.	Chapter 22, "Habitat and Public Access Program" – Notice of Intended Action	Decision	Todd Bishop
27.	Chapter 23, "Wildlife Habitat Promotion with Local Entities Program"– Notice of Intended Action	Decision	Todd Bishop
28.	Chapter 24, "Blufflands Protection Program and Revolving Loan Fund" – Notice of Intended Action	Decision	Todd Bishop
29.	Chapter 25, "Certification of Land as Native Prairie or Wildlife Habitat" – Notice of Intended Action	Decision	Todd Bishop
30.	Chapter 26, "Relocation Assistance" – Notice of Intended Action	Decision	Travis Baker
31.	Chapter 27, "Lands and Waters Conservation Fund Program" – Notice of Intended Action	Decision	Sherry Arntzen
32.	Chapter 28, "All-Terrain Vehicle Registration Revenue Cost-Share Program" – Notice of Intended Action	Decision	Sherry Arntzen
33.	Chapter 30, "Waters Cost-share and Grant Programs,"-Notice of Intended Action	Decision	Travis Baker
34.	Chapter 31, "Publicly Owned Lakes Watershed Program" – Notice of Intended Action	Decision	Travis Baker
35.	Chapter 33, "Resource Enhancement and Protection Program: County, City, Private Open Spaces and Conservation Education Grant Programs" – Notice of Intended Action	Decision	Michelle Wilson
36.	Chapter 34, "Community Forest Grant Program" – Notice of Intended Action	Decision	Jeff Goerndt
37.	Chapter 35, "Fish Habitat Promotion for County Conservation Boards" – Notice of Intended Action	Decision	Joe Larscheid
38.	Chapter 61, "State Parks, Recreation Areas, and State Forest Camping" – Notice of Intended Action	Decision	Sherry Arntzen
39.	Chapter 91, "Waterfowl and Coot Hunting Seasons" – Notice of Intended Action	Decision	Todd Bishop
40.	Chapters 94, "Nonresident Deer Hunting," and Chapter 106, "Deer Hunting" – Notice of Intended Action	Decision	Todd Bishop
*41.	2024 NRC Meeting Dates	Decision	Pete Hildreth
*42.	Public Land Management Projects	Decision	Travis Baker

42.1	Chapter 18 Lease-Scott County-Mississippi River	Decision	Travis Baker
42.2	Chapter 18 Lease-Dickinson County-West Okoboji Lake-West-O Beer, LLC	Decision	Travis Baker
42.3	Chapter 18 Lease-Scott County-Mississippi River	Decision	Travis Baker
42.4	Management Agreement, Kauten Area-Fayette County Conservation Board-Fayette County	Decision	Travis Baker
42.5	28E Agreement, Boone Forks WMA-Webster County	Decision	Travis Baker
43.	General Discussion		
Upcoming NRC Meeting Dates			
<ul style="list-style-type: none"> ● Thursday, December 14, 2023, Wallace Building ● Wednesday, January 10, 2024, Wallace Building 			

For details on the NRC meeting schedule, visit:

<http://www.iowadnr.gov/InsideDNR/BoardsCommissions/NaturalResourceCommission.aspx>

Comments during the public participation period regarding proposed rules or notices of intended action are not included in the official comments for that rule package unless they are submitted as required in the Notice of Intended Action.

Any person attending the public meeting and has special requirements such as those related to mobility or hearing impairments should contact the DNR or ADA Coordinator at 515-725-8200, Relay Iowa TTY Service 800-735-7942, or Webmaster@dnr.iowa.gov, and advise of specific needs.

The Iowa Department of Natural Resources (DNR) does not discriminate on the basis of race, color, religion, sex, sexual orientation, gender identity, national origin, English-language proficiency, disability, or age in the administration of its programs or activities in accordance with applicable laws and regulations. DNR will not tolerate discrimination, intimidation, threats, coercion, or retaliation against any individual or group because they have exercised their rights protected by federal or state law.

**MINUTES OF THE
NATURAL RESOURCE COMMISSION
MEETING**

October 12, 2023

**Video Teleconference
and
Wallace State Office Building**

Approved by the Commission **TBD**

DRAFT

 Digitally signed by Kayla Lyon
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Kayla Lyon, Director

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Meeting Minutes

CALL TO ORDER

The meeting of the Natural Resource Commission (Commission or NRC) was called to order by Chairperson Marcus Branstad at 9:30am on October 12, 2023, via a combination of in-person and video/teleconference attendees.

COMMISSIONERS PRESENT

- Laura Foell
- Laura Kudej
- Uriah Hansen (virtual; 9:30am-11:05am)
- Tammi Kircher
- Tom Prickett
- KR Buck
- Marcus Branstad

COMMISSIONERS ABSENT

None

PUBLIC PARTICIPATION

None

APPROVAL OF AGENDA AND CONSENT AGENDA

The consent agenda included the following agenda items:

- Timber Sale Contract with Yoder Sawmill, LLC. - Stephens State Forest
- Timber Sale Contract with Kendrick, Inc.-Pikes Peak State Park
- Timber Sale Contract with Ben Bruggeman-Yellow River State Forest

<i>Motion was made by Laura Foell to approve the agenda and consent agenda as presented. Seconded by Tom Prickett.</i>
<i>The Chairperson asked for the Commissioners to approve the agenda by saying aye. There were no nay votes. Motion passes.</i>

AGENDA AND CONSENT AGENDA APPROVED AS PRESENTED

APPROVAL OF MINUTES

<i>Motion was made by Tammi Kircher to approve the September 9, 2023 NRC minutes as presented. Seconded by KR Buck.</i>
<i>The Chairperson asked for the Commissioners to approve the agenda by saying aye. There were no nay votes. Motion passes.</i>

APPROVED AS PRESENTED

DIRECTOR’S REMARKS

- Director Lyon provided updates regarding the Boards and Commissions Review Committee process, noting that the final report was due at the end of September. Director Lyon mentioned three notable recommendations in the report, which included a recommendation to merge the authority of the Preserves Board into the NRC, a recommendation to shorten the NRC term length to 4 years to be consistent with EPC commissioner term length, and a recommendation that the NRC will no longer vote on the DNR budget. Director Lyon reminded the Commission that all the recommendations will have to pass as legislation and responded to several questions regarding the recommendations presented.

- Director Lyon turned it over to General Counsel Tamara McIntosh to provide an update EO10 overview. In her overview, General Counsel McIntosh outlined the steps that the Department has completed to date in the EO10 rulemaking process. She explained that each rule chapter proposal that will go before the commission will be categorized in one of three actions: rescind, rescind and consolidate, and rescind and replace. General Counsel McIntosh finalized her remarks by going through the remaining steps of the EO10 process, highlighting the steps that involve the commission.

DIVISION ADMINISTRATOR’S REMARKS

- Division Administrator Hildreth started off his remarks by providing an update on the REAP assemblies for this calendar year. Mr. Hildreth reported that attendance has been up at all of the meetings and shared the schedule for the remaining assemblies. Commissioner Foell encouraged DNR staff to continue to make updates to the assembly process to ensure representation of a variety of different stakeholders.
- Mr. Hildreth invited Jessica Flatt, DNR OHV Coordinator, to provide an update on the River Valley OHV Park. Miss Flatt provided a brief history of the park closure, current status of the park and the nearby levy maintenance project, and highlighted the ongoing discussions around partnerships to possibly manage the park in the future.
- Mr. Hildreth wrapped up his remarks encouraging meeting attendees to enjoy all of Iowa’s Fall activities including, but not limited to, hiking, hunting and viewing the Fall colors.

DONATIONS

Pete Hildreth requested Commission approval of donations received by the Department from the following individuals and organizations:

Glenn Pollock	Bill and Candy Engstler
William and Jane Overland	Jason Schmitt
Chris Dinsdale	Patricia Cole
American Legion Auxiliary	Dan Karthas
Whitetails Unlimited, Inc.	Anh Kadotani
Brian MacLean	Beverly Betz (Steve, Emily and Brand and Family)
Mike and Lora Jans	Bonnie Cook
Steve and Mary Richardson	

Public Comments – None

Written Comments – None

Motion was made by Laura Foell to approve the item as presented. Seconded by Laura Kudej.

The Chairperson asked for the Commissioners to approve the motion by saying aye. There were no nay votes. Motion passes.

APPROVED AS PRESENTED

CONTRACT WITH THE IOWA ECONOMIC DEVELOPMENT AUTHORITY

Monica Thelen requested Commission approval of a contract with the Iowa Economic Development Authority for a 28E agreement for the mitigation of the adverse effect caused by the removal of structures eligible for listing on the National Register of Historic Places.

Public Comments – None

Written Comments – None

Motion was made by Tom Prickett to approve the item as presented. Seconded by KR Buck.

The Chairperson asked for the Commissioners to approve the motion by saying aye. There were no nay votes. Motion passes.

APPROVED AS PRESENTED

REAP CITY PARKS AND OPEN SPACE GRANTS (FY24)

Michelle Wilson requested Commission approval of the REAP City Parks and Open Space Grants. Mrs. Wilson explained the pending status as terminology used until grant awards are formally accepted in writing. She also responded to questions on the formula used for fund distribution as well as frequency of grant allocations.

Public Comments – None

Written Comments – None

Motion was made by Tammi Kircher to approve the item as presented. Seconded by Tom Prickett.

The Chairperson asked for the Commissioners to approve the motion by saying aye. There were no nay votes. Motion passes.

APPROVED AS PRESENTED

REAP COUNTY GRANTS (FY24)

Michelle Wilson requested Commission approval of the REAP County grants.

Public Comments – None

Written Comments – None

Motion was made by Laura Foell to approve the item as presented. Seconded by Tammi Kircher.

The Chairperson asked for the Commissioners to approve the motion by saying aye. There were no nay votes. Motion passes.

APPROVED AS PRESENTED

REAP PRIVATE/PUBLIC COST-SHARE GRANTS (FY24)

Michelle Wilson requested Commission approval of the REAP Public/Private Cost-share grants.

Public Comments – None

Written Comments – None

Motion was made by Laura Kudej to approve the item as presented. Seconded by Tom Prickett.

The Chairperson asked for the Commissioners to approve the motion by saying aye. There were no nay votes. Motion passes.

APPROVED AS PRESENTED

TIMBER SALE CONTRACT WITH MEISTER LOG AND LUMBER CO.-YELLOW RIVER STATE FOREST

Jeff Goerndt requested Commission approval for a timber sale contract with Meister Log and Lumber Co. for Yellow River State Forest. Mr. Goerndt explained the purpose of the timber harvest on the property and where the funding from the timber sales is deposited for future use.

Public Comments--None

Written Comments – None

Motion was made by Laura Foell to approve the item as presented. Seconded by Tammi Kircher.

The Chairperson asked for the Commissioners to approve the motion by saying aye. There were no nay votes. Motion passes.

APPROVED AS PRESENTED

CONTRACT WITH BLACK HAWK COUNTY CONSERVATION BOARD (CASEY LAKE)

George Antoniou requested Commission approval for a contract with Black Hawk County Conservation Board. Mr. Antoniou outlined the history of the Lake Restoration program budget and responded to questions regarding any DNR involvement in the Scott Street Dam project in Des Moines.

Public Comments – None

Written Comments – None

Motion was made by KR Buck to approve the item as presented. Seconded by Tom Prickett.

The Chairperson asked for the Commissioners to approve the motion by saying aye. There were no nay votes. Motion passes.

APPROVED AS PRESENTED

CASEY LAKE RESTORATION-TAMA COUNTY

Travis Baker requested Commission approval for a project to construct watershed and in-lake restoration practices at Hickory Hills Park (Casey Lake).

Public Comments – None

Written Comments – None

Motion was made by Tammi Kircher to approve the item as presented. Seconded by KR Buck.

The Chairperson asked for the Commissioners to approve the motion by saying aye. There were no nay votes. Motion passes.

APPROVED AS PRESENTED

RED ROCK WMA/LAKE KEOMAH, ROAD MAINTENANCE (MARION, WARREN AND MAHASKA COUNTIES)

Travis Baker requested Commission approval for a project that includes maintenance work for 3.5 miles of gravel roads at Red Rock Wildlife Management Area and .5 miles of gravel roads at Keomah State Park.

Public Comments – None

Written Comments – None

Motion was made by Laura Foell to approve the item as presented. Seconded by Laura Kudej.

The Chairperson asked for the Commissioners to approve the motion by saying aye. There were no nay votes. Motion passes.

APPROVED AS PRESENTED

TIEVILLE BEND, PUMP REPLACEMENT-MONONA COUNTY

Travis Baker requested Commission approval to remove and replace a 90 horsepower pump at the Tieville Bend pumping station.

Public Comments – None

Written Comments – None

Motion was made by KR Buck to approve the item as presented. Seconded by Tammi Kircher.

The Chairperson asked for the Commissioners to approve the motion by saying aye. There were no nay votes. Motion passes.

APPROVED AS PRESENTED

ROLLING HILLS WILDLIFE MANAGEMENT AREA, MADISON COUNTY-IOWA NATURAL HERITAGE FOUNDATION

Travis Baker requested Commission approval to purchase a tract of land located in Madison County in the Rolling Hills Wildlife Management Area. Mr. Baker outlined the process for naming new Wildlife Management Areas and highlighted that the property is an opportunity to grow public access near a higher populated area in Iowa.

Public Comments – None

Written Comments – None

Motion was made by KR Buck to approve the item as presented. Seconded by Tammi Kircher.

The Chairperson asked for the Commissioners to approve the motion with a roll call vote. KR Buck-aye, Tammi Kircher-aye, Uriah Hansen-aye, Laura Foell-nay, Tom Prickett-aye, Laura Kudej-aye, Marcus Branstad-aye. Motion passes.

APPROVED AS PRESENTED

OTTER CREEK, FAYETTE COUNTY-BOYER

Travis Baker requested Commission approval to purchase an angler access conservation easement for the purpose of public fishing.

Public Comments – None

Written Comments – None

Motion was made by Tammi Kircher to approve the item as presented. Seconded by KR Buck.

The Chairperson asked for the Commissioners to approve the motion with a roll call vote. KR Buck-aye, Tammi Kircher-aye, Uriah Hansen-aye, Laura Foell-aye, Tom Prickett-aye, Laura Kudej-aye, Marcus Branstad-aye. Motion passes.

APPROVED AS PRESENTED

CHAPTER 10, “FORFEITED PROPERTY”-NOTICE OF INTENDED ACTION (RESCISSIONS)

Craig Cutts requested Commission approval of the Notice of Intended Action to rescind Chapter 10, “Forfeited Property.” Mr. Cutts explained that there are two sections in statute that dictate the forfeited property process and that the rules are repetitive of Iowa Code language. He also responded to questions regarding how frequent the process is used and what is done with seized property.

Public Comments – None

Written Comments – None

Motion was made by KR Buck to approve the item as presented. Seconded by Laura Foell.

The Chairperson asked for the Commissioners to approve the motion by saying aye. There were no nay votes. Motion passes.

APPROVED AS PRESENTED

CHAPTER 18, “RENTAL FEE SCHEDULE FOR STATE-OWNED PROPERTY, RIVERBED, LAKEBED, AND WATERFRONT LANDS”; CHAPTER 19, “SAND AND GRAVEL PERMITS”-NOTICES OF INTENDED ACTION (RESCISSIONS)

Nathan Schmitz requested Commission approval of the Notices of Intended Action to rescind Chapters 18 and 19.

Public Comments – None

Written Comments – None

Motion was made by Laura Foell to approve the item as presented. Seconded by Laura Kudej.

The Chairperson asked for the Commissioners to approve the motion by saying aye. There were no nay votes. Motion passes.

APPROVED AS PRESENTED

CHAPTER 29, "LOCAL RECREATION INFRASTRUCTURE GRANTS PROGRAM"-NOTICE OF INTENDED ACTION (RESCISSIONS)

Tamara McIntosh requested Commission approval of the Notice of Intended Action to rescind Chapter 29.

Public Comments – None

Written Comments – None

<i>Motion was made by Tammi Kircher to approve the item as presented. Seconded by Tom Prickett.</i>
<i>The Chairperson asked for the Commissioners to approve the motion by saying aye. There were no nay votes. Motion passes.</i>

APPROVED AS PRESENTED

CHAPTER 32, "PRIVATE OPEN SPACE LANDS"-NOTICE OF INTENDED ACTION (RESCISSIONS)

Monica Thelen requested Commission approval of the Notice of Intended Action to rescind Chapter 32. General Counsel McIntosh clarified that any activity related to the processes outlined in Chapter 32 is now handled through the Secretary of State.

Public Comments – None

Written Comments – None

<i>Motion was made by Tammi Kircher to approve the item as presented. Seconded by Laura Kudej.</i>
<i>The Chairperson asked for the Commissioners to approve the motion by saying aye. There were no nay votes. Motion passes.</i>

APPROVED AS PRESENTED

GENERAL DISCUSSION

- Each Commissioner shared their outdoor Fall experiences. Commissioner Buck shared a survey he plans to distribute at the NW Iowa County Conservation Board Meeting and shared a letter he received regarding the Sauk Rail trail surface as it relates to an agreement with the Iowa DNR.

ADJOURN

<i>The Chairperson adjourned the Natural Resource Commission meeting at 12:00 pm on October 12, 2023.</i>

ADJOURNED

**Iowa Department of Natural Resources
Natural Resource Commission**

Decision Item (*indicates proposed consent)

***Item #5**

Donations

The Natural Resource Commission is requested to approve the following donations:

Donation to:	Amount	Description	Donation Provided by:
Ledges State Park	\$4,340.00	One week of Conservation Corps Minnesota and Iowa crew time, removing invasive species at Ledges State Park.	Friends of the Ledges
Ledges State Park	\$387.15	Recycled plastic memorial bench.	Kathy Springer
Wildlife Diversity Fund	\$200.00	Donation to support the Wildlife Diversity Program.	Lake County Forest Preserves
Wildlife Diversity Fund	\$4,126.61	Antennas, coax, ground receiver, lightning arrestors, radio dongles and mount for Motus wildlife telemetry station.	Tom Dougherty- Iowa Ornithologists Union
Lake Wapello State Park	\$1,500.00	Funds toward a flag pole at the new Lake Wapello State Park office.	Chris and Donna Hawkins
Fish and Wildlife Trust Fund	\$50.00	Donation to support the Fish and Wildlife Trust Fund in memory of Dean Umphrey.	Kriss Philips
Fish and Wildlife Trust Fund	\$50.00	Donation to support the Fish and Wildlife Trust Fund in memory of Gary Wilcox.	David Andrews
Fish and Wildlife Trust Fund	\$35.00	Donation to support the Fish and Wildlife Trust Fund in memory of Gary Wilcox.	Dennis Bossard
Wildlife Diversity Fund	\$200.00	Donation to support the Wildlife Diversity Program.	South Dakota Ornithologists Union
Fish and Wildlife Trust Fund	\$50.00	Donation to support the Fish and Wildlife Trust Fund in honor of Robert Goldman.	Will and Karen Reece
Fish and Wildlife Trust Fund	\$35.00	Donation to support the Fish and Wildlife Trust Fund.	Marcus Fisher
Fish and Wildlife Trust Fund	\$25.00	Donation to support the Fish and Wildlife Trust Fund in honor of Robert Goldman.	Berniece Tucker

Pete Hildreth, Division Administrator
Conservation and Recreation Division
NRC Meeting Date: November 9, 2023

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item (*indicates proposed consent)

***6. Subrecipient Grant Agreement with the City of Dubuque**

Commission approval is requested for an agreement with the City of Dubuque.

Contract Terms

Amount: Not to exceed \$200,000

Dates: August 1, 2023 to December 31, 2024

Funding Source(s): USFWS, Boating Infrastructure Grant Tier 1 Funds

Agreement Purpose: The USFWS Boating Infrastructure Grant (BIG) provides annual pass-through funding to States for docking and safe harbor for transient boaters and vessels. This grant program was created under the Sportfishing and Boating Safety Act of 1998 to provide funding for the construction, renovation and maintenance of boating infrastructure facilities for transient recreational vessels at least 26 feet long that are operated, leased, rented, or chartered primarily for pleasure. BIG receives its funding from two percent of the annual appropriation from the Sport Fish Restoration and Boating Trust Fund. The Act requires at least a 25 percent match from the applicant.

The DNR serves as the State agent and pass-through funds administrator for this program. Interested applicants complete the federal form and submit it to the State agent for processing. The State agent reviews and submits the qualified application on behalf of the applicant for federal review and approval. The successful applicant(s), then, enters into an agreement with the State agency outlining federal requirements.

Funds granted will be used by the City of Dubuque for dredging areas near and around the existing transient dock and continuing southeast toward the existing transient/fuel/water/pump-out dock. This will provide boaters safe access to the amenities of the Dubuque Marina and the City of Dubuque. It will also provide safe harbor for daily and overnight docking. Bathroom and shower facilities are currently available to these transient boaters.

Recommendation: One application was received for this grant cycle. The USFWS has approved the BIG grant award to the City of Dubuque. The review committee (State agent/DNR, USFWS, DNR Federal Aid Coordinator) recommends entering into this agreement with the grant awardee, City of Dubuque.

Joe Larscheid, Fisheries Bureau Chief

Conservation and Recreation Division

NRC Meeting Date: November 9, 2023

**Iowa Department of Natural Resources
Natural Resource Commission**

Decision Item (*indicates proposed consent)

***7. Chapter 30 - Waters Cost-Share and Grant Programs, Water Recreation Access Cost-Share (WRAC) Grants (FY 2024)**

The Commission is requested to approve funding for the recommended Water Recreation Access Cost-Share (WRAC) Grant applications pursuant to Iowa Administrative Code Chapters 571-30.

Grant Purpose: The Water Recreation Access Grants are awarded annually to assist governmental entities in providing or improving water access for recreation purposes. State cost-share funding is provided at 75% with the local 25% contribution coming from in-kind or monetary match if the project is not under a management agreement with the State of Iowa. Grantees can receive cost-share funding at 100% if they are managing the property under an agreement on behalf of the State of Iowa.

Funding Source: Marine Fuel Tax

Grant Funding Available: \$400,000

Summary of Selection Process: Grant applications are scored through a two-part process. Initially, grants are reviewed by district staff and are given a general overall rank. The grants are then submitted to the central scoring committee who review each grant and make final selections based on eligibility, justification, work plan and district ranking. Grant applications were reviewed and scored by a committee who met on October 20, 2023, according to rules provided for in Iowa Administrative Code chapter 571-30.

Selection Committee Members: The review committee consists of 6 members:

Fisheries Bureau (5)

Land & Waters Bureau (1)

Number of Applications Received: 16 (1 ineligible)

Recommendations: The committee recommends funding to the top ranked projects in the table. If an awardee declines their award the Department returns those funds to the Marine Fuel Tax Fund.

Project Rank	Applicant	Title	Project Summary	Total Cost	MFT Request	Recommended Grant Award
1	Benton County Conservation	Hannen Lake Accessibility Project	This project will provide accessible restroom facilities to the Hannen Lake Boat Ramp.	\$8,036	\$3,854	\$3,854
2	Winneshiek County Conservation	Lake Meyer Boat Dock Replacement	This grant request is for a new boat dock that will replace a dock that has been there for over 20 years. This will be a well-engineered, commercially manufactured dock with a skid-resistant surface that sheds water and includes a splinter and nail-free construction.	\$27,869	\$20,902	\$20,092
3	Linn County Conservation	Troy Mills Boat Access Modification	This project will add a simple, in-stream boulder structure to divert sediment deposition away from the Troy Mills River Access and create an eddy with deeper water and low stream velocities for safer watercraft launching.	\$25,117	\$19,800	\$19,800
4	City of Keosauqua	Lower Des Moines River Water Trail at Keosauqua, Iowa	This project is to construct a new double universal access boat ramp and a separate accessible carry down kayak/paddle-craft ramp.	\$608,350	\$50,000	\$50,000

5	City of West Des Moines	1 st Street River Access on Raccoon River	Funding for this project provides for a new river access point along the Raccoon River with parking, a watercraft loading zone, trailhead, site amenities, cast-in-place concrete launch, riverbank armoring, lighting, and signage. As the first phase of a multi-phase project.	\$309,100	\$75,000	\$75,000
6	Linn County Conservation	Waubeeek Boat Access Ramp	The proposed project is located just east of Waubeeek, IA and will add a new boat ramp access to the Wapsipinicon River with parking lot and access road. Upon funding, approximately 3 acres of land will be donated to allow the project to be completed.	\$85,695	\$34,350	\$34,350
7	Kossuth County Conservation	Plum Creek Dam Area Boat Ramp	This project removes and replaces the boat ramp at Plum Creek on the East Fork of the Des Moines River with a new ramp.	\$17,638	\$13,229	\$13,229
8	Monona County Conservation	New Dock and Kayak Launch for Peters Park	This project includes a courtesy dock at the Peters Park Boat Ramp that includes a kayak launch and bench.	\$11,138	\$8,353	\$8,353
9	Clinton County Conservation	Ben Martinsen Wildlife Area Boat Ramp	This project replaces the existing kayak and emergency response boat ramp with a concrete ramp that would be fully accessible to the public.	\$19,364	\$14,523	\$14,523
10	Clarke County Conservation	East Lake Park Dock and Kayak Launch	This project will install a new ADA dock system and kayak launch at East Park Lake in Osceola	\$19,705	\$14,705	\$14,705
11	O'Brien County Conservation	Dog Creek Dock	This project installs a new 40' dock with an 8' wing to provide a safe and accessible area for recreation at Dog Creek Park on Dog Creek Lake.	\$15,212	\$15,212	\$15,212
12	City of Fairfield	Pleasant Lake Granular Boat Ramp	This project involves installing a new boat ramp at Pleasant Lake, as well as improving the parking lot and entrance drive.	\$7,000	\$5,250	\$5,250
13	Hamilton County Conservation	Little Wall Lake South Boat Ramp	This project replaces the south concrete boat ramp and adds a courtesy dock at Little Wall Lake near Jewell.	\$100,797	\$46,547	\$46,547
14	City of Rock Valley	Rock River Trail Head and Boat Ramp Improvements	This grant proposal aims to improve public access to the Rock River and establishes a definitive trail head for an inclusive recreational experience, including a new restroom.	\$281,500	\$211,125	\$78,275
15	City of Marion	Indian Creek Access Site 1.	This project creates a boat access to Indian Creek by constructing a 26-stall concrete parking lot with additional boat trailer parking. The facility will have an ADA concrete walkway leading from the parking lot to Indian Creek to fish, wade, and launch vessels. This is the first of 9 phases.	\$458,249	\$178,000	\$0
Totals				\$2,022,120	\$710,850	\$400,000

Joe Larscheid, Fisheries Bureau Chief
Conservation and Recreation Division
NRC Meeting Date: November 9, 2023

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

8. Contract with Iowa Off-Highway Vehicle Association, Inc

Commission approval is requested for a contract with Iowa Off-Highway Vehicle Association, Inc of Cedar Rapids, IA.

Contract Terms:

Amount: Not to exceed \$75,000.00

Dates: December 1, 2023 – November 30, 2024

Funding Source(s): All-Terrain Vehicle Registration Fund

Contract Purpose: The DNR and the Iowa Off-Highway Vehicle Association, Inc partner in the implementation of the all-terrain vehicle registration revenue program, which provides funds from the all-terrain vehicle fund for development and maintenance of designated off-highway vehicle parks in Iowa. The purpose of the Cooperative Agreement is to fund an Executive Director position that will support the off-highway vehicle program's goals and objectives.

Selection Process Summary: The Department is authorized to enter into this agreement based on statutory authority provided in Iowa Code Section 321I.2 and Iowa Administrative Rule Chapter 571.28.

Sherry Arntzen, Parks, Forests, and Preserves Bureau Chief

Conservation and Recreation Division

NRC Meeting Date: November 9, 2023

**Iowa Department of Natural Resources
Natural Resource Commission**

Decision Item (*indicates proposed consent)

***9. Contract with Ecosystem Repair US, Inc. (IHAP)**

Commission approval is requested for a contract with Ecosystem Repair US, Inc. of Des Moines, IA.

Contract Terms

Amount: Not to exceed \$40,760.00

Dates: 11/9/2023 – 7/15/2029

Funding Source(s): Voluntary Public Access Grant – Iowa Habitat Access Program

Contract Purpose: This six-year contract with Ecosystem Repair US, Inc. will allow for the completion of the land management activities described in the Wildlife Management Plan.

Property Description: Ecosystem Repair US, Inc. owns a 210-acre property in Warren County, Iowa. The property is under an Iowa Habitat Access Program (IHAP) agreement and will be open to public access for hunting from 12/1/2023 -5/31/2030.

Land Management Tasks: The Wildlife Management Plan outlines the land management tasks, which include prescribed fire and tree encroachment control. The DNR will assist the contractor with land management planning, provide technical assistance, and evaluate the completion of the land management tasks.

Selection Process Summary: IHAP contracting authorized under 483A.3B(3)c(1).

Todd Bishop, Wildlife Bureau Chief
Conservation and Recreation Division
NRC Meeting Date: November 9, 2023

**Iowa Department of Natural Resources
Natural Resource Commission**

Decision Item (*indicates proposed consent)

***10. Contract with David Mouw (IHAP)**

Commission approval is requested for a contract with David Mouw of Ellsworth, MN.

Contract Terms

Amount: Not to exceed \$41,760.00

Dates: 11/9/2023 – 9/1/2027

Funding Source(s): Voluntary Public Access Grant – Iowa Habitat Access Program

Contract Purpose: This four-year contract with David Mouw will allow for the completion of the land management activities described in the Wildlife Management Plan.

Property Description: David Mouw owns a 154-acre property in Lyon County, Iowa. The property is under an Iowa Habitat Access Program (IHAP) agreement and will be open to public access for hunting from 12/1/2023 -5/31/2030.

Land Management Tasks: The Wildlife Management Plan outlines the land management tasks, which include prairie reconstruction and prescribed fire. The DNR will assist the contractor with land management planning, provide technical assistance, and evaluate the completion of the land management tasks.

Selection Process Summary: IHAP contracting authorized under 483A.3B(3)c(1).

Todd Bishop, Wildlife Bureau Chief
Conservation and Recreation Division
NRC Meeting Date: November 9, 2023

**Iowa Department of Natural Resources
Natural Resource Commission**

Decision Item (*indicates proposed consent)

***11. Contract with Iowa State University (urban SGCN)**

Commission approval is requested for a contract agreement with Iowa State University (ISU), Ames, Iowa.

Contract Terms:

Amount: Not to exceed \$129,436

Dates: January 1, 2024 to August 31, 2026

Funding Source(s): Federal State Wildlife Grants – Competitive Funds

Contract Purpose: This 2.75 year agreement is part of a Competitive State Wildlife Grant. Iowa State University (ISU), and both Polk and Story County Conservation Boards are partners with DNR on this competitive grant. This project will allow us to work within the growing urban areas in Central Iowa to create habitat for species of greatest conservation need (SGCN) that are able to survive in cities (e.g. butterflies and some birds).

While some SGCN are unlikely to ever thrive in a city setting, others like the Monarch Butterfly, Purple Martins, Baltimore Orioles, and other breeding birds can and often do, while still others such as the Bald Eagle can successfully overwinter and even nest in urban areas with sufficient green-space planning and implementation. These areas and species thus foster an opportunity for achieving SGCN conservation goals while also broadening engagement and interest in SGCN conservation with the most actively growing sector of our population.

This project will bring together city managers, local elected officials, county conservation board staff, university educators and researchers, as well as DNR personnel in a series of meetings and workshops to discuss how urban yards, landscapes, and city-owned properties can be managed to support habitat to allow SGCN tolerant of human proximity to flourish. Iowa State University will facilitate those meetings as well as conducting surveys and gathering data to 1) inform our understanding of city leaders' knowledge, attitudes, and beliefs around SGCN conservation and native plants in their city; 2) identify barriers to adoption of native landscaping and plant communities in their city; and 3) develop education and outreach products to enhance SGCN conservation actions in cities.

This part of the project will collect information and develop educational materials to increase human understanding of the benefits and needs of selected SGCN. The total cost for the ISU part of the project is \$172,581. The DNR will provide up to \$129,436 and ISU will provide up to \$43,145 in matching funds. ISU tasks include:

- Scheduling and facilitating meetings of city, county, and state staff, as well as local elected officials
- Conducting surveys of those people as well as surveys of urban homeowners, gardeners, and horticultural professionals
- Analyzing information gathered from those meetings and surveys
- Developing educational materials (both printed and digital formats) to enhance SGCN conservation actions in cities.

Selection Process Summary: This contract is authorized by 11 Iowa Administrative Code section 118.4.

Todd Bishop, Wildlife Bureau Chief
Conservation and Recreation Division
NRC Meeting Date: 11/09/2023

**Iowa Department of Natural Resources
Natural Resource Commission**

Decision Item (*indicates proposed consent)

***12. Contract with Polk County Conservation Board (urban SGCN)**

Commission approval is requested for a contract agreement with Polk County Conservation Board (Polk CCB), Maxwell, Iowa.

Contract Terms:

Amount: Not to exceed \$100,000

Dates: January 1, 2024 to October 31, 2026

Funding Source(s): Federal State Wildlife Grants – Competitive Funds

Contract Purpose: This 2.75 year agreement is part of a Competitive State Wildlife Grant. Polk County Conservation Board, along with Iowa State University and Story County Conservation Board, are partners with DNR on this competitive grant. This project will allow us to work within the growing urban areas in Central Iowa to create habitat for species of greatest conservation need (SGCN) that are able to survive in cities (e.g. butterflies and some birds).

While some SGCN are unlikely to ever thrive in a city setting, others like the Monarch Butterfly, Purple Martins, Baltimore Orioles, and other breeding birds can and often do, while still others such as the Bald Eagle can successfully overwinter and even nest in urban areas with sufficient green-space planning and implementation. These areas and species thus foster an opportunity for achieving SGCN conservation goals while also broadening engagement and interest in SGCN conservation with the most actively growing sector of our population.

This project will bring together city managers, local elected officials, county conservation board staff, university educators and researchers, as well as DNR personnel in a series of meetings and workshops to discuss how urban yards, landscapes, and city-owned properties can be managed to support habitat to allow SGCN tolerant of human proximity to flourish. Polk CCB will conduct habitat management work at Fort Des Moines Park on the south side of Des Moines to improve the habitat for tree roosting bats and pollinators.

This part of the project will improve the forested habitat for bat use during the summer as well as for creating potential overwintering habitat for rusty-patched bumble bees (a Federally Listed bee) in the forested areas along with converting a small mowed area to native prairie with a high diversity of flowering forbs for all pollinators. The total cost for the Polk CCB part of the project is \$134,000. The DNR will provide up to \$100,000 and Polk CCB will provide up to \$34,000 in matching funds. Polk CCB tasks include:

- Converting a 2.5 acre mowed area to a native prairie planting
- Clearing honeysuckle and other invasive woody understory species from 52 acres using a combination of mulching and goat grazing
- Timber stand improvement work on 25 acres of the 52 acre area
- Planting native trees into 17 acres of the 52 acre area
- Using the remainder of the funds to increase floral diversity with a woodland flower seeding on as much of the 52 acres as can be funded

Selection Process Summary: This contract is authorized by Iowa Code sections 455A.4(6), 456A.23, and 456A.24.

Todd Bishop, Wildlife Bureau Chief
Conservation and Recreation Division
NRC Meeting Date: 11/09/2023

**Iowa Department of Natural Resources
Natural Resource Commission**

Decision Item (*indicates proposed consent)

***13. Chapter 30 - Waters Cost-Share and Grants Program, Low-Head Dam Public Hazard Grant Recommendations**

The Commission is requested to approve the following grant recommendations pursuant to Chapter 30, Waters Cost-share and Grants Programs.

Grant Purpose: The purpose of the Low-Head Dam Public Hazard Program is to reduce drowning hazards and promote fish passage on Iowa’s navigable rivers. Eligible applicants include any owner of a low-head dam or a partner organization. As outlined in rule, grants are issued at least annually if funding is available. The last grants were issued in November 2023. The current round of requests represent more than \$55 million in total projects.

Funding Source(s): Rebuild Iowa Infrastructure Fund (RIIF)

Grant Funding Available: \$300,000

Summary of Selection Process: As directed by criteria under Chapter 30, the grant review and selection committee met on October 5, 2023, to evaluate and score applications and to provide recommendations for the grant awards.

Number of Applications Received: 4

Selection Committee Members: The review and selection committee consisted of five members:

- Citizen stakeholders (2)
- DNR Staff (3)

Recommendations: The committee recommends funding to the top ranked projects. If the highest ranked projects decline the funding, the Department requests authority to offer those funds to the next highest scored projects that meet the grant criteria or return the funds to the grant program for distribution in the next grant cycle.

DEVELOPMENT GRANT				
Ranked by Score	Grant Applicant	Project Description	Grant Amount Requested	Recommended Award
89.6	City of Alden	Alden Dam Modification: Construction funds to submerge dam with a rapids with fishing and recreation features. \$1.65 million project total.	\$300,000	\$300,000
89	ICON Water Trails	Scott Avenue Dam Mitigation: Project submerges dam with rapids designed for fish passage and whitewater recreation. \$53 million project total.	\$250,000	-
88	City of Estherville	Estherville Low Head Dam Mitigation Project: Engineering funds to design fishing and recreation features to replace dam for \$64,000 project.	\$64,477	-
87.4	Story County Conservation	Hannums Mill Dam Mitigation: Dam partly removed with new channel and	\$174,280	-

		streambank stabilization. \$712,072 project total.		
DEVELOPMENT GRANT TOTALS			\$788,757	\$300,000

Travis Baker, Land and Waters Bureau Chief
Conservation and Recreation Division
NRC Meeting Date: November 9, 2023

Iowa Department of Natural Resources
Natural Resource Commission

Information Item

14. Construction - Small Projects

The following Engineering managed projects have been let utilizing the Competitive Quotation process for projects \$100,000 or less:

Bid Date	Project No.	Location	County	Summary	Cost Estimate	Bids
10/19/23	21-03-12-01	Big Marsh WMA	Butler	This project consists of PCC Pavement Patches at Big Marsh WMA	\$24,000	\$22,480.00 \$30,000.50 \$35,100.00 \$40,550.00

Travis Baker, Land and Waters Bureau Chief
Conservation and Recreation Division
NRC Meeting Date: 11/09/2023

Iowa Department of Natural Resources
Natural Resource Commission

#15

Decision Item

Construction Item

15.1 McIntosh Woods State Park Fish Cleaning Station - Cerro Gordo County

The Department requests Commission approval of the following construction project:

Project Summary: McIntosh Woods State Park is a 60-acre state park in Cerro Gordo County, near the city of Ventura. The park, which opened in 1944, is located on the north shore of Clear Lake. It is a popular access point to the lake for anglers and boaters on account of its three-lane boat ramp. In addition to the boat ramp, the park includes two jetties, a fish cleaning station, a beach, and a sandbar jutting into the lake. It is also unique among Iowa state parks for its two yurts that can be rented by campers. A modern campground with electric and non-electric sites is also available. The park also has a 1.5-mile boardwalk hiking trail through marshland and a 1-mile bicycle trail.



The current fish cleaning station was constructed in 1989, and repair parts are no longer available. It is heavily used, and has served the public well. This project consists of removing and replacing the fish cleaning table, concrete pad, utilities, and constructing an ADA compliant parking spot. The proposed construction will bring the facility into ADA compliance.

Engineering Project #: 23-03-17-04

Cost Estimate: \$98,000.00

Operating Bureau: Parks

Funding Source: 100% Marine fuel tax

Bid Letting Date: 10/19/2023

Construction Completion Date: 06/01/2024

Number of Bids Received: 1

Bidders

S&S Plumbing, Heating, & AC, LLC

Marengo, IA

\$114,875.00

Upon Engineering's review of bids, DNR recommends awarding the contract to S&S Plumbing, Heating, & AC, LLC

15.2 Pleasant Creek State Recreation Area, Pavement Preservation – Linn County

The Department requests Commission approval of the following construction project:

Project Summary: Pleasant Creek State Recreation Area is located approximately 15 miles northwest of Cedar Rapids. The area includes a 410-acre lake and more than 1500 acres of public land with many outdoor recreation activities available. The campgrounds feature 71 campsites, 57 electrical hook-ups and 2 modern shower and restroom facilities.

The 5.4 miles of paved roads at Pleasant Creek State Recreation Area are due for maintenance. This project consists of crack cleaning and filling (5.4 miles), transverse joint repairs (223 tons), 16 full depth patches (583 square yards), and fog sealing (5.4 miles).



Engineering Project #: 22-06-57-02

Cost Estimate: \$370,000.00

Operating Bureau: Parks

Funding Source: 100% Park and Institutional Road Fund

Bid Letting Date: 10/19/2023

Construction Completion Date: 10/11/2024

Number of Bids Received: 1

Bidders

L. L. Pelling Company, Inc.

North Liberty, IA

\$369,996.00

Upon Engineering’s review of bids, DNR recommends awarding the contract to L. L. Pelling Company, Inc.

15.3 Silver Lake, Shoreline Stabilization – Dickinson County

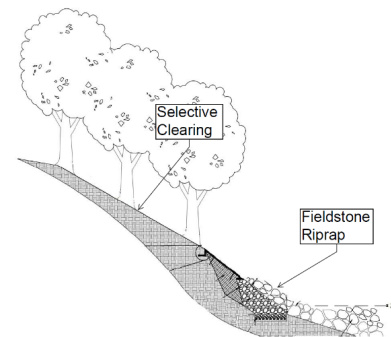
The Department requests Commission approval of the following construction project:

Project Summary: Silver Lake is a 1,032-acre natural lake located in Northwest Iowa and serves as an important regional asset. This shallow lake has at 17:1 watershed to lake area ratio, a mean depth of 7ft, and is a popular destination for boating, fishing, and wildlife watching. The City of Lake Park and Trappers Bay State Park borders Silver Lake.



Water quality at the lake has declined in recent years, and the lake is currently listed as impaired for turbidity. A TMDL (Total Maximum Daily Load) was prepared and approved for Silver Lake in 2009. Shallow water conditions, coupled with rough fish, shoreline erosion, and pollutant loading have led to frequent algae blooms and high nutrient concentrations. The local community worked to develop and began implementing a watershed management plan in 2011.

In 2018, the City of Lake Park, along with DNR, hired Wenck and Associates (now Stantec) to complete a Diagnostic and Feasibility Study for Silver Lake. The study showed that water quality in the lake was negatively impacted by both external (from the watershed) and internal (recycled within the lake) phosphorus loading and made several recommendations for restoration. Over 1,600 lbs of phosphorus entering the lake annually were attributed to shoreline erosion, and the plan called for a 63% reduction in the load coming from shoreline erosion (along with implementing other restoration practices) was needed to help meet water quality goals. Thus, stabilizing large sections of shoreline that are actively eroding is an important part of the overall restoration strategy for Silver Lake.



Approximately 3,600 feet of shoreline has deteriorated and needs protection. Excessive tree canopy along the shoreline has promoted the growth of undesirable underbrush species (honeysuckle, Chinese elm, autumn olive, etc.) which do not provide adequate erosion protection. For this contract, selective clearing will be used to clean up the understory vegetation. All cleared areas will be seeded with native grasses and forbes. A natural erosion netting will cover disturbed areas to provide erosion protection until the native grasses are established. At the water's edge, standard riprap will be used to flatten the near-vertical shoreline. Next, approximately 3,580 tons of fieldstone riprap will be placed on top of the flattened slope to protect against wave-action erosion.

Engineering Project #: 24-01-30-01

Cost Estimate: \$800,000.00

Operating Bureau: Lake Restoration

Funding Source: 60% Lake Restoration and 40% Water Infrastructure Fund

Bid Letting Date: 10/19/2023

Construction Completion Date: 9/30/2024

Number of Bids Received: 4

Bidders

Three Oaks Construction, Inc.	North Sioux City, SD	\$737,255.00
McCarty Custom, Inc.	Linn Grove, IA	\$737,521.00
BD Construction Services, LLC	Spencer, IA	\$796,965.00
Bedrock Gravel, Inc.	Schleswig, IA	\$985,433.00

Upon Engineering's review of bids, DNR recommends awarding the contract to Three Oaks Construction, Inc.

15.4 Sweet Marsh Wildlife Management Area Quail avenue PCC Pavement Maintenance - Bremer County

The Department requests Commission approval of the following construction project:

Project Summary: The Sweet Marsh Wildlife Management Area is 3,100 acres in size and consists of marsh, timber, and upland habitat which provides for multi-use outdoor recreation with a focus on water fowl and angling. The WMA is located approximately four miles northeast of Tripoli.

The concrete roads were constructed in the late 1990s. This project will repair random and longitudinal cracking as well as the localized pavement failures with full-depth patches.



Engineering Project #: 21-03-09-05

Cost Estimate: \$159,000

Operating Bureau: Wildlife

Funding Source: Park and Intuitional Roads Fund

Bid Letting Date: 10/19/2023

Construction Completion Date: 8/30/2024

Number of Bids Received: 4

Bidders

Matt Construction, Inc.	Sumner, IA	\$142,332.00
Midwest Concrete, Inc.	Peosta, IA	\$158,766.62
Bacon Concrete, LLC	Postville, IA	\$196,852.00
Jasper Construction Services, Inc.	Newton, IA	\$215,290.00

Upon Engineering’s review of bids, DNR recommends awarding the contract to Matt Construction, Inc.

Travis Baker, Land & Waters Bureau Chief
Conservation and Recreation Division
November 9, 2023

**Iowa Department of Natural Resources
Natural Resource Commission**

Decision Item

16. Public Land Acquisition Project

16.1 Green Island Wildlife Management Area, Jackson County – Clausen

The Natural Resource Commission's approval is requested to purchase a tract of land located in Jackson County adjacent Green Island Wildlife Management Area (WMA).

Seller: Keith Clausen

Acreage: 16.7 acres

DNR Purchase Price: \$35,000

Appraised Value: \$35,000

Property Description: This property is located seven (7) miles southeast of Bellevue in eastern Jackson County near the confluence of the Maquoketa and Mississippi Rivers. The entire tract is Maquoketa River bottomland encumbered by an Emergency Watersheds Protection Program Floodplain (EWPP) permanent easement (May 2022). The entire property is currently seeded to a grass mix. There are no building improvements. The Maquoketa River is just west of the property. The tract is bordered along the northeast by US HWY 52.

Purpose: In addition to providing for important water quality benefits and further elimination of inholdings in the Green Island bottoms complex, this acquisition will allow for public access to hunting and other outdoor recreation opportunities. This tract will also provide critical nesting habitat for waterfowl, one of the primary objectives across the WMA.

DNR Property Manager: Wildlife Bureau

Funding Source(s): \$25,000 Wildlife Habitat Stamp, \$10,000 Conserving the Upper Mississippi Migration Corridor II NAWCA

Incidental Costs: Incidental closing costs will be the responsibility of the Department. This property will remain on property tax rolls in Jackson County.

16.2 Green Island Wildlife Management Area, Jackson County – Keil Trust

The Natural Resource Commission's approval is requested to purchase a tract of land located in Jackson County adjacent Green Island Wildlife Management Area (WMA).

Seller: Ivan Keil Trust

Acreage: 24.4 acres

DNR Purchase Price: \$50,000

Appraised Value: \$50,000

Property Description: This property is located seven (7) miles southeast of Bellevue in eastern Jackson County near the confluence of the Maquoketa and Mississippi Rivers. The entire tract is Maquoketa River bottomland encumbered by an Emergency Watersheds Protection Program Floodplain (EWPP) permanent easement (September 2022). The entire property will be restored to native grasslands. There are no building improvements. The Maquoketa River is just west of the property. The tract is bordered along the east side by a county road.

Purpose: In addition to providing for important water quality benefits and further elimination of inholdings in the Green Island bottoms complex, this acquisition will allow for public access to hunting and other outdoor recreation opportunities. This tract will also provide critical nesting habitat for waterfowl, one of the primary objectives across the WMA.

DNR Property Manager: Wildlife Bureau

Funding Source(s): \$25,000 Wildlife Habitat Stamp, \$25,000 Conserving the Upper Mississippi Migration Corridor II NAWCA

Incidental Costs: Incidental closing costs will be the responsibility of the Department. This property will remain on property tax rolls in Jackson County.

16.3 East Fork Des Moines River Wildlife Management Area, Humboldt County – Iowa Natural Heritage Foundation

The Natural Resource Commission's approval is requested to purchase a tract of land located in Humboldt County at East Fork Des Moines River Wildlife Management Area (WMA).

Seller: Iowa Natural Heritage Foundation (INHF)

Acreage: 65 acres

DNR Purchase Price: \$248,100

Appraised Value: \$248,100

Property Description: This irregular-shaped, contiguous property is located one (1) mile north of Livermore in northcentral Humboldt County. The steep to near level tract lies within and upslope from the East Fork Des Moines River floodplain. Approximately 75 percent of the property lies within the floodplain, with Lott's Creek meandering through the property, and the east fork of the Des Moines River forming the east boundary of the tract. Land use is primarily timber and grassland, with the exception of 13 acres of upland cropland adjacent a county, gravel-base road along the west boundary. There are no building improvements. Access is provided from the county road along the west side of the tract.

Purpose: This acquisition will allow for public access to hunting and other outdoor recreation opportunities. Resource enhancement will include mechanical removal of invasive trees within a 9-acre prairie remnant and seeding down the cropland field to native grasses thereby reducing sediment delivery to the river.

DNR Property Manager: Wildlife Bureau

Funding Source(s): \$120,000 Prairie Lakes XII NAWCA, \$128,100 Wildlife Habitat Stamp

Incidental Costs: Incidental closing costs will be the responsibility of the Department. This property will remain on property tax rolls in Humboldt County.

16.4 Sedan Bottoms Wildlife Management Area, Appanoose County – Iowa Natural Heritage Foundation

The Natural Resource Commission's approval is requested to purchase a tract of land located in Appanoose County adjacent to Sedan Bottoms Wildlife Management Area (WMA).

Seller: Iowa Natural Heritage Foundation (INHF)

Acreage: 33 acres

DNR Purchase Price: \$127,000

Appraised Value: \$127,000

Property Description: This narrow flag shaped property is located four miles west of Moulton and ~7-miles Southeast of Centerville on the north-east side of Sedan Bottoms WMA. The property is heavily timbered, characterized by Pin Oak and Swamp White Oak in the bottomland. Starting at the west boundary the property is a flat floodplain with oxbows present from the old Chariton River channel. Continuing east the property begins to climb in elevation about 2/3 of the way across the property and rises to its highest point on the east boundary. Access is provided through existing public land.

Purpose: The property will provide for public access to hunting, hiking, and other outdoor recreation opportunities. This parcel will increase the high-quality timber acres and square up the northeast corner of Sedan Bottoms WMA.

DNR Property Manager: Wildlife Bureau

Funding Source(s): \$100,500 Federal Pittman-Robertson, \$26,500 Wildlife Habitat Stamp

Incidental Costs: Incidental closing costs will be the responsibility of the Department. This property will remain on property tax rolls in Appanoose County.

16.5 Merritt Forest State Preserve, Clayton County – Bob L. Behrend

The Natural Resource Commission's approval is requested to accept the donation of a tract of land located in Clayton County adjacent to Merritt Forest State Preserve.

Donor: Bob L. Behrend

Acreage: 2 acres

Property Description: This irregular-shaped property is located adjacent to Merritt Forest State Preserve in Clayton County. The property is located between Merritt Forest State Preserve and Nobles Road. This property is composed of 2 acres of timber. The Northern Long Eared Bat is likely present as are other bat species such as the Tri-colored Bat and Little Brown Bat. The tract will be continued to be managed as timber to compliment the old-growth forest in the State Preserve.

Purpose: This acquisition will provide permanent legal access to the State Preserve. The southern boundary of this parcel is Nobles Road. Currently there is no permanent legal access to the preserve.

DNR Property Manager: Parks Bureau

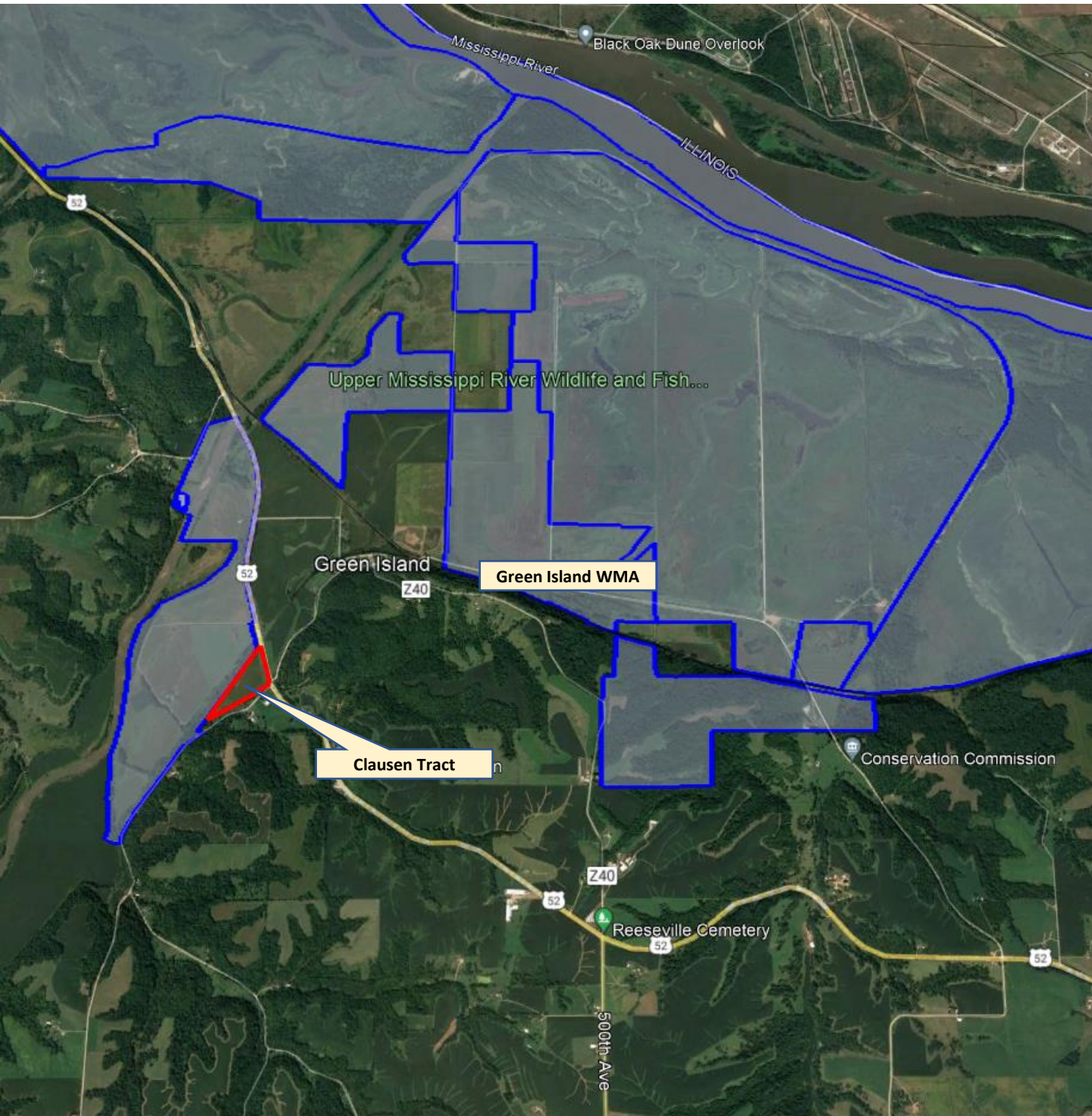
Incidental Costs: Incidental closing costs will be the responsibility of the Department.

Travis Baker, Land & Waters Bureau Chief

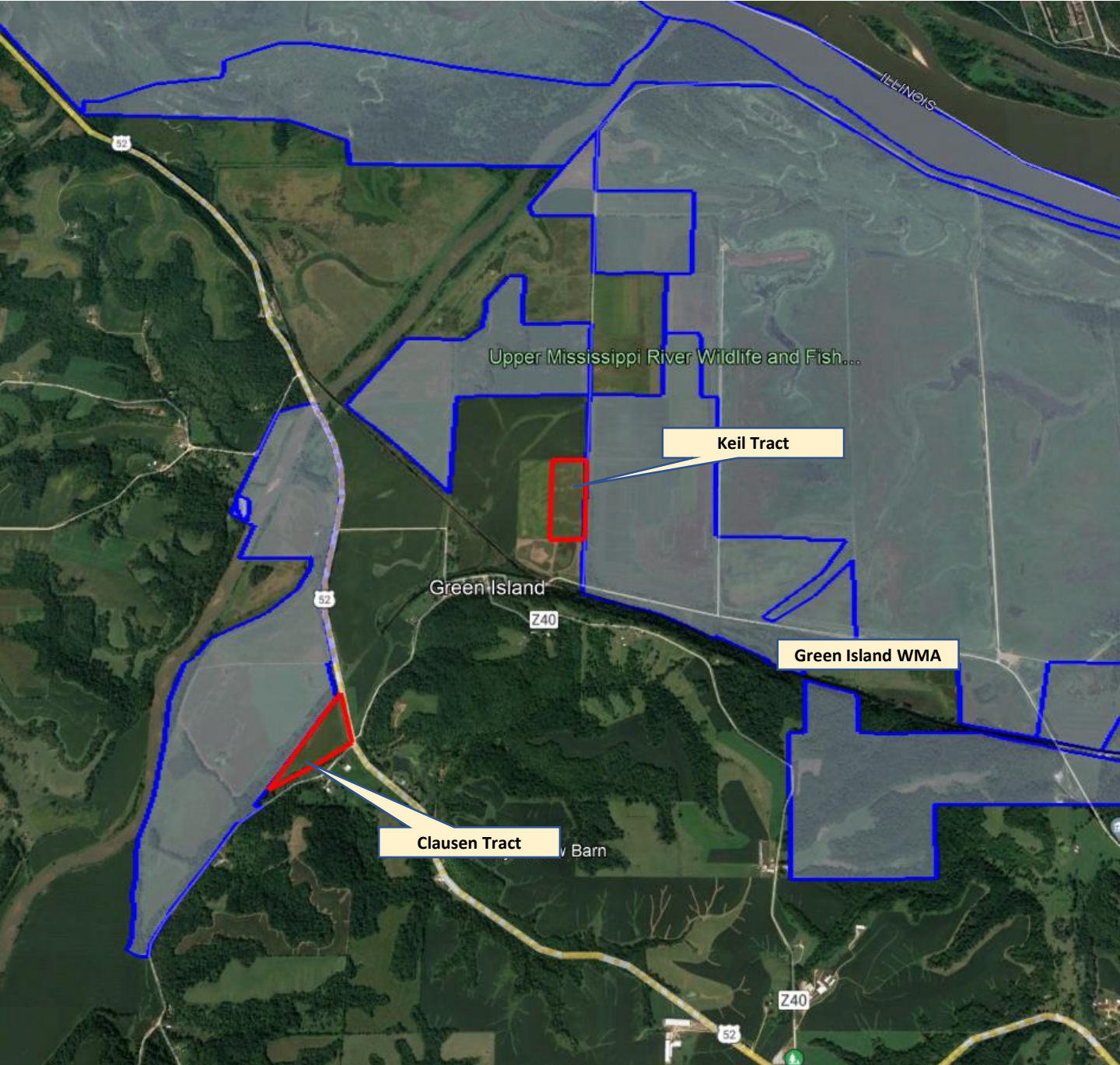
Conservation and Recreation Division

NRC Meeting Date: November 9, 2023

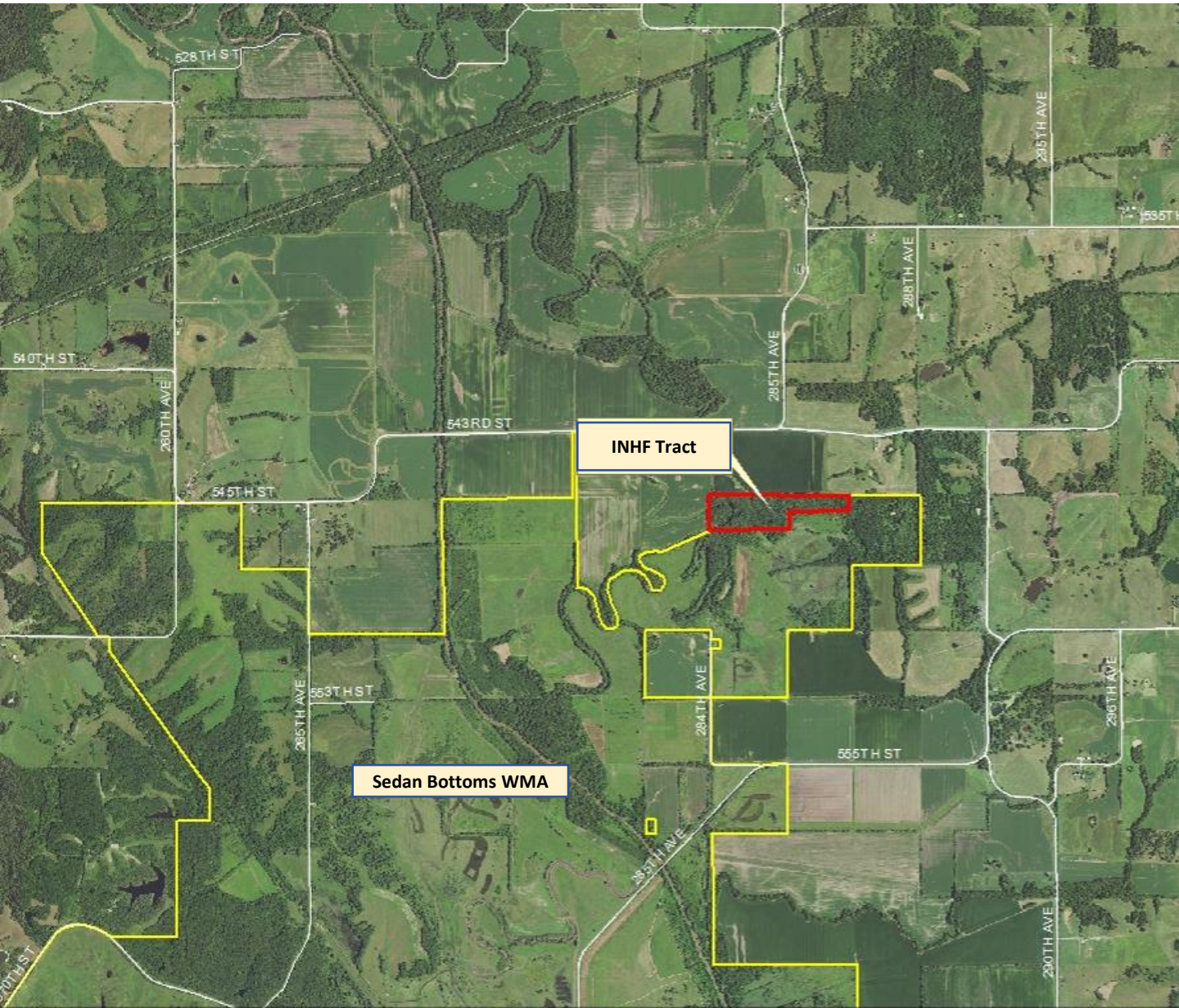
Realty Services / Green Island WMA / Jackson Co. / Clausen

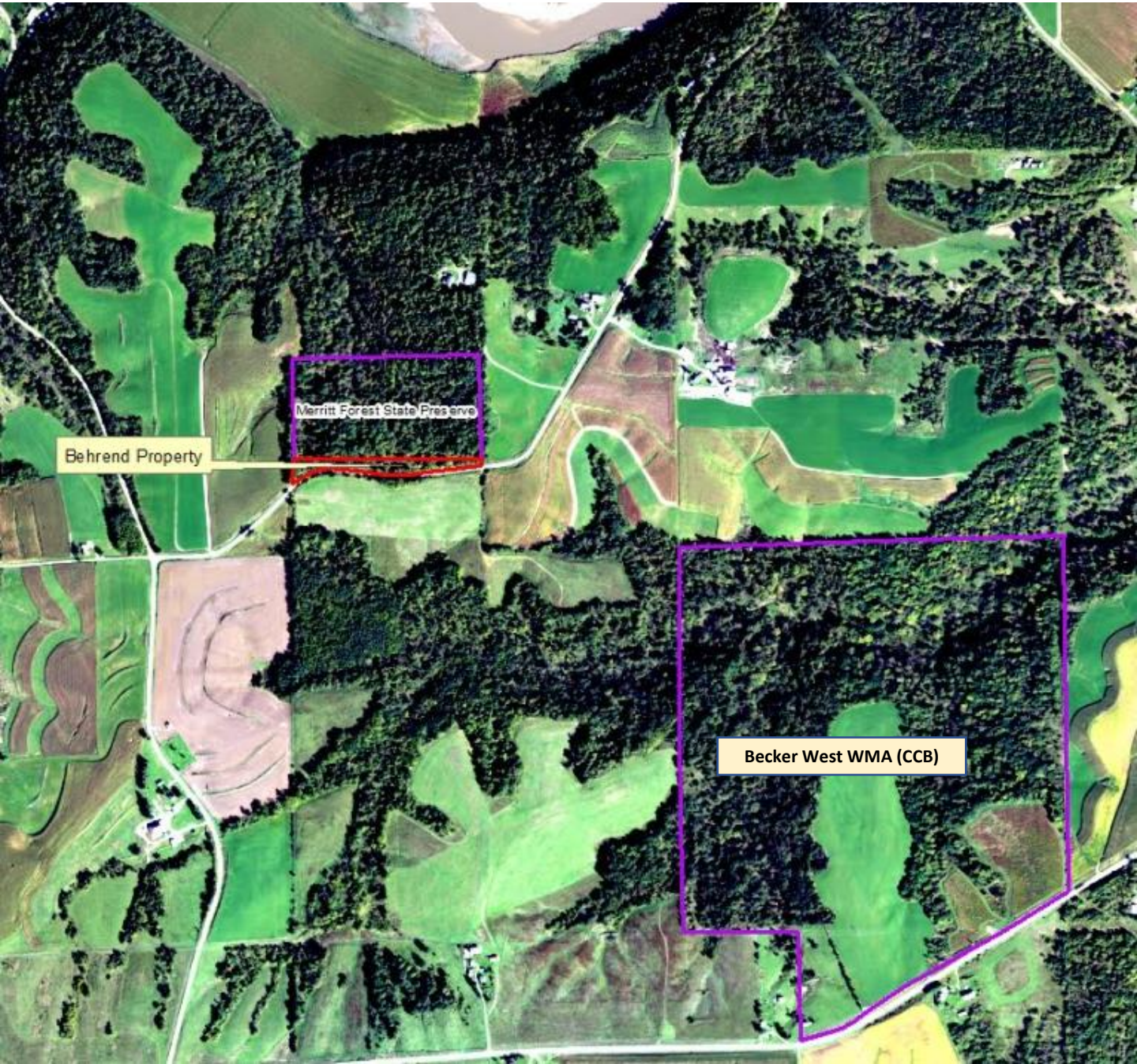


Realty Services / Green Island WMA / Jackson Co. / Keil









Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

17. Chapter 1, "Operation of Natural Resource Commission" – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action for Chapter 1, "Operation of Natural Resource Commission." This Notice of Intended Action is the result of the Legal Services' Executive Order 10 rule review.

Chapter 1 governs the conduct and business operations of the Commission. The Commission is required by law to adopt rules describing its procedures and operations. This proposed chapter reduces and consolidates the Commission's regulations. This is accomplished by rescinding outdated and redundant provisions.

Tamara McIntosh, General Counsel
Legal Services Bureau
Meeting Date: November 9, 2023

Attached: Chapter 1 - NOIA

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 1, “Operation of Natural Resource Commission,” Iowa Administrative Code, and to adopt a new Chapter 1 with the same title.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 455A.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code Chapters 17A and 455A.

Purpose and Summary

Chapter 1 governs the conduct, structure, and business operations of the Commission. Consistent with Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2)’s five-year rule review, this chapter was edited for length and clarity. Specifically, the proposed new chapter reduces and consolidates the rules. This is accomplished by rescinding outdated provisions and by removing those redundant to statute, including particular provisions around conflict of interest found in Iowa Code chapter 68B and associated rules. The proposed chapter has also been streamlined as much as possible, stating the conduct, structure, and business operations of the Commission more succinctly and clearly than before.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department of Natural Resources (Department) or a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 26, 2024. Comments should be submitted electronically to Kelli Book at kelli.book@dnr.iowa.gov and include “NRC Chapter 1 comments” in the subject of the email.

Public Hearing

Two public hearings will be held on the following dates:

Wednesday, January 17, 2024; 2:00 pm – 3:00 pm; Wallace State Office Building,
Conference room 5W

Wednesday, January 24, 2024; 10:00 am – 11:00 am; Wallace State Office Building,
Conference room 4E

The hearings will also be available online. A virtual link will be provided to those who make a request to take part in the hearing virtually. The request for the link shall be submitted to Ms. Book prior to the meeting date.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule making action proposed:

ITEM 1. Rescind 571—Chapter 1 and adopt the following **new** chapter in lieu thereof:

GENERAL
TITLE I

CHAPTER 1

OPERATION OF NATURAL RESOURCE COMMISSION

571—1.1(17A,455A) Scope. This chapter governs the conduct of business by the natural resource commission. Rulemaking proceedings and contested case proceedings are governed by other departmental rules.

571—1.2(17A,455A) Meeting location and notification.

1.2(1) Time of meetings. The commission generally meets monthly, but is required to meet at least quarterly. The director, chairperson, or a majority of the commission may establish meetings.

1.2(2) Notification of meetings. The director will provide public notice of all meeting dates, locations, and agendas. Notice of meetings is given by posting the agenda. The agenda lists the time, date, location, and topics to be discussed at the meeting. The agenda may include a specific time for the public to address the commission on any issue related to the duties and responsibilities of the commission, except as otherwise provided in these rules.

a. The agenda for each meeting will be posted at the Henry A. Wallace Building and on the department's website. The agenda will be provided to anyone who files a request with the department. The final agenda will be posted at least 24 hours prior to the meeting, unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible will be given. Any additions to the agenda after posting and distribution will be posted at least 24 hours prior to the meeting, unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible will be given. The commission may adopt additions to the agenda at the meeting only if good cause exists requiring expeditious discussion or action. The reasons and circumstances necessitating agenda additions, or those given less than 24 hours' notice by posting, shall be stated in the minutes of the meeting.

b. Written materials provided to the commission with the agenda may be examined by the public. Copies of the materials may be distributed at the discretion of the director. The director may require a fee to cover the reasonable cost to the department to provide the copies, in accordance with rules of the

department.

571—1.3(17A,455A) Attendance and participation by the public.

1.3(1) Attendance. All meetings are open to the public. The commission may exclude the public from portions of the meeting in accordance with Iowa Code section 21.5.

1.3(2) Participation.

- a. Items on agenda.* Presentations to the commission may be made at the discretion of the chairperson.
- b. Items not on agenda.* The commission will not act on a matter not on the agenda, except in accordance with paragraph 1.2(2) “b.” Persons who wish to address the commission on a matter not on the agenda should file a request with the director to place that matter on the agenda of the subsequent meeting.
- c. Meeting decorum.* The chairperson may limit participation as necessary for the orderly conduct of agency business. Cameras and recording devices may be used during meetings provided they do not interfere with the orderly conduct of the meeting. The chairperson may order the use of these devices discontinued if they cause interference and may exclude those persons who fail to comply with that order.

571—1.4(17A,455A) Quorum and voting requirements.

1.4(1) Quorum. Two-thirds of the members of the commission constitutes a quorum.

1.4(2) Voting. The concurrence of a majority of the commission members is required to determine any matter before the commission for action, except for a vote to go into closed session which requires the concurrence of two-thirds of the members of the commission.

571—1.5(17A,455A) Conduct of meeting.

1.5(1) General. Meetings will be conducted in accordance with Robert’s Rules of Order unless otherwise provided in these rules. Voting will be by voice or by roll call. Voting will be by voice unless a voice vote is inconclusive, a member of the commission requests a roll call, or the vote is on a motion to close a portion of a meeting. The chairperson will announce the result of the vote.

1.5(2) Voice votes. All commission members present should respond when a voice vote is taken.

- a.* All members present will be recorded as voting aye on any motion when there are no nay votes or abstentions heard.
- b.* Any member who abstains will state at the time of the vote the reason for abstaining. The abstention and the reason for it will be recorded in the minutes.

1.5(3) Provision of information. The chairperson may recognize any agency staff member for the provision of information relative to an agenda item.

571—1.6(17A,455A) Minutes, transcripts, and recordings of meetings.

1.6(1) Audio recordings. The director may record each meeting and shall record each closed session.

1.6(2) Minutes. The director will keep minutes of each meeting. Minutes will be reviewed and approved by the commission.

571—1.7(17A,455A) Officers and duties.

1.7(1) Officers. The officers of the commission are the chairperson, the vice chairperson, and the secretary.

1.7(2) Duties. The chairperson will preside at meetings and will exercise the powers conferred upon the chairperson. The vice chairperson will perform the duties of the chairperson when the chairperson is absent or when directed by the chairperson. The secretary will make recommendations to the commission on approval or revision of the minutes and act as parliamentarian.

1.7(3) Elections. Officers will be elected annually during May.

1.7(4) Succession.

- a.* If the chairperson does not serve out the elected term, the vice chairperson will succeed the chairperson for the remainder of the term. A special election will be held to elect a new vice chairperson to serve the remainder of the term.
- b.* If the vice chairperson does not serve out the elected term, a special election will be held to elect a new vice chairperson to serve the remainder of the term.
- c.* If the secretary does not serve out the elected term, a special election will be held to elect a new

secretary to serve the remainder of the term.

571—1.8(17A,455A) Sales and leases of goods and services.

1.8(1) Sales and leases. The general provisions for the sales and leases of goods and services by commission members is governed by 25—Chapter 6, subsection 11,

1.8(2) Consent by rule. The commission concludes that sales or leases of goods or services described in this paragraph do not, as a class, constitute the sale or lease of a good or service which affects an official's functions. Application and department approval are not required for these sales or leases unless there are unique facts surrounding a particular sale or lease which would cause that sale or lease to affect the official's duties or functions, would give the buyer an advantage in its dealings with the department, or otherwise present a conflict of interest.

Sales or leases for which consent is granted by rule:

(1) Nonrecurring sale or lease of goods and services if the official is not engaged for profit in the business of selling or leasing those goods or services.

(2) Sale or lease of farm products at market prices to a buyer ordinarily engaged in the business of purchasing farm products.

(3) Sale or lease of goods to general public at an established retail or consignment shop.

(4) Sale or lease of legal, mechanical, or other services at market or customary prices. However, if an official's client or customer has a matter for decision before the commission, the official shall not participate in the discussion and voting on that matter unless consent has been obtained.

(5) Sale or lease of goods at wholesale prices to a buyer ordinarily engaged in the business of purchasing wholesale goods for retail sale.

(6) Sale or lease of creative works of art, including but not limited to sculpture and literary products, at market, auction, or negotiated prices. However, if an official's customer has a matter for decision before the commission directly or indirectly involving that good, the official shall not participate in the discussion and voting on that matter unless consent has been obtained.

(7) Sale or lease of goods to general public at market or franchiser-established prices. However, if an official's customer has a matter for decision before the commission, the official shall not participate in the discussion and voting on that matter unless consent has been obtained.

These rules are intended to implement Iowa Code sections 17A.3(1) "a" and 455A.5.

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

18. Chapter 12, "Conservation Education" – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action for Chapter 12. This Notice of Intended Action is the result of the Communications, Outreach, and Marketing Bureau's Executive Order 10 rule review.

This chapter sets forth the curriculum and course standards for the Department's recreation education courses and shooting sports programs. It also establishes eligibility and responsibilities for coaches, instructors, and mentors to teach, advise, and train others in these recreational programs.

Tammie Krausman - Communications, Outreach, and Marketing Bureau Chief
Conservation and Recreation
Meeting Date: November 9, 2023

Attached: Chapter 12 - NOIA

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Rescind and replace chapter

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 12, “Conservation Education,” Iowa Administrative Code and adopt a new Chapter 12 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 321G.2, 321G.23, 321I.2, 321I.25, 462A.12A, 481A.17, 483A.27.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 321G.2, 321G.23, 321I.2, 321I.25, 462A.12A, 481A.17, and 483A.27.

Purpose and Summary

Proposed Chapter 12 sets forth the curriculum and course standards for the Department of Natural Resources’ (Department) recreation education courses and shooting sports programs. It also establishes eligibility and responsibilities for coaches, instructors, and mentors to teach, advise, and train others in these recreational programs. The recreation education courses cover all-terrain vehicle riding, boating, hunter education, bow hunter education, fur harvester education, snowmobiling, and snow groomer operator education.

Consistent with Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17.7(2)’s five-year rule review, this chapter was edited for length, redundancy, and clarity. Additionally, all provisions related to the Resource Enhancement and Protection’s (REAP) conservation education program have been removed. Those rules will be promulgated with other REAP rules in new Chapter 33, which is being proposed concurrently with this rulemaking.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 571-Chapter 11.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 18, 2024. Comments should be directed to:

Megan Wisecup
Iowa DNR
502 E 9th Street
Des Moines, IA 50319
megan.wisecup@dnr.iowa.gov

Public Hearing

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

January 16, 2024 at 1PM, Wallace State Office Building, Conference room 4E

January 18, 2024 at 1PM, Wallace State Office Building, Conference room 4E

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action proposed:

ITEM 1. Rescind 571—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12
CONSERVATION EDUCATION

DIVISION I
MENTOR AND VOLUNTEER INSTRUCTOR CERTIFICATION AND DECERTIFICATION PROCEDURES

571—12.1 to 12.19 Reserved.

571—12.20(321G,321I,462A,483A) Purpose. Pursuant to Iowa Code sections 321G.23, 321G.24, 321I.25, 321I.26, 462A.12(6), 462A.12A, and 483A.27(8), these rules set forth curriculum and course standards for the department’s recreation education courses and provisions for certification of volunteer instructors and approved mentors to teach, advise, and train others.

571—12.21(321G,321I,462A,483A) Definitions. For the purpose of this division:

“*Certified instructor*” means a person who meets all criteria in rule 571—12.23(321G,321I,462A,483A) and the specifics contained in each education program’s Instructor Policies and Procedures Manual and who wishes to voluntarily teach an education course.

“*Education course*” means the department’s bow hunter, fur harvester, mentor, snowmobile, all-terrain vehicle (ATV), boating, snow groomer operator, and hunter education programs.

“*Mentor*” means a person skilled and knowledgeable in a particular activity or subject area and who has been approved by the department or a recognized partner organization to teach, advise, and train others in that activity or subject area.

“*Online event and instructor management system*” means a web-based application that tracks student data, allows students to register for courses, allows certified instructors to list their course offerings and to track volunteer hours and program details, and displays downloadable files.

“*Outdoor skills specialist*” means a person who manages and trains volunteers and mentors to participate in the recreation education programs of the department.

“*Program coordinator*” means a person assigned to coordinate instructor certification and development activities, develop curriculum standards for the programs, conduct outreach for the programs, train volunteer instructors and mentors and evaluate their skills, and serve as the primary contact for information about the programs.

571—12.22(321G,321I,462A,483A) Mentor and certified instructor application process.

12.22(1) Application procedures.

a. The instructor or mentor applicant must request an application by contacting a program coordinator or outdoor skills specialist.

b. The instructor or mentor applicant must provide all information requested on the application or the department may reject the application.

c. The application will remain on file until the instructor or mentor applicant meets all the

requirements in rule 571—12.23(321G,321I,462A,483A).

d. Once the instructor applicant successfully completes all required training and meets all required qualifications, the program coordinator or outdoor skills specialist shall document that all certification requirements have been met and shall issue a certified instructor identification card to the applicant.

e. Once the mentor applicant meets all required qualifications, the program coordinator or outdoor skills specialist will notify the successful applicant and provide the applicant with guidance on the process to begin mentoring.

12.22(2) *Acceptance of mentor or certified instructor applications.* If the number of existing certified instructors or mentors in one or more of the education courses meets demand, the department may choose not to accept new applications.

571—12.23(321G,321I,462A,483A) Requirements for instructor certification and mentoring.

12.23(1) *Minimum requirements.* The conditions listed in this rule must be satisfied before an instructor applicant may become a certified instructor or an approved mentor. Failure to meet these requirements shall result in the denial of the application. The applicant will be notified of the denial by the program coordinator or outdoor skills specialist. The applicant must:

- a.* Submit an application as provided by the department.
- b.* Be at least 18 years of age.

12.23(2) *Additional certified instructor requirements.* Instructor applicants must also complete the following:

a. A training and certification course for the ATV, boating, hunter, bow hunter, fur harvester, snowmobile, and snow groomer operator education programs. Instructor training courses shall review policies and procedures of the department, required record keeping and paperwork, education course material, teaching techniques, and criteria for evaluating the performance of student skills.

b. The specific education course the instructor will be teaching.

c. An apprenticeship for the specific education program that the instructor will be teaching. The apprenticeship shall consist of either teaching a simulated class to other instructor applicants or assisting a certified instructor to prepare and present an education course to students. The hunter education program apprenticeship must be completed within one year of attending the certified instructor training course.

12.23(3) *Background check.* The instructor or mentor applicant must authorize a background check that includes, but may not be limited to, a criminal history check. A record of a felony conviction will disqualify the applicant. A record of a misdemeanor within the last three years may disqualify the instructor applicant, except for simple misdemeanors under Iowa Code chapter 321 or its counterparts in other states.

12.23(4) *Fish and wildlife violation check.* The applicant may be disqualified if the instructor applicant has accumulated any habitual offender points pursuant to rule 571—15.16(483A) within the last five years or had a license suspended by a court of law or the department.

571—12.24(321G,321I,462A,483A) Mentor and certified instructor responsibilities and requirements.

12.24(1) A mentor or certified instructor has the following responsibilities:

a. To follow all administrative rules and applicable policies and procedures as set forth by the department for the specified education program.

b. To assist in the recruitment of additional instructors and mentors.

c. To recruit and train students or mentees.

d. To actively promote and publicize the education courses and mentorship opportunities. A course must be posted at least 30 days prior to the start date.

e. To maintain order and discipline in the learning environment at all times.

f. To accurately and completely fill out forms and reports within the online event and instructor management system, or on paper forms if applicable.

g. To teach the education course or perform the mentorship role as prescribed by the department.

12.24(2) A certified instructor must teach a minimum of one course every two years. If this requirement is not met, the instructor's certification may be revoked after notification by certified mail. If an instructor's certification is revoked due to inactivity, the instructor may reapply pursuant to rule 571—12.22(321G,321I,462A,483A). Based upon the period of inactivity, some of the requirements in

rule 571—12.23(321G,321I,462A,483A) may be waived by the program coordinator or outdoor skills specialist.

12.24(3) A certified hunter, bow hunter, or fur harvester education instructor must attend one continuing education instructor workshop every two years. A certified ATV, boating, snowmobile, or snow groomer operator education instructor must attend one continuing education workshop every three years.

12.24(4) A certified instructor or mentor shall represent the department in a professional and positive manner that supports the department's goals and mission. The certified instructor or mentor shall avoid even the appearance of impropriety while instructing or mentoring students.

12.24(5) A certified instructor must teach the education course with another adult present unless prior approval is obtained from the department. It is the department's preference that the certified instructor is assisted by another certified instructor. A noncertified assistant over 18 years of age may assist and must meet the same standards and expectations for character and behavior as the department has for its instructors and mentors. The certified instructor is responsible for the conduct of the noncertified assistant. The certified instructor is subject to suspension or revocation of certification based upon the actions of the noncertified assistant. A parent or legal guardian of a student in the class who is present as a direct result of the student's participation is not eligible to assist with the class.

This subrule does not apply to a conservation officer or any other department representative who is teaching an education course alone.

12.24(6) A certified instructor shall not use private residences for classes and shall limit instruction to public buildings or facilities unless a private, nonresidence venue is approved beforehand by the program coordinator or outdoor skills specialist.

12.24(7) All recreation education courses shall be made available to the public except for special circumstances that are preapproved by the department, such as courses being held in conjunction with schools, camps, and other special events.

571—12.25(321G,321I,462A,483A) Grounds for revocation or suspension of instructor certification or a mentor's approved status. The department may, at any time, seek to revoke or suspend the mentor status or instructor certification of any person who:

1. Fails to meet the instructor or mentor responsibilities and requirements as outlined in rule 571—12.24(321G,321I,462A,483A).

2. Fails to follow the policies and procedures of the department.

3. Falsifies any information that may be required by the department. Falsifying information is understood to mean purposefully supplying information that is inaccurate or misleading or the intentional omission of information.

4. Handles any equipment in an unsafe manner, or allows any student or other instructor to handle equipment in a reckless or unsafe manner.

5. Is convicted of or forfeits a bond for any fish and game, snowmobile, ATV, or navigation violation of this state or any other state. Anyone who has a privilege to operate a motor vehicle suspended, barred, or revoked shall not be eligible to be an instructor for the snowmobile, ATV, or snow groomer operator education programs.

6. Uses profanity or inappropriate language, such as any type of lewd, sexist, or racial references or generalities; engages in any kind of discriminatory conduct due to race, color, national origin, religion, sex, age, disability, or sexual orientation; or otherwise acts in an unprofessional manner.

7. Engages in the physical punishment of a student, including the use of unreasonable or unnecessary physical force or physical contact made with the intent to cause pain, or any type of indecent contact with a child as defined by the Iowa Code.

8. Participates in a course while under the influence of alcohol or any illegal drug or while ingesting prescription medication in a manner contrary to the dosing directions given by the prescribing physician. The physician shall be a licensed physician, osteopathic physician, physician assistant, or advanced registered nurse practitioner.

9. Has substantiated complaints filed against the instructor by the public, department personnel, or another certified instructor.

10. Is under investigation for committing, is in the process of a judicial proceeding based on the allegation of committing, or is convicted of committing a felony or a misdemeanor as defined in the statutes of this state or another state, except for simple misdemeanors under Iowa Code chapter 321 or its counterparts in other states. Every certified instructor or mentor is subject to a criminal history check and conservation violation check at any time during the instructor's or mentor's tenure as an instructor or mentor.

11. Receives compensation directly or indirectly from students for time spent preparing for or participating in an education course or mentorship.

12. Teaches an education course without another adult present without prior department approval.

571—12.26(321G,321I,462A,483A) Temporary suspensions and immediate revocations of instructor certifications or approved mentor status.

12.26(1) Any complaint made against a certified instructor or a mentor will be taken seriously and will be investigated by a program coordinator or a conservation officer. If convincing evidence exists that a certified instructor or mentor engaged in any of the activities listed in rule 571—12.25(321G,321I,462A,483A), the instructor's certification or mentor's approved status will be temporarily suspended. A letter detailing the reason(s) for the suspension will be sent via certified mail to the last-known address of the instructor or mentor. The letter will detail the length of the suspension and any corrective action to be taken before the instructor or mentor can be reinstated.

12.26(2) At the conclusion of the department's investigation, any certified instructor or mentor who is found to have engaged in the activities listed in rule 571—12.25(321G,321I,462A,483A), numbered paragraph "3," "5," "7," "8," "10," or "11," shall immediately have the instructor's certification or mentor status revoked.

12.26(3) At the conclusion of the department's investigation, if a certified instructor is found to have engaged in the activities listed in rule 571—12.25(321G,321I,462A,483A), numbered paragraph "1," "2," "4," "6," "9," or "12," the suspension shall be exercised at the department's discretion based upon the nature and seriousness of the misconduct.

12.26(4) For the hunter education program, bow hunter education program, and fur harvester education program, the results of the department's investigation shall be supplied to the Iowa hunter education instructor association (IHEIA), which shall review the results and supply a disciplinary recommendation to the department. The department shall consider IHEIA's recommendation when exercising its discretion to suspend or revoke the instructor's certification, based upon the nature and seriousness of the misconduct.

571—12.27(321G,321I,462A,483A) Termination of certification or mentor status. Any certified instructor or mentor has the right, at any time, to voluntarily stop teaching or mentoring. If a certified instructor voluntarily terminates the certification or the instructor's certification is terminated by the department, the instructor must return to the department the certification card and all materials that were provided to the individual.

571—12.28(321G,321I,462A,483A) Compensation for instructors and mentors. Instructors and mentors shall not receive any compensation for their time either directly or indirectly from students or mentees while preparing for or participating in a course or mentorship. However, instructors or mentors may require students and mentees to pay for actual, course-related or mentorship expenses involving facilities, meals, or materials other than those provided by the department. All certified instructors and mentors shall keep all records, bills, receipts, etc., relating to student payments for at least five years after the course and shall submit such documents to the department upon request.

571—12.29 and 12.30 Reserved.

These rules are intended to implement Iowa Code sections 321G.23, 321G.24, 321I.25, 321I.26, 462A.12, 462A.12A, and 483A.27.

DIVISION II
RECREATION EDUCATION PROGRAMS

571—12.31(321I) ATV education program.

12.31(1) The department has developed a course designed to meet the statutory requirement in Iowa Code section 321I.25. The education course is designed to teach ATV riders the principles and behaviors of safe and responsible ATV riding.

12.31(2) Reciprocity. The department recognizes safety courses taught by ATV Safety Institute (ASI)-certified instructors and those sanctioned by a governmental authority of another state. Students who successfully complete such a course are not required to take any additional training and are eligible to receive an education card issued by the department upon proof of completion of the course and payment of the certification fee.

12.31(3) The following criteria apply to the ATV education program:

a. Any student who is 11 years of age or older may enroll in a course and receive a certificate if the student successfully completes the course; however, if the student is 11 years old, the certificate shall not become valid until the student's twelfth birthday.

b. Students shall register as described on the program's website.

c. Students engaging in the rider-based course must provide their own protective riding gear and a properly sized ATV. The student will follow all applicable requirements of Iowa Code chapter 321I.

12.31(4) The department will establish requirements and standards for curriculum, security protocol, and course delivery for an online education offering. Only vendors that have entered into a memorandum of understanding with the department will be allowed to offer an online course that results in the issuance of a department education certificate. Vendors will be allowed to charge for the courses identified in the memorandum of understanding and must collect the department's education certificate fee on behalf of the department.

571—12.32(321G) Snowmobile education program.

12.32(1) The department has developed an education course designed to meet the statutory requirement in Iowa Code section 321G.23.

12.32(2) The following criteria apply to the snowmobile education program:

a. Any student who is 11 years of age or older may enroll in a course and receive a certificate if the student successfully completes the course; however, if the student is 11 years old, the certification shall not become valid until the student's twelfth birthday.

b. Students shall register as described on the program's website.

12.32(3) The department will establish requirements and standards for curriculum, security protocol, and course delivery. Only vendors that have entered into a memorandum of understanding with the department will be allowed to offer an online course that results in the issuance of a department education certificate. Vendors will be allowed to charge for the courses identified in the memorandum of understanding and must collect the department's education certificate fee on behalf of the department.

571—12.33(462A) Boating education program.

12.33(1) In accordance with Iowa Code sections 462A.12(6) and 462A.12A, the goal of the boating education program and education course is to promote safe and responsible boating practices.

12.33(2) Reciprocity. The department also recognizes safety courses taught by the United States Coast Guard Auxiliary and America's Boating Club/United States Power Squadrons-certified instructors. Students who successfully complete such a course are not required to take any additional training or testing from the department and are eligible to receive an education card issued by the department upon proof of completion of the course and payment of the certification fee.

12.33(3) The boating education course is taught by certified instructors virtually or in a classroom setting and shall be six to eight hours in length.

12.33(4) The following criteria apply to the boating education program:

a. Any student who is 11 years of age or older may enroll in a course and receive a certificate if the student successfully completes the course; however, if the student is 11 years old, the certification shall not become valid until the student's twelfth birthday.

b. Students will be given a written examination that they must pass with 80 percent accuracy in order to earn an education certificate.

c. A home study course may be offered at the discretion of the department. The home study packet will contain the same written material provided in the classroom-based setting. An attestation form must be signed by the parent or guardian stating that the student completed the work. A student must pass a written examination with 80 percent accuracy in order to earn an education certificate.

d. The cost of the education course, for both the instructor-led class and the home study option, is \$5 per student. Payment may be made when the student registers for the course or to the instructor at the time of class. Home study students must mail in payment with their completed course paperwork. Payment shall be made by check or money order made payable to the department. Course fees are nonrefundable.

e. Students shall register as described on the program's website.

12.33(5) The department will establish requirements and standards for curriculum, security protocol, and course delivery. Only vendors that have the National Association of State Boating Law Administrators seal of approval and have entered into a memorandum of understanding with the department will be allowed to offer an online course that results in the issuance of a department education certificate. Vendors may charge for their courses as agreed to in the memorandum of understanding and must collect the department's education certificate fee on behalf of the department.

571—12.34(483A) Hunter education program.

12.34(1) The hunter education program is designed to teach students basic survival and first-aid skills, water safety, wildlife identification, and the basics of wildlife management, hunting laws, and firearm/archery safety. The education course also stresses the importance of individual responsibility and outdoor ethics.

12.34(2) The education course is taught by certified instructors and shall have both classroom and hands-on components unless otherwise exempted by law. Where permitted, live fire exercises may be taught.

12.34(3) The hunter education program also offers an online course/field day. The online course, offered by an approved third-party vendor, covers the same subject taught in the lecture portion of the department's course and meets the standards set forth by the International Hunter Education Association—United States of America (IHEA—USA). A field day voucher must be obtained from the approved vendor upon the student's successful completion of the online course. The field day voucher is valid for one year from the date of issuance and authorizes entrance into a field day course. The field day is designed to meet the additional required elements of the hunter education program as set forth in Iowa Code section 483A.27.

12.34(4) Reciprocity. The department recognizes hunter education courses sanctioned by a governmental authority of another state, province or country that meets the current IHEA—USA content and delivery standards. Students who successfully complete such a course are not required to take any additional training and are eligible to purchase an Iowa hunting license as long as they meet all other licensing requirements.

12.34(5) The following criteria apply to the hunter education program:

a. Any student who is 11 years of age or older may enroll in a course and receive a certificate if the student successfully completes the course; however, if the student is 11 years old, the certificate shall not become valid until the student's twelfth birthday. If the certificate is lost, a replacement certificate may be obtained during regular business hours or online.

b. A student successfully completes the course by passing both the classroom-based instruction and a hands-on firearm component. A student successfully passes the classroom-based instruction by achieving a score of 75 percent or higher on the end of course exam. A student passes the hands-on component by demonstrating the safe handling of a firearm. Upon successful completion of the course, a student shall be issued a certification of completion.

c. Students shall register as described on the program's website.

12.34(6) An online-only course is available through the department's website. The online-only course is available for students 18 years of age or older. The online course meets the standards set by IHEA—USA. The online-only course has the same general content as the traditional classroom-based course and online/field day combination courses but requires state-specific information to be covered. To pass the course, a student must score at least 75 percent on the final exam. Upon successful completion of the course and payment of any applicable online course fees directly to the approved vendor, a student will be issued a permanent certificate that the student can download and print immediately.

12.34(7) The department offers a dual online-only handgun safety/hunter education course for Iowa residents 21 years of age or older. This course has the same general content as the traditional classroom-based course and online/field day combination course, but requires state-specific information to be covered, plus additional handgun safety curriculum. To pass the course, a student must score at least 75 percent on the final exam. Upon successful completion of the course and payment of any applicable online course fees directly to the approved vendor, a student will be issued a permanent certificate that the student can download and print immediately. This course meets the educational requirements necessary to qualify for the Iowa Permit to Carry.

571—12.35(321G) Snow groomer operator education program.

12.35(1) The department has developed a program to educate snow groomer operators to meet the statutory requirement of Iowa Code section 321G.2.

12.35(2) The snow groomer operator education program includes review of the department's policies and procedures, course materials, operator certification requirements, paperwork requirements, and the department's equipment agreement and completion of an apprenticeship.

12.35(3) The following criteria apply to the snow groomer operator education program:

a. An operator must be at least 18 years of age and possess a valid driver's license.

b. Operators shall agree to follow all policies and procedures as set forth by the department.

12.35(4) A student who wishes to become a certified operator must complete an apprenticeship. A student must operate the equipment under the direct supervision of a certified operator until the certified operator is confident that the student can successfully operate the equipment. Operation of snow grooming equipment is allowed only by certified operators or by an apprentice under direct supervision of a certified snow groomer operator. Proof of certification must be in the snow groomer operator's possession when the equipment is being operated.

12.35(5) Certified operators must attend a recertification course once every three years to maintain their certification.

12.35(6) The department may revoke an operator's certification if it finds that equipment was used or maintained in violation of the equipment agreement, that there are founded cases of misuse of the equipment, or that an operator does not possess a valid driver's license.

571—12.36(483A) Bow hunter education program.

12.36(1) The education course for the bow hunter education program is designed to teach bow hunters safe and ethical hunting techniques and to instill responsible attitudes toward people, wildlife, and the environment. The education course is based on the National Bowhunter Education Foundation's publications and is administered by the department. The education course covers topics such as responsibilities of a bow hunter, knowledge necessary before hunting, shot placement, tree stand safety, blood trailing, and game care.

12.36(2) The education course is offered in both a classroom and an online setting.

a. The classroom course is taught by certified instructors and consists of both a lecture and hands-on exercises. Students will be given a written examination, which they must pass with 75 percent accuracy in order to earn a certificate of completion.

b. An online course is available through the department's website. The online course meets the standards set by IHEA—USA. The online-only course has the same general content as the traditional classroom-based course. To complete the online-only course, a student must pass a final exam with a score of 75 percent or higher. Upon successful completion of the course and payment of any applicable online course fees to an approved vendor, the student will be issued a permanent certificate that the student can download and print immediately.

c. Students shall register as described on the program's website.

12.36(3) Reciprocity. The department recognizes bowhunter education courses sanctioned by a governmental authority of another state, province or country that meets the current National Bowhunter Education Foundation and IHEA—USA content and delivery standards. Students who successfully complete such a course are not required to take any additional training.

12.36(4) Any student who is 11 years of age or older may enroll in a course and receive a certificate if the student successfully completes the course; however, if the student is 11 years old, the certification shall not become valid until the student's twelfth birthday.

571—12.37(483A) Fur harvester education program.

12.37(1) The fur harvester education program is designed to teach trappers safe and ethical trapping techniques and to instill responsible attitudes toward people, wildlife, and the environment.

12.37(2) The education course is offered in both a classroom and an online setting.

a. The classroom course is taught by certified instructors, and students will receive instruction and hands-on training on the history and heritage of the fur trade, biology and management of Iowa furbearers, wildlife regulations and their purpose, ethics and responsibility, fur harvesting equipment, the basics of harvesting Iowa furbearers, marketing furbearers, public relations, and the basics of outdoor safety and survival. Students will receive a certificate of completion at the end of the education program.

b. An online course is available through the department's website. The online course meets the standards set by IHEA—USA and has the same general content as the traditional classroom-based course. To complete the online course, a student must pass a final exam with a score of 75 percent or higher. Upon successful completion of the course and payment of any applicable online course fees to an approved vendor, the student will be issued a permanent certificate that the student can download and print immediately.

c. Students shall register as described on the program's website.

12.37(3) Reciprocity. The department recognizes fur harvester education courses sanctioned by a governmental authority of another state, province or country that meets the current IHEA—USA content and delivery standards. Students who successfully complete such a course are not required to take any additional training.

12.37(4) Any student who is 11 years of age or older may enroll in a course and receive a certificate if the student successfully completes the course; however, if the student is 11 years old, the certification shall not become valid until the student's twelfth birthday.

These rules are intended to implement Iowa Code sections 321G.23, 321I.24, 321I.25, 321I.26, 462A.12, 462A.12A, and 483A.27.

571—12.38 to 12.59 Reserved.

DIVISION III SHOOTING SPORTS PROGRAM

571—12.60(481A) Purpose. Pursuant to Iowa Code section 481A.17, these rules set forth the department's shooting sports programs.

571—12.61(481A) Definitions. For the purpose of this division:

“*Athlete*” or “*student*” means a member of a department-approved shooting sports team.

“*Certified coach or instructor*” means a person who wishes to coach a shooting sports team and who meets all criteria in rule 571—12.24(481A) and the specifics contained in the department’s certified coach policies and procedures manual.

“*Trainer*” means someone who has received specialized advanced training and is certified to train coaches or instructors in a national program.

571—12.62(481A) Department-recognized shooting sports programs. The following shooting sports programs are recognized by the department:

12.62(1) Archery. The National Archery in the Schools Program (NASP) or other equivalent nationally recognized archery program including bullseye and 3D target training, education, and competition.

12.62(2) Rifle and pistol. The Scholastic Action Shooting Program (SASP) or other equivalent nationally recognized rifle and pistol program, which may include centerfire, rimfire, and air-powered disciplines.

12.62(3) Shotgun. The Scholastic Clay Target Program (SCTP) or other equivalent nationally recognized clay target shooting program that includes both American and international clay target disciplines.

571—12.63(481A) Administration of shooting sports programs.

12.63(1) Program coordinator. The department shall assign a program coordinator for the programs identified in rule 571—12.62(481A).

12.63(2) The program coordinator’s responsibilities shall include the following:

- a. Coordinate the overall program in the state.
- b. Coordinate regular coach certification and development training opportunities.
- c. Coordinate athlete competitions and state championship events and serve as the shootdirector for championship events.
- d. Develop policies and procedures for the program, including any state-specific eligibility criteria and rules of play for the program. Such standards shall be published on the department’s website prior to the start of the season.
- e. Enforce and uphold all national and state-specific program rules.
- f. Conduct outreach for the program and serve as the primary point of contact in the state for the program.

571—12.64(481A) Certified coach or instructor requirements and responsibilities.

12.64(1) Registration procedure. The certified coach or instructor applicant must register with the applicable program and meet the minimum requirements in subrule 12.64(2). The applicant shall completely and accurately fill out the registration form.

12.64(2) Minimum requirements. Failure to meet the following requirements shall result in the denial of the applicant’s registration. The applicant shall be notified of the denial by the program coordinator.

- a. *Minimum age.* The applicant must meet the minimum age of the program.
 - (1) For archery, certified coaches must be 18 years of age.
 - (2) For rifle and pistol, certified head coaches must be 21 years of age. Certified assistant coaches must be at least 18 years of age.
 - (3) For shotgun, certified head coaches must be 21 years of age. Certified assistant coaches must be 18 years of age.
- b. *Training.* The applicant must satisfactorily pass a designated training course.
- c. *Background check.* The applicant must authorize a background check that includes, but may not be limited to, a criminal history check. A record of a felony conviction will disqualify the applicant. A record of a misdemeanor conviction (not including simple misdemeanors under Iowa Code chapter 321) within the last three years may disqualify the applicant.

d. Fish and wildlife violation check. The applicant may be disqualified if the applicant has accumulated any habitual offender points pursuant to rule 571—15.6(483A) within the last five years or had a license suspended by a court of law or the department.

12.64(3) Certified coach or instructor responsibilities. A certified coach or instructor has the following responsibilities:

a. Complete required data management and reporting, including updating and maintaining athlete and coach information in the online data management systems, recording shooting sports competitions and results, and recording volunteer coaching hours when required.

b. Follow all applicable administrative rules, policies, and procedures as set forth by the department for the specified shooting sports program.

c. Follow any applicable national program or state-specific program rules or policies including but not limited to handbooks, rules, and sportsmanship contracts.

d. Represent the department and associated program in a professional and positive manner that supports the department's goals and mission, and avoid even the appearance of impropriety while instructing or coaching athletes or students.

e. Recruit students and volunteer coaches for shooting sports teams.

f. Actively promote shooting sports.

g. Maintain order and discipline on the shooting sports team, model good sportsmanship, and ensure safe handling practices of the relevant shooting sports equipment at all times.

571—12.65(481A) Athlete or student requirements and responsibilities.

12.65(1) Registration. The athlete or student shall contact the athlete's or student's local shooting sports team to participate. The head coach will provide the athlete or student with an electronic link to register online with the applicable program.

12.65(2) Requirements. An athlete or student participating on a department-approved shooting sports team shall abide by the following requirements. Failure to do so may result in removal from the program, disqualification from competitions, or both.

a. Complete any national program or department-required documents prior to participation.

b. Follow any applicable national program or state-specific program rules or policies including but not limited to handbooks, rules, conduct requirements, and sportsmanship contracts.

12.65(3) Fish and wildlife violations. Prior to participation on a department-approved team, the athlete or student shall be subject to a fish and wildlife violations check. If the athlete or student has accumulated any habitual offender points pursuant to rule 571—15.6(483A) within the last five years or has had a hunting, fishing, or trapping license suspended by a court of law or the department, the athlete or student may be ineligible to participate on a department-approved shooting sports team for the current season. Eligibility will be reviewed prior to the beginning of the next season.

571—12.66(481A) Certified trainer requirements and responsibilities.

12.66(1) Registration. A certified trainer applicant must register with the applicable program. The applicant shall completely and accurately fill out the registration form. A certified trainer applicant must have successfully completed certified coach or instructor training before being eligible to become a certified trainer.

12.66(2) Responsibilities.

a. The trainer applicant must register with the applicable program and meet the program's minimum requirements. The applicant shall completely and accurately fill out the registration form.

b. A certified trainer shall represent the department and respective program in a professional and positive manner that supports the department's goals and mission and shall avoid even the appearance of impropriety while instructing.

c. The certified trainer will work with the program coordinator to identify and schedule training classes around the state.

d. Trainers will utilize the online class registration system for the program to create coach training classes for which coach applicants can register.

e. Certified trainers must conduct at least one class per year to remain an active certified trainer.

12.66(3) *Acceptance of new trainers.* If the number of existing certified trainers meets the demand for the program, the department may choose not to add additional trainers.

571—12.67(481A) Grounds for revocation or suspension of certification of a certified trainer, coach, or instructor. The department may, at any time, seek to revoke or suspend the certification of a certified trainer, coach, or instructor who:

12.67(1) Fails to meet the responsibilities and requirements as outlined in rule 571—12.64(481A) or 571—12.66(481A), as appropriate.

12.67(2) Fails to follow the policies and procedures of the department.

12.67(3) Falsifies any information that may be required by the department. Falsifying information is understood to mean purposefully supplying information that is inaccurate or misleading or the intentional omission of information.

12.67(4) Handles any shooting sports equipment in a negligent, reckless, or unsafe manner, or allows any student to do so.

12.67(5) Is convicted of or forfeits a bond for any fish and game, snowmobile, ATV, or navigation violation of this state or any other state.

12.67(6) Uses profanity or inappropriate language, such as any type of lewd, sexist, or racial references or generalities; engages in any kind of discriminatory conduct due to race, color, national origin, religion, sex, age, disability, or sexual orientation; or otherwise acts in an unprofessional manner.

12.67(7) Engages in the physical punishment of a student, including the use of unreasonable or unnecessary physical force or physical contact made with the intent to cause pain, or any type of indecent contact with a child as defined by the Iowa Code.

12.67(8) Coaches while under the influence of alcohol or any illegal drug or while ingesting prescription medication in a manner contrary to the dosing directions given by the prescribing physician.

12.67(9) Has substantiated complaints filed against the trainer, coach, or instructor by the public, department personnel, or another certified volunteer coach.

12.67(10) Is under investigation for committing, is in the process of a judicial proceeding based on the allegation of committing, or is convicted of committing a felony or misdemeanor as defined in the statutes of this state or another state, except for simple misdemeanors under Iowa Code chapter 321 or its counterparts in other states. Every certified trainer, coach, or instructor is subject to a criminal history check and conservation violation check at any time during the individual's tenure as a certified trainer, coach, or instructor.

12.67(11) Is suspended or expelled by a national governing body for a shooting sports program.

These rules are intended to implement Iowa Code section 481A.17.

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

19. Chapter 13, “Permits and Easements for Construction and Other Activities on Public Lands and Waters”– Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action for Chapter 13. This Notice of Intended Action is the result of Land & Water Bureau’s Executive Order 10 rule review.

The purpose of this chapter is to provide a process for permitting construction and other activities that alter the physical characteristics of public lands and waters under the jurisdiction of the Commission. The rules also establish procedures for issuance of easements to public utilities and political subdivisions for activities that are determined to have a permanent effect on use and enjoyment of public lands and waters under the jurisdiction of the Commission.

The proposed new chapter improves the existing rules by removing redundancies, improving clarity, and correcting typos and outdated information.

Travis Baker, Land & Waters Bureau Chief
Conservation and Recreation Division
Meeting Date: November 9, 2023

Attached: Chapter 13 - NOIA

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 13, “Permits and Easements for Construction and Other Activities on Public Lands and Waters,” Iowa Administrative Code and adopt a new Chapter 13, “Permits and Easements for Construction and Other Activities on Public Lands and Waters” in lieu thereof.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 455A.5(6)“a”, 461A.4(1)“b”, 461A.25(2), and 462A.3(2).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 461A.4 and 462A.3.

Purpose and Summary

Chapter 13 is being rescinded and replaced to remove obsolete, ineffective, excessively burdensome, or redundant administrative rules. This rulemaking is being proposed pursuant to Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2)’s five-year rule review.

Chapter 13 provides a process for permitting construction and other activities that alter the physical characteristics of public lands and waters under the jurisdiction of the Commission. The Commission holds lands and waters under its jurisdiction in public trust and protects the interests of all citizens in these lands and waters.

These proposed rules establish procedures and regulate the evaluation and issuance of permits for covered activities, which are generally referred to as sovereign lands construction permits. They also establish procedures for issuance of easements to public utilities and political

subdivisions for activities that are determined to have a permanent effect on use and enjoyment of public lands and waters under Commission jurisdiction. The proposed rules remove redundancies, improve clarity, and correct typos relative to the existing rule chapter

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 571 Iowa Administrative Code chapter 11.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Casey Laskowski
502 E. 9th Street
Des Moines, Iowa 50319
Email: casey.laskowski@dnr.iowa.gov

Public Hearings

Two public hearings at which persons may present their views orally or in writing will be held via conference call as follows. Persons who wish to attend a conference call should

contact Casey Laskowski via email. A conference call number will be provided prior to each hearing to facilitate an orderly hearing.

January 20, 2024 via video/conference call 12:00-1:00 p.m.

January 30, 2024 via video/conference call 12:00-1:00 p.m.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action proposed:

ITEM 1. Rescind 571—Chapter 13 and adopt the following **new** chapter in lieu thereof:

CHAPTER 13
PERMITS AND EASEMENTS FOR CONSTRUCTION AND OTHER ACTIVITIES
ON PUBLIC LANDS AND WATERS

571—13.1(455A,461A,462A) Purpose. The commission holds lands and waters under its jurisdiction in public trust and protects the interests of all citizens in these lands and waters.

13.1(1) These rules establish procedures and regulate the evaluation and issuance of permits for construction or other activities that alter the physical characteristics of public lands and waters under the jurisdiction of the commission, including those activities that occur over or under such lands and waters. However, these rules do not apply to activities accomplished by the department and its agents that would only temporarily alter the characteristics of public lands and waters and that would be considered management practices.

13.1(2) These rules also establish procedures for issuance of easements to public utilities and political

subdivisions for activities that are determined to have a permanent effect on use and enjoyment of public lands and waters under the jurisdiction of the commission.

13.1(3) These rules do not apply to:

- a. Impoundments regulated under Iowa Code chapter 462A,
- b. Docks regulated under 571—Chapter 16, except as specified herein,
- c. Stationary blinds regulated under rule 571—51.6(481A).

[ARC 7616B, IAB 3/11/09, effective 4/15/09]

571—13.2(455A,461A,462A) Affected public lands and waters. These rules are applicable to all fee title lands and waters under the jurisdiction of the commission; dedicated lands and waters under the jurisdiction of the commission and managed by the commission for public access to a meandered sovereign lake or meandered sovereign river; meandered sovereign lakes; meandered sovereign rivers; and sovereign islands, except those portions of the Iowa River and the Mississippi River where title has been conveyed to charter cities.

[ARC 7616B, IAB 3/11/09, effective 4/15/09]

571—13.3(455A,461A) Definitions. For the purposes of this chapter, the following definitions shall apply:

“Applicant” means a person who applies for a permit or easement pursuant to these rules.

“Authorized agent” means a person, designated by the applicant, who shall be responsible to perform part or all of the proposed activity and who certifies the application according to subrule 13.9(2).

“Canal” means a narrow strip of water, artificially made, between two water bodies described in rule 571—13.2(455A,461A,462A).

“Cantilever access structure” means a structure constructed for improving the proximity of access to a lake or river, that has a support footing located entirely on littoral or riparian land above the ordinary high water mark (OHWM), and that extends from the footing and is completely suspended above the water at normal water elevation with no occupation of the lakebed or riverbed.

“Channel” means a narrow body of water that may be natural or artificially made.

“Charter cities” means the city of Wapello operating under special charter enacted in 1856; the city of Camanche operating under special charter enacted in 1857; the city of Davenport by chapter 84, Acts of the 47th General Assembly; the cities of Burlington, Clinton, Dubuque, Fort Madison, Keokuk, and Muscatine by chapter 249, Acts of the 51st General Assembly; and the city of Le Claire by chapter 383, Acts of the 58th General Assembly.

“Commercial boat ramp” means a boat ramp installed or maintained as part of a business to provide access to a public water body where use of the ramp is available to the general public.

“Commission” means the natural resource commission.

“Department” means the department of natural resources.

“Director” means the director of the department of natural resources or the director's designee.

“Easement” means an easement authorized under Iowa Code section 461A.25.

“Fee title lands and waters” means lands and waters for which title is acquired by deed or testamentary devise.

“Lease” means a lease authorized under Iowa Code section 461A.25.

“Littoral land” means land abutting a lake.

“Meandered sovereign lakes” means those lakes which, at the time of the original federal government surveys, were surveyed as navigable and important water bodies and were transferred to the states upon their admission to the union to be transferred or retained by the public in accordance with the laws of the respective states. A list of these lakes is available on the department's website. *“Meandered sovereign rivers”* means those rivers which, at the time of the original federal government surveys, were surveyed as navigable and important water bodies and were transferred to the states upon their admission to the union to be transferred or retained by the public in accordance with the laws of the respective states upon their admission to the union. A list of such rivers is available on the department's website.

“Native stone riprap” means broken limestone, dolomite, quartzite or fieldstone meeting Iowa department of transportation specification 4130, Class D (Iowa Department of Transportation Standard Specifications for Highway and Bridge Construction, 2015 Edition).

“*Ordinary high water mark*” or “(OHWM)” means the boundary between meandered sovereign lakes and rivers, except the Mississippi River, and littoral or riparian property. “The OHWM” is the limit where high water occupies the land so long and continuously as to wrest terrestrial vegetation from the soil or saturate the root zone and destroy its value for agricultural purposes. “The OHWM” is the boundary between upland and wetland as defined by the 1987 Corps of Engineers Wetlands Delineation Manual and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Midwest Region (Version 2.0). For Storm Lake in Buena Vista County and Clear Lake in Cerro Gordo County, the elevation has been established by adjudication.

“*Ordinary high water mark of the Mississippi River*” means the elevation, as defined by criteria in the Code of Federal Regulations, 33 CFR Part 328.3 (November 13, 1986), promulgated by the U.S. Army Corps of Engineers, where the water exists at or below such elevation 75 percent of the time as shown by water stage records since construction of the locks and dams in the river.

“*Permit*” means a sovereign lands construction permit issued pursuant to this chapter.

“*Permittee*” means a person who receives a permit pursuant to these rules, which may also include the authorized agent if designated pursuant to these rules.

“*Person*” means the same as defined in Iowa Code section 4.1.

“*Public boat ramp*” means a boat ramp constructed to provide public access from public land to a water body.

“*Public lands*” means land under the jurisdiction of the commission that is owned by the state or that has been dedicated for public access to a meandered sovereign lake or meandered sovereign river.

“*Public waters*” means a water body under the jurisdiction of the commission that is owned by the state or that has been dedicated for public access to a meandered sovereign lake or meandered sovereign river.

“*Riparian land*” means land abutting a river.

“*Sovereign island*” means an island located within a sovereign meandered lake or a sovereign meandered river that was transferred to the state upon its admission to the union and whose title continues to be retained by the state.

“*Standard riprap*” means broken stone, dolomite, quartzite, fieldstone, or broken concrete meeting Iowa department of transportation specification 4130, Class D (Iowa Department of Transportation Standard Specifications for Highway and Bridge Construction, 2015 Edition). Broken concrete shall not have reinforcing materials protruding from the surface of the riprap. Standard riprap shall not include petroleum-based materials. [ARC 7616B, IAB 3/11/09, effective 4/15/09]

DIVISION I
PERMITS

571—13.4(455A,461A) Permits required.

13.4(1) General. No person shall temporarily or permanently place or build any structure or alter the characteristics of public lands or waters under the jurisdiction of or managed by the commission without a permit issued by the department prior to commencement of such activities as provided in the rules of this chapter.

13.4(2) Hazardous conditions. Trees, rock, brush or other natural materials located on sovereign or dedicated lands may be removed by persons without a permit issued pursuant to these rules only after the department, in its sole discretion, determines and evidences in writing that a hazard or other detrimental condition exists and that the proposed mitigative activity is appropriate. Such activity shall be limited only to the work required to address the immediate hazard or other detrimental condition. Any removal allowed by this rule shall conform to the requirements enumerated by the department regarding such removal, or the removal shall be deemed an unauthorized action resulting in damage to public lands and waters. Persons proposing to remove hazards must contact a local department official and request an exception to a permit. The department official shall inspect the hazard and provide written authorization to proceed or shall require the person to apply for a permit.

571—13.5(455A,461A) Interest in real estate. A permit shall be construed to do no more than give the permit holder a license to alter an area as specifically set forth in the permit. The permit creates no interest, personal or real, in the real estate covered by the permit.

571—13.6(455A,461A,462A) Evaluation.

13.6(1) In considering complete applications, the department will evaluate the impact of the proposed activities on public use and enjoyment of public lands or waters, on the natural resources in the areas within and surrounding the proposed activities, and the department's present and future intended management for the area against the applicant's identified and reasonable need to undertake the proposed activities and the viable alternatives that may exist with respect to the proposed activities.

13.6(2) In no event shall the department issue a permit for activities that:

a. May result in the taking, possession, transport, import, export, processing, selling, buying, transporting, or receiving any species of fish, plants or wildlife appearing on lists referenced in Iowa Code section 481B.5, unless the permittee meets one of the exemptions enumerated in rule 571—77.4(481B).

b. Have not received flood plain permits pursuant to Iowa Code chapter 455B and 567—Chapters 70 through 76, if applicable.

c. May impact a littoral or riparian property owner without the express written permission of the littoral or riparian property owner.

d. Do not comply with the review standards defined in 571—13.7(455A,461A,462A).

e. Interfere with department obligations or limitations related to federal funds or agreements or other restrictive covenants that may be applicable to the affected area.

f. Allow fill to be placed beyond the OHWM of waters described in rule 571—13.2(455A,461A,462A) for purposes of regaining land lost due to erosion.

13.6(3) The department may withhold a permit when the applicant has not obtained all other required permits or licenses necessary to construct and operate the proposed activity.

571—13.7(455A,461A,462A) Review standards. Department staff shall conduct an environmental review of the application. In completing the environmental review, different bureaus and staff members of the department will provide input based on law, professional judgment, data and accepted scientific theory. The following standards shall apply to permits issued under the rules of this chapter:

13.7(1) *Uses of public lands and waters.* Development of public lands and public waters permitted by these rules shall be limited to projects that meet all of the following criteria. The projects:

a. Are built to minimally impact the natural resources of public recreational use and navigation on such lands and waters. Specifically, applicants must demonstrate that the project accomplishes all of the following:

(1) Does not negatively impact water quality in or around the proposed permitted area.

(2) Minimizes erosion and sedimentation in or around the proposed area.

(3) Minimizes detrimental impacts to biological and botanical resources in or around the proposed area, including upland, wetland and sensitive areas and unique community structures.

(4) Complies with laws and regulations related to threatened and endangered species, through both federal and state programs.

b. Utilizes the smallest amount of public lands and public waters.

c. Does not convert the public lands and public waters to an exclusive or private use.

d. Is the only viable method for conducting the activities, and no viable alternatives to constructing on public lands exist.

13.7(2) *Shoreline erosion protection and retaining walls.* Shoreline erosion protection activities may be permitted if the activities are in compliance with rule 571—13.6(455A,461A,462A) and the following additional standards:

a. Shoreline erosion protection activities on meandered sovereign lakes shall be limited to placement of native stone riprap, extending to a maximum of 4 feet horizontally within or below the elevation contour line of the OHWM. Placement of earth fill within the OHWM shall not be allowed. Retaining walls, sheet piling, gabions or other retaining structures shall be placed above the OHWM. When such retaining structures are placed at the OHWM, they must be faced with native stone riprap.

b. Shoreline erosion protection activities on meandered sovereign rivers, except the Mississippi River, shall

be limited to placement of approved in-stream erosion control structures or native stone or standard riprap. Riprap shall extend riverward from the OHWM and may not exceed a slope of 2 feet horizontal to 1 foot vertical (2:1). Placement of earth fill below the OHWM shall not be allowed. Retaining walls, sheet piling, gabions or other retaining structures shall not be placed within the OHWM. When such retaining structures are placed at the OHWM, they must be faced with riprap.

c. Shoreline erosion protection activities on the Mississippi River shall be limited to placement of approved in-stream erosion control structures or native stone riprap. Riprap shall extend riverward from the OHWM and may not exceed a slope of 2 feet horizontal to 1 foot vertical (2:1). Placement of earth fill within the OHWM shall not be allowed. Retaining walls, sheet piling, gabions or other retaining structures shall not be placed within the OHWM. When such retaining structures are placed at the OHWM, they must be faced with native stone riprap.

d. Retaining walls on all meandered sovereign lakes and meandered sovereign rivers. The landowner shall maintain the wall system at all times and take corrective measures to eliminate any nuisance condition, repair deterioration of the structure, eliminate erosion around the structure, and repair damage to the structure caused by the action of the water or ice. When a retaining wall or other structure placed on the shoreline prevents the public from traversing the shoreline, the landowner shall grant the public a license to walk from the landowner's property within 15 feet of the top of the wall or structure for the purpose of traversing the shoreline.

e. Notwithstanding the prohibitions in this subrule, nothing in this subrule shall prohibit activities that would be part of habitat development or natural resources mitigation projects constructed or approved by a political subdivision of the state and subject to review under these rules.

13.7(3) *Quality of the applicant.* Applicants or authorized agents who have a current violation for another project are not eligible for consideration for a permit under these rules unless and until all other noncompliant projects have been remediated and any enforcement actions related to the same have been resolved or satisfied.

13.7(4) *Cantilever access structures.* Permanent cantilever access structures that lawfully existed and were lawfully permitted under prior sovereign lands construction permit rules as of April 15, 2009, shall be deemed lawfully permitted under these rules. All cantilever access structures that were not lawfully installed prior to April 15, 2009, or were installed after April 15, 2009, shall be regulated as docks by 571—Chapter 16.

13.7(5) *Beaches, canals, commercial boat ramps, and channels.* Permits may be granted to maintain existing beaches, canals, and channels lawfully installed as of April 15, 2009, to ensure the navigation and safety of those existing lawful beaches, canals, and channels. The department shall not permit new beaches, canals, commercial boat ramps or artificial channels or expansion of existing beaches, canals, commercial boat ramps or artificial channels, except that the department may permit new beaches, canals, commercial boat ramps and artificial channels and expansions of existing beaches, canals, commercial boat ramps and artificial channels when such establishment or expansion would be under the jurisdiction of a political subdivision of the state, would be accomplished to provide public access to the water, and would meet the review standards established by these rules.

571—13.8(455A,461A) Leases or easements as a condition of permits. If a permitted structure or its use will have a continuing impact on the availability or desirability of public lands or public waters, the permit shall be conditioned on the requirement that the permittee obtain a lease or easement under Division II of this chapter. However, a lease or easement shall not be required for proposed activities that are wholly within the scope of the permittee's littoral or riparian rights.

[ARC 7616B, IAB 3/11/09, effective 4/15/09]

571—13.9(455A,461A,462A) Permit application. Applicants shall apply for permits using an application form provided by the department. Permit application resources can be found on the Permit and Environmental Review Management Tool (PERMT) at <https://programs.iowadnr.gov/permt/>. Applicants shall state the need for the proposed construction or use, the availability of alternatives, and the measures proposed to prevent, minimize or mitigate adverse impacts to natural resources or public use of the affected area. The department reserves the right to refuse to review incomplete applications. Each application, including all amendments, shall be signed by the applicant and authorized agent if one shall be so appointed by the applicant. The applicant's signature shall acknowledge that the application is accurate and made in good faith.

13.9(1) For purposes of this rule, the department will deem an application complete if the application meets all of the following criteria. The application:

- a.* Is provided on the department's form, and all fields are completed and legible;
- b.* Includes the name(s), mailing address and telephone number of the applicant(s) and authorized agent(s), if applicable;
- c.* Describes the proposed activity, including:
 - (1) Physical address and legal description of the location where the proposed activity is to occur; a written description of existing natural and man-made structures and features; an aerial photograph, if possible or available; and a ground-level photograph(s) showing the area where the activity is proposed to occur;
 - (2) Schematic or design plans, including cross sections and plan views, that accurately and clearly depict the proposed activities;
 - (3) Description of the construction methods used to complete the project, the methods used to transport material to the site, and the type and amount of material to be used;
 - (4) Description of measures proposed to prevent or minimize adverse impacts on the property in the proposed area;
 - (5) Description of any borrows or disposal sites, including the location of any borrows or disposal sites and the type and amount of material to be borrowed or disposed of in them;
- d.* Includes identification of the OHWM, if the proposed activities are in or near a meandered sovereign lake or meandered sovereign river;
- e.* Describes alternative plans to undertake the activity that may be available to the applicant;
- f.* Identifies the need for the proposed activity in the proposed project area;
- g.* Provides a statement of consent for the department to enter the property during the term of the proposed permit.

13.9(2) For applications that provide for an authorized agent to perform part or all of the proposed activities, the following additional information shall be required to constitute a complete application:

- a.* Statement signed by the authorized agent and applicant;
- b.* Statement signed by the authorized agent acknowledging that the authorized agent is aware of such designation and is responsible to complete the identified work; and
- c.* Description of the work to be completed by the authorized agent.

[ARC 7616B, IAB 3/11/09, effective 4/15/09]

571—13.10(455A,461A) Additional information or analysis required for permit review.

13.10(1) The director may require an applicant to provide additional information, at the applicant's sole cost, necessary to complete review of the application, including but not limited to study of alternatives to construction on public lands and waters, social and environmental impacts of the proposed activities, professional surveys to establish the social and environmental impacts of the proposed activities, professional land surveys to delineate or show real property boundaries and other characteristics, and a professional real estate appraisal of the value that a permit may convey.

13.10(2) If the applicant does not respond to a request for additional information within 90 days of such request being made by the department, the department may withdraw the application from consideration and the applicant must reapply for the permit.

13.10(3) When the director determines that the proposed activity will significantly affect the public interest, the director may hold a public meeting in the vicinity of the proposed activity. When a public meeting is held, the director shall consider public input in conjunction with other information collected or provided as part of the application review when acting on a permit application.

[ARC 7616B, IAB 3/11/09, effective 4/15/09]

571—13.11(455A,461A) Permit issued or denied. The department shall promptly review all permit applications, and the director shall issue a permit or deny all or part of an application upon completion of review. A permit may include specified conditions denying the application in part and the reasons for the conditions. The denial of a permit may include a proposed removal order. A permit denial shall be final agency action, unless the unsuccessful applicant otherwise has a constitutional right to a contested case, in which case an administrative

appeal pursuant to procedures in 571—Chapter 7 shall be available. The unsuccessful applicant’s request for a contested case may include a request for a variance or waiver under the provisions of Iowa Code section 17A.9A and 571—Chapter 11. The decision of the presiding officer in a contested case shall constitute final agency action.

571—13.12(455A,461A) Authorized agent. When an authorized agent is designated on the application for a permit and acknowledges the same, that authorized agent shall be responsible in the same manner as the permittee to comply with the terms of the permit issued.

[ARC 7616B, IAB 3/11/09, effective 4/15/09]

571—13.13(455A,461A) Inspection. The department may inspect the location during the term of the permit to ensure that the permitted activities comply with the terms of the permit. The permittee shall grant the department the right to access the permitted activities for purposes of inspecting the permitted activities during the term of the permit. If the permittee denies permission for entry, the department may obtain an order from the Iowa district court for the county in which the permitted activities or the majority of the permitted activities occur, as needed, to enable the department to carry out its inspection duty. The intent of the inspection is to evaluate compliance with permit conditions and the impact to the natural resources and the public’s recreational use of the area.

[ARC 7616B, IAB 3/11/09, effective 4/15/09]

571—13.14(455A,461A) Additional information or analysis required during term of the permit. The director may require a permittee to provide additional information, at the permittee’s sole cost, necessary to ensure that the permittee is complying with the terms of the permit, including but not limited to social and environmental impacts of the activities, professional surveys to establish the social and environmental impacts of the activities, professional land surveys to delineate or show real property boundaries and other characteristics, and a professional real estate appraisal of the value that a permit may convey or has conveyed.

[ARC 7616B, IAB 3/11/09, effective 4/15/09]

571—13.15(455A,461A) Violations; types of enforcement actions; citation and notice of violation.

13.15(1) Violations.

a. A person shall be in violation of these rules and Iowa Code section 461A.4 in the event the person does any of the following:

- (1) Performs construction on or undertakes other activities that alter the physical characteristics of public lands or waters under the jurisdiction of or managed by the commission without a permit required by these rules;
- (2) Performs such work out of conformance with specific requirements enumerated in a permit issued in accordance with these rules; or
- (3) Fails to comply with an order of the commission under these rules.

b. Each day of a violation shall be considered a separate offense.

13.15(2) Types of enforcement actions. A person who violates these rules shall be subject to either of the following:

a. Criminal enforcement. A peace officer of the state may issue a citation for each offense. A person who is found guilty of violating these rules shall be charged with a simple misdemeanor for each violation.

b. Civil enforcement. A civil penalty may be assessed in conformance with Iowa Code section 461A.5B and rule 571—13.17(455A,461A). Written notice of the violation(s) shall be given to the person against whom disciplinary action is being considered. The notice shall state the informal and formal procedures available for determining the matter. If agreement as to appropriate disciplinary sanction, if any, can be reached between the director and the person against whom disciplinary action is being considered, a written stipulation and settlement between the department and the person shall be entered. Such a settlement shall take into account how the corrective actions described in subrule 13.15(3) shall be accomplished. In addition, the stipulation and settlement shall recite the basic facts and violations alleged, any facts brought forth by the person, and the reasons for the particular sanctions imposed. If an agreement as to appropriate disciplinary action, if any, cannot be reached, the director may issue an administrative order as described in rule 571—13.17(455A,461A).

13.15(3) Actions to be taken upon receipt of citation or notice of violation. A person who has violated these rules shall cease the specified unauthorized activity upon receipt of a citation or as may be stipulated in the notice

of violation. The notice of violation or a written notice accompanying the citation from the department shall require the person to take one or more of the following actions within a specified time:

- a. Apply for a permit to authorize completion of construction or maintenance and use, as applicable;
- b. Remove materials and restore the affected area to the condition that existed before commencement of the unauthorized activity;
- c. Remediate the affected area in a manner and according to a plan approved by the department. The department may enforce such a remediation at the expense of the permittee, adjacent landowner or culpable party.

[ARC 7616B, IAB 3/11/09, effective 4/15/09]

571—13.16(455A,461A) Removal orders. If the violation includes the unauthorized placement of materials or personal property on the public lands or public waters under the jurisdiction of the commission, and the person, who may include a permittee or authorized agent but may not, fails to comply with the action required by the notice, the director may cause a proposed removal order to be issued to the person responsible for such placement. The proposed removal order shall specify the removal action required and include notice of the right to an administrative appeal including a contested case hearing under procedures in 571—Chapter 7. The proposed decision in a contested case may be appealed to the commission under 571—Chapter 7. If there is no appeal from a proposed decision that includes a removal requirement, the proposed decision shall be presented to the director for review and adoption. A removal order approved by the director shall constitute final agency action under Iowa Code sections 461A.4 and 461A.5A and may be enforced through an original action in equity filed in a district court of the state by the attorney general on behalf of the department and the commission.

[ARC 7616B, IAB 3/11/09, effective 4/15/09]

571—13.17(455A,461A) Civil penalties. The department may assess a civil penalty of up to \$5,000 per offense for each violation of these rules, provided the department does not utilize a criminal citation for a violation. Each day the violation continues shall be a separate offense or violation. Penalties shall be assessed through issuance of an administrative order of the director which recites the facts and the legal requirements that have been violated and a general rationale for the prescribed fines. The order also may be combined with any other order authorized by statute for mandatory or prohibitory injunctive conditions and is subject to normal contested case and appellate review under procedures in 571—Chapter 7. The proposed decision in a contested case may be appealed to the commission under 571—Chapter 7. The commission may refer orders that include singular or cumulative penalties over \$10,000 to the attorney general's office.

[ARC 7616B, IAB 3/11/09, effective 4/15/09]

571—13.18(455A,461A) Report of completion. Once an approved activity is completed, the permittee shall notify the department through PERMT using the project's PERMT identification number created through the original application process. The activity shall be subject to final approval before the department determines that the conditions of the permit have been met.

[ARC 7616B, IAB 3/11/09, effective 4/15/09]

571—13.19(455A,461A) Final inspection. Once the permittee notifies the department pursuant to rule 571—13.18(455A,461A), the department shall inspect the permitted area to ensure that the permittee has complied with the terms of the permit. Such inspection shall occur within 60 days of the department's receipt of the notice provided pursuant to rule 571—13.18(455A,461A). In the event the department does not provide final inspection within 60 days of the department's receipt of the notice provided pursuant to rule 571—13.18(455A,461A), the permittee shall be deemed compliant and the permit shall expire. The intent of this inspection is to evaluate compliance with permit conditions and the impacts to the natural resources and the public's recreational use of the area.

[ARC 7616B, IAB 3/11/09, effective 4/15/09]

571—13.20(455A,461A) Permit extensions. Prior to the expiration of a permit, a permittee or an authorized agent may submit a written request by email to the department for an extension of the permit. In evaluating whether to grant the extension, the department will consider the work completed, the work to be performed, the

extent to which the permit extension is needed and the extent to which the permittee has made efforts to meet the obligations of the original permit. The department reserves the right to modify the conditions of a permit as part of any extension. An extension granted by this rule is not a project modification.

[ARC 7616B, IAB 3/11/09, effective 4/15/09]

571—13.21(455A,461A) Project modifications. If projects are modified to the extent that the additional or modified work would not be allowed within the original permit, the permittee must apply for a new permit for the additional or modified work.

[ARC 7616B, IAB 3/11/09, effective 4/15/09]

571—13.22(455A,461A) Transferability. Permits are transferable only upon written approval of the department and only after the department is satisfied that the permitted activities will not change and the new permittee would be eligible to receive a permit under subrule 13.7(3).

[ARC 7616B, IAB 3/11/09, effective 4/15/09]

571—13.23 to 13.50 Reserved.

DIVISION II
LEASES AND EASEMENTS

571—13.51(455A,461A) Leases. Where a permitted structure or related activity will have a continuing impact on the availability or desirability of public lands or public waters or exceeds the scope of littoral or riparian rights, the permittee must enter into a lease covering the area affected by the construction. Fees for leases shall be determined by 571—Chapter 17 or other methods approved by the commission and executed pursuant to Iowa Code section 461A.25. Requests for leases shall be made on the form and shall include the information required by rule 571—13.9(455A,461A,462A) under Division I of this chapter. The department may grant a lease if, in the department's sole discretion, the lease will not impair the state's intended use of the area during the term of the lease; the lease will not negatively impact a federal interest, including related deed restrictions, related to the area during the term of the lease; and the lease will not result in an exclusive use.

[ARC 7616B, IAB 3/11/09, effective 4/15/09]

571—13.52(455A,461A) Easements. The director may grant an easement to political subdivisions and utility companies pursuant to Iowa Code section 461A.25, provided the following terms are met:

13.52(1) Requests for easements shall be made on the form and shall include the information required by rule 571—13.9(455A,461A,462A) under Division I of this chapter. The department may grant an easement if, in the department's sole discretion, the easement will not impair the state's intended use of the area during the term of the easement or the easement will not negatively impact a federal interest, including related deed restrictions, related to the area during the term of the agreement.

13.52(2) The value of an easement shall be determined by the director based upon a real estate appraisal or other method approved by the commission, as evidenced in the meeting minutes thereof. In addition to fees for easements, the director may assess the applicant for the reasonable transaction costs associated with the issuing of an easement including the cost of appraisals, other methods of establishing values, and land surveys. In determining the fee for an easement, the department may consider the value the proposed activity may contribute to the department's management of the affected property.

13.52(3) Recipients of any easements granted pursuant to this rule shall assume liability for structures installed pursuant to such easement and shall comply with the standards enumerated in rule 571—13.7(455A,461A,462A), as applicable, in the sole discretion of the department.

[ARC 7616B, IAB 3/11/09, effective 4/15/09]

571—13.53(455A,461A) Appeals. The department and the commission are under no legal obligation to provide any person a legal interest in property under the jurisdiction of the commission. An applicant may appeal to the director a decision of the department regarding leases and easements and request that the director reconsider a condition of an easement or a lease or a denial of an easement or a lease. The determination of the director shall be final agency action.

[ARC 7616B, IAB 3/11/09, effective 4/15/09]

These rules are intended to implement Iowa Code sections 455A.5, 461A.4, 461A.5A, 461A.5B, 461A.6, 461A.18, 461A.25 and 462A.3.

[Filed 8/22/97, Notice 6/4/97—published 9/10/97, effective 10/15/97]

[Filed ARC 7616B (Notice ARC 7416B, IAB 12/17/08), IAB 3/11/09, effective 4/15/09]

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

20. Chapter 14, "Concessions" – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action for Chapter 14. This Notice of Intended Action is the result of the Parks, Forests and Preserves Bureau's Executive Order 10 rule review.

Chapter 14 establishes the rules surrounding the advertising/notice procedure, bidding process, evaluation and selection of a concessionaire, and other contract terms related to concession operations in Iowa State Parks.

Sherry Arntzen, Parks, Forests and Preserves Bureau Chief
Conservation and Recreation Division
Meeting Date: November 9, 2023

Attached: Chapter 14 - NOIA

NATURAL RESOURCES COMMISSION [571]

Notice of Intended Action

The Department of Natural Resources hereby proposes to rescind and replace Chapter 14, “Concessions,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 461A.3 and 461A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 461A.3 and 461A.4.

Purpose and Summary

This proposed rulemaking establishes rules governing the advertising and notice procedure, bidding process, evaluation and selection of a concessionaire, and other contract terms related to concession operations in Iowa state parks and recreation areas. This proposed rulemaking would allow for longer-term/larger scope concession contracts, which will provide more security and efficiency for the concessionaires. It will also provide additional visitor services and experiences in parks and recreation areas while decreasing the amount of time Department of Natural Resources (Department) staff spend on paperwork and evaluation of concessionaires/vendors.

Consistent with Executive Order 10, Iowa Administrative Bulletin Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2)’s five-year rule review, this chapter was edited for length and clarity. Specifically, there were provisions in this chapter that were outdated or repetitive to statute. These provisions have been removed from the new version. Additionally, the length of the contract term for concessions was extended.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 571- Chapter 11.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 30, 2024. Comments should be submitted electronically to Kim Bohlen at kim.bohlen@dnr.iowa.gov.

Public Hearing

Two public hearings at which persons may present their views orally or in writing will be held on January 30, 2024, from 12:00 p.m. to 1:00 p.m. and January 31, 2024, from 4:00 p.m. to 5:00 p.m. at the Wallace State Office Building. The hearings will also be available online. Persons who wish to attend the conference call or Google Meet virtual meeting should contact Kim Bohlen via email.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action proposed:

ITEM 1. Rescind 571—Chapter 14 and adopt the following **new** chapter in lieu thereof:

CHAPTER 14

CONCESSIONS

571—14.1(461A) Definitions.

“Concessionaire” means a person or firm granted a contract to operate a concession in a state park or recreation area. The concessionaire is an independent contractor and not an employee or agent of the department.

“Concession operation” means operating a business within a concession area in a state park or recreation area including, but not limited to, boat rental, snack food sales, beach operation, and sale of fishing bait and tackle.

“Department” means the same as defined in Iowa Code section 461A.1(2).

“Director” means the same as defined in Iowa Code section 461A.1(3).

“Friends group or organization” means an organization incorporated under Iowa Code chapter 504 as a not-for-profit group which has been formed solely for the purposes of promoting and enhancing a particular state park, recreation area, or the Iowa state park system, or any combination of the three.

“Gross receipts” means the total amount received, excluding sales tax, realized by or accruing to the concessionaire from all sales, for cash or credit, of services, accommodations, materials, or other merchandise pursuant to rights granted in the contract, including gross receipts of subconcessionaires. All moneys paid into coin-operated devices, except telephones, shall be included in gross receipts.

“New concession” means the right to establish a concession operation in an area that does not currently have a concessionaire or an area where the department wishes to invite bids for a mobile type concession operation.

“Newspaper” means the same as described in Iowa Code section 618.3.

571—14.2(461A) Advertising or notice procedure.

14.2(1) *New concession.*

a. Advertising. When the department desires to obtain a new concession operation to offer multiple concession services in an area, the department shall advertise the request for proposals on the targeted small business website and the department's requests for proposals website. The department shall advertise a notice for the request for proposals in one newspaper of statewide circulation and in at least one newspaper designated by the county to be used for official publications in the county in which the state park or recreation area is located.

b. The notice shall state the following:

- (1) The names and location of the area(s) in which concession operations are available.
- (2) The general types of services the department would expect a concessionaire to furnish.
- (3) How to obtain the request for proposals information.
- (4) The deadline for submission of proposals to the department.

c. The department shall allow a minimum of 15 days between the date of publication of advertisements and the deadline for submission of proposals.

d. The request for proposals shall include the following information:

(1) A scope of work that contains detailed information regarding the types of services expected to be offered by the concessionaire and the history of the gross receipts reported for the previous five operating years by the prior concessionaire (if applicable); bid terms acceptable to the department; the name, address, and telephone number of the person to contact regarding the request for proposals; and the date and time by which the proposals must be received by the department.

(2) A map of the park in which the concession operation is proposed.

(3) A sample of the contract the successful bidder will be expected to sign.

(4) Samples of report forms that the concessionaire must submit to the department while the concession is in operation.

14.2(2) *Renewal of existing concession operation.*

a. The department may, at its option, mutually agree with the concessionaire to renew a contract during or at the end of its term. A concessionaire may request renewal during the term of a contract after a minimum of three years of concession operation and a minimum of six months prior to expiration of the existing contract. The provisions of the renewal contract shall be negotiated between the department and the concessionaire. Should either party choose not to renew the contract, appropriate notice shall be sent to the other party four months prior to the expiration date of the existing contract, and the department may advertise for bids in accordance with this chapter.

b. The department shall publish a notice of intent to renew a concession contract that has been negotiated in accordance with paragraph 14.2(2)"*a.*" The notice shall be published in the same manner as provided in paragraph 14.2(1)"*a.*" and shall solicit public comments regarding the renewal.

c. The department director shall, upon review of comments received, determine whether to solicit bids or proceed with the renewal of the existing contract and shall notify the concessionaire of the decision in writing. If the director denies the renewal request, the existing concessionaire may request a contested case proceeding pursuant to Iowa Code chapter 17A.

571—14.3(461A) Bidding process.

14.3(1) *Proposals.* Persons interested in operating a concession in a state park or recreation area shall submit a proposal in the format requested in the request for proposals. It is the bidder's responsibility to inspect the area proposed for concession operation and be fully aware of the condition and physical layout of the area. The proposal shall also include an explanation of any proposed operation not mentioned in the request for proposals. Concession facilities shall be bid on an "as is" basis unless the department agrees in writing to undertake certain improvements.

a. The department reserves the right to reject any or all bids.

b. If no bids are received for a concession operation, the department may:

- (1) Readvertise for bids; or
- (2) Contact interested persons and attempt to negotiate a contract; or

(3) Determine that there will be no concession operation in that particular area that year.

14.3(2) Vending machines.

a. Placement of vending machines in state parks and recreation areas shall not be subject to the advertising and bidding process established by this chapter.

b. Vending machines may be placed in state parks and recreation areas only by the publisher or distributor of the newspaper to be sold, the distributor of the soft drink to be sold in the machines, or by private vending machine companies.

c. Companies placing vending machines in state parks and recreation areas must submit a proposal to the department that states the location, number, and type of vending machines to be placed; the price(s) that will be charged to the public; and the proposed fee or commission to be paid to the state.

d. Any fees or commissions to be paid by the vendor to the state shall be paid directly to the department's central office in Des Moines, Iowa.

e. The department will not install new electrical lines, concrete pads, or any other items needed to enable installation of vending machines.

14.3(3) Firewood sales.

a. Firewood sales contracts shall not be subject to the advertising and bidding process established by this chapter.

b. Persons interested in selling firewood in a state park or recreation area that has no other concessionaire, or if the concessionaire has declined the opportunity to sell firewood, shall submit a request to the department that identifies the area(s) where the firewood would be sold, the price to be charged to the public, and the proposed fee or commission to be paid to the state.

c. All firewood sold or distributed in state parks and recreation areas shall be accompanied with a firewood label that meets labeling requirements identified in rule 21—46.16(177A).

d. All firewood that originates from a quarantined area and that is sold or distributed in state parks and recreation areas must be certified by the United States Department of Agriculture to show that the firewood has been processed or treated according to applicable federal regulations.

14.3(4) Friends group or organization.

a. Concession contracts with a friends group or organization, as defined in rule 571—14.1(461A), in state parks and recreation areas shall not be subject to the advertising and bidding process established by this chapter.

b. A friends group or organization shall submit a proposal to operate a concession operation at a particular state park or recreation area. The proposal shall state the services to be provided, the proposed hours of operation, and proposed staffing.

c. All net proceeds from the sale of merchandise and other concession services shall be spent on state park or recreation area improvement projects.

571—14.4(461A) Selection of a concessionaire. The department shall select the concessionaire it determines to be best suited for a concession operation in a state park or recreation area upon evaluation of the following information:

1. The services proposed in the concession operation.
2. The concessionaire's managerial experience and other concession-related experience.
3. The concessionaire's financial stability, based upon a review of the concessionaire's existing profitability, equity, available cash, and other applicable financial data.
4. The annual lease payment bid.
5. The length of contract proposed.
6. A check of all business and personal references given in the proposal.
7. The use of environmentally friendly practices and materials including, but not limited to, participation in recycling programs, use of items that contain recycled-content materials, use of energy-efficient appliances and equipment, and light pollution reduction.
8. The results of a criminal background check and driver's license record check.

571—14.5(461A) Concession contract—general. The term of the concession contract shall be for no more than a ten-year period without being subject to the renewal process as outlined in this chapter. The contract may be

amended during its term, in writing, and effective only if the amendments are approved by all parties.

14.5(1) Construction. The contract may allow the construction of department-approved buildings or other facilities by the concessionaire in lieu of annual concession fee payments on an equal value basis. The value of the buildings or facilities shall be based on actual, documented cost of construction. Any structures built under this contract condition shall become state property and cannot be removed by the concessionaire unless removal is required by the contract.

14.5(2) Insurance. Insurance coverage required to be carried by the concessionaire shall be “occurrence” type rather than “claims made.”

14.5(3) Exclusive rights. The contract gives the concessionaire exclusive rights to conduct the concession operation in a particular state park or recreation area. The concessionaire must have department approval prior to allowing other vendors to do business in the area under the terms of the contract. This provision does not prohibit the department from allowing other vendors in an area if the department identifies a service that is not under contract with the concessionaire and the concessionaire declines to provide that service.

14.5(4) Temporary authorization. If necessary, the department director shall have authority to issue a temporary letter of authorization to enable the successful bidder to operate a concession pending approval of the contract by the commission if commission approval is required by statute. The letter of authorization will incorporate all stipulations and conditions of the contract. The term of the letter of authorization shall not exceed 90 calendar days from the date of issuance.

571—14.6(461A) Dispute resolution. Should a dispute arise between the concessionaire and the department as to the interpretation of contract stipulations or whether the concessionaire is performing satisfactorily, the concessionaire shall initially meet with the local staff and district supervisor. If the matter cannot be resolved, the bureau chief will attempt to resolve the dispute. If the dispute cannot be resolved, the contract shall be terminated and the department may advertise for bids in accordance with this chapter. The requirements of Iowa Code section 17A.18(3) shall apply to any contract termination under the provisions of this rule. The provisions of this rule shall not be a bar to or prerequisite of the provisions of rule 571—14.7(461A).

571—14.7(461A) Suspension or termination for cause.

14.7(1) Emergency suspension. If the department determines that continued operation of the concession presents an immediate hazard to the public health, safety or welfare or is in violation of any state law or policy, the department may immediately suspend the contract by notice procedures described in the contract. The notice shall contain specific reasons for the emergency suspension.

The department may enforce the suspension by physically closing the concession premises. The department may assign employees to operate any part of a concession which the department determines should be opened during a suspension in order to provide continued services for park users.

If possible, the concessionaire may take action to correct the hazardous situation and request reinstatement of the contract if the department agrees that a hazardous situation no longer exists.

14.7(2) Termination of contract. The department may terminate the contract, for one or more of the following reasons:

- a. Failure to correct a hazardous condition within a reasonable time specified in the notice of emergency termination.
- b. Nonconformance with the stipulations of the contract including payment of fees.
- c. Unsatisfactory performance of the concessionaire.

Upon notice of termination of the contract, the concessionaire may request a hearing under the provisions of natural resource commission rules in 571—Chapter 7.

571—14.8(456A,461A,463C) Honey Creek Resort State Park exemption. The rules in this chapter do not apply to Honey Creek Resort State Park. These rules are intended to implement Iowa Code sections 461A.1, 461A.3, and 461A.4.

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

21. Chapter 15, “General License Regulations”- Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action for Chapter 15. This Notice of Intended Action is the result of the Customer and Employee Services Bureau’s Executive Order 10 rule review.

Chapter 15 governs hunting, fishing, and trapping license sales, fees, general administration, and a framework for license revocation and suspensions. Iowa law requires that most individuals obtain a license prior to engaging in fish and game-based recreational pursuits. Chapter 15 ensures efficient, timely, and consistent license administration.

Mark Warren, Customer Service & Licensing Supervisor
Conservation and Recreation
Date of NRC Meeting: November 9, 2023

Attached: Chapter 15 – NOIA

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing to rescind and replace chapter

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 15, “General License Regulations,” Iowa Administrative Code and adopt a new Chapter 15 with the same title.

Legal Authority for Rule Making

This rulemaking is proposed under the authority provided in Iowa Code sections 456A.24(14), 481A.134 and 135, 483A.1, 483A.9A, and 483A.10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 456A.24(14), 481A.134 and 135, 483A.1, 483A.9A, and 483A.10.

Purpose and Summary

Chapter 15 governs hunting, fishing, and trapping license sales, fees, general administration, and a framework for license revocation and suspensions. Iowa law requires that most individuals obtain a license prior to engaging in fish and game-based recreational pursuits. Chapter 15 ensures efficient, timely, and consistent license administration.

Consistent with Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2)’s five-year rule review, this chapter was edited for length and clarity. Specifically, there were numerous provisions in this chapter that were repetitive to statute or to rules elsewhere. There were other provisions that were outdated, such as those related to paper licenses and traditional wet ink signatures. These provisions have been removed from the new version.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Natural Resource Commission for a waiver of the discretionary provisions, if any, pursuant to 571--Chapter 11.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 18, 2024. Comments should be directed to:

Mark Warren
Department of Natural Resources
502 East 9th Street
Des Moines, IA 50319
Email: mark.warren@dnr.iowa.gov

Public Hearing

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

January 16, 2024 at Noon, Wallace State Office Building, Conference room 4E

January 18, 2024 at 1-2PM, Wallace State Office Building, Conference room 4E

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action proposed:

ITEM 1. Rescind 571—Chapter 15 and adopt the following **new** chapter in lieu thereof:

CHAPTER 15
GENERAL LICENSE REGULATIONS

571—15.1(483A) Scope. The purpose of this chapter is to provide rules for license fees, sales, refunds and administration; implement the wildlife violator compact and penalties for multiple offenses; and administer special licenses available for hunting and fishing.

DIVISION I
LICENSE SALES, REFUNDS AND ADMINISTRATION

571—15.2(483A) Definitions. For the purposes of this division, the following definitions shall apply, in addition to those found in Iowa Code chapter 483A:

“*Administration fee*” means the fee collected by the department to pay a portion of the cost of administering the sale of licenses through electronic means.

“*Immediate family member*” means the spouse, a domestic partner, and all minor children of the licensee or person seeking a license.

“*Licensee*” means a person who applies for and receives a license under these rules from the department.

“*Retail*” means the sale of goods or commodities to the ultimate consumer, as opposed to the sale of goods or commodities for further distribution or processing.

“*Wholesale*” means the sale of goods or commodities for resale by a retailer, as opposed to the sale of goods or commodities to the ultimate consumer.

571—15.3(483A) Form of licenses. Every license shall contain a general description of the licensee. At the time of application, the applicant for a license must provide the applicant's date of birth and either a social security number or a valid Iowa driver's license number. The license shall be signed by the applicant and shall clearly indicate the privilege granted.

571—15.4(483A) Administration fee. An administration fee of \$1.50 per privilege purchased shall be collected from the purchaser at the time of purchase, except upon the issuance of free landowner deer and turkey hunting licenses, free annual hunting and fishing licenses, free annual fishing licenses, free group home fishing licenses, and boat registrations, renewals, transfers, and duplicates. An administrative fee of \$3.65 will be collected from the purchaser at the time of boat registration, renewal, transfer, and duplicate purchases.

571—15.5(483A) Electronic license sales.

15.5(1) Designation as license agent. The director may designate a retail business establishment, an office of a governmental entity, or a nonprofit corporation as an agent of electronically issued licenses in accordance with the provisions of this rule.

15.5(2) Application. Application forms to sell electronically issued licenses may be secured by a written or in-person request to the Licensing Section, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034. The following information must be provided on the application form:

- a. The legal name, address, and telephone number of the entity applying for designation;
- b. The hours open for business and general service to the public;
- c. A brief statement of the nature of the business or service provided by the applicant;
- d. Type of Internet connection (dial up or high speed) used for accessing the electronic licensing system; and
- e. A signature by an owner, partner, authorized corporate official, or public official of the entity applying for designation.

15.5(3) Application review.

- a. The department shall approve or deny the application to sell electronically issued licenses based upon the following criteria:
 - (1) The need for a license agent in the area;
 - (2) The hours open for business or general service to the public;
 - (3) The potential volume of license sales;
 - (4) The apparent financial stability and longevity of the applicant;
 - (5) The number of point-of-sale (POS) terminals available to the department; and
 - (6) Type of Internet connection (dial up or high speed) used for accessing the electronic licensing system.
- b. If necessary, the department may utilize a waiting list for license agent designation. The order of priority for the waiting list will be determined by the time of submittal of a complete and correct application and receipt of the required security deposit, as outlined in the application.

15.5(4) Issuance of electronic licensing equipment. Upon the director's approval of an application under this rule and designation of a license agent for electronic license sales, the equipment necessary to conduct such sales will be issued to the license agent by the department subject to the following terms and conditions:

- a. Prior to the issuance of the electronic licensing equipment, the approved license agent shall furnish to the department an equipment security deposit in an amount to be determined by the department.
- b. Prior to the issuance of the electronic licensing equipment, the approved license agent shall enter into an electronic license sales agreement with the department which sets forth the terms and conditions of such sales, including the authorized amounts to be retained by the license agent.
- c. Prior to the issuance of the electronic licensing equipment, the approved license agent shall furnish to the department a signed authorization agreement for electronic funds transfer pursuant to subrule 15.5(5).
- d. Electronic licensing equipment and supplies must be stored in a manner to provide protection from damage, theft, and unauthorized access. Any damage to or loss of equipment or loss of moneys derived from license sales is the responsibility of the license agent.
- e. Upon termination of the agreement by either party, all equipment and supplies, as outlined in the agreement, must be returned to the department. Failure to return equipment and supplies in a usable condition, excluding normal wear and tear, will result in the forfeiture of deposit in addition to any other remedies available to the department by law.

15.5(5) License fees. All moneys received from the sale of licenses, less and except the agreed-upon service fee, must be immediately deposited and held in trust for the department.

a. All license agents must furnish to the department a signed authorization agreement for electronic funds transfer authorizing access by the department to a bank account for electronic transfer of license fees received by the license agent.

b. The amount of money due for accumulated sales will be drawn electronically by the department on a weekly basis. The license agent shall be given notice of the amount to be withdrawn at least two business days before the actual transfer of funds occurs. The license agent is responsible for ensuring that enough money is in the account to cover the amount due.

c. License agents may accept or decline payment in any manner other than cash, such as personal checks or credit cards, at their discretion. Checks or credit payments must be made payable to the license agent, not to the department. The license agent shall be responsible for ensuring that the license fee is deposited in the electronic transfer account, regardless of the payment or nonpayment status of any check accepted by the license agent.

15.5(6) Termination. Upon the termination of the electronic license sales agreement pursuant to subrule 15.5(7) or 15.5(8), the department may disconnect or otherwise block the license agent's access to the electronic licensing system.

15.5(7) Equipment shut down and termination. The department reserves the right to disconnect the license agent's access to the electronic licensing system or terminate the license agent's electronic license sales agreement for cause. Cause shall include, but is not limited to, the following:

a. Failing to deposit license fees into the electronic transfer account in a sum sufficient to cover the amount due for accumulated sales;

b. Charging or collecting any fees in excess of those authorized by law;

c. Discriminating in the sale of a license in violation of state or federal law;

d. Knowingly making a false entry concerning any license sold or knowingly issuing a license to a person who is not eligible for the license issued;

e. Using license sale proceeds, other than the service fee, for personal or business purposes;

f. Disconnecting or blocking access to the electronic licensing system for a period of 30 days or more; or

g. Violating any of these rules or the terms of the electronic license sales agreement. Repeated violations of these rules may result in termination of the license agent's electronic license sales agreement.

15.5(8) Voluntary termination. A license agent may terminate its designation and the electronic license sales agreement at its discretion by providing written notice to the department. Voluntary termination shall become effective 30 days after the department's receipt of notice.

571—15.6(483A) Refund or change requests for special deer and turkey hunting licenses and general licenses. **15.6(1) Death of licensee.** The fee for a deer or turkey hunting license will be refunded to the licensee's estate when

a licensee's death predates the season for which the license was issued and a written request from the licensee's spouse, executor or estate administrator is received by the department within 90 days of the last date of the season for which the license was issued.

15.6(2) Military duty. The fee for a deer or turkey hunting license will be refunded if the licensee is a member of the armed forces and is either deployed or activated for a national or state emergency during the season for which the license was issued. A written refund request must be received by the department within 90 days of the last date of the season for which the license was issued.

15.6(3) License changes. The department will attempt to change a licensee's choice of season or type of license if a written request is received by the licensing section prior to the start of the established season.

15.6(4) Other refund requests. Except as previously described in this rule, the department will not issue refunds for any licenses.

571—15.7(483A) Proof of residency required. The department shall have the authority to require persons applying for or who have received resident licenses to provide additional information to determine the person's principal and primary residence or domicile and residency status. Whether a person was issued resident or nonresident licenses by the department in previous years shall not be a determining factor of residency. Persons required to provide additional information under this rule shall be notified in writing by the department and shall have 60 days to submit all required information to the department.

571—15.8(483A) Residency status determination. Upon receipt of information requested from the person, the department may determine whether the person is a resident or a nonresident for purposes of these rules and Iowa Code chapter 483A. The department shall provide the person with written notice of the finding.

571—15.9(483A) Suspension or revocation of licenses when nonresidents obtain resident licenses.

15.9(1) *Suspension or revocation of license.* If the department finds that a nonresident has obtained a resident license, the department shall provide written notice of intent to revoke and suspend hunting, fishing, or trapping licenses as provided in 571—Chapter 7. If the person requests a hearing, it shall be conducted in accordance with 571—Chapter 7.

15.9(2) *Dates of suspension or revocation.* The suspension or revocation shall be effective upon failure of the person to request a hearing within 30 days of the notice described in subrule 15.9(1) or upon issuance of an order affirming the department's intent to suspend or revoke the license after the hearing. The person shall immediately surrender all licenses and shall not apply for or obtain new licenses for the full term of the suspension or revocation.

571—15.10(483A) Licenses—fees. Except as otherwise provided by law, a person shall not fish, trap, hunt, harvest, pursue, catch, kill, take in any manner, use, have possession of, sell, or transport all or a part of any wild animal, bird, game, turtle, or fish, the protection and regulation of which is desirable for the conservation of resources of the state, without first obtaining a license for that purpose and paying a fee as follows:

15.10(1) *Residents.*

- a. Fishing license, annual — \$20.
- b. Fishing license, three-year — \$60.
- c. Fishing license, seven-day — \$13.50.
- d. Fishing license, one-day — \$8.50.
- e. Third-line fishing permit, annual — \$12.
- f. Fishing license, lifetime, 65 years of age or older — \$59.50.
- g. Fishing license, lifetime, disabled veteran or POW — \$5.
- h. Paddlefish fishing license, annual — \$23.50.
- i. Trout fishing fee — \$12.50.
- j. Boundary waters sport trotline license, annual — \$24.
- k. Hunting license, annual — \$20.
- l. Hunting license, annual, including the wildlife habitat fee — \$33.
- m. Hunting license, three-year, including the wildlife habitat fee — \$99.
- n. Hunting license, lifetime, 65 years of age or older — \$59.50.
- o. Combination hunting and fishing license, annual, including the wildlife habitat fee — \$53.
- p. Combination hunting and fishing license, lifetime, disabled veteran or POW — \$5.
- q. Deer hunting license — \$30.
- r. First antlerless deer license — \$25.50.
- s. Additional antlerless deer license — \$12.
- t. Wildlife habitat fee — \$13.
- u. Migratory game bird fee — \$10.
- v. Wild turkey hunting license — \$26.50.
- w. Fur harvester license, annual — \$24.
- x. Fur harvester license, annual, including the wildlife habitat fee — \$37.
- y. Fur harvester license, annual, under 16 years of age — \$5.50.
- z. Fur harvester license, lifetime, 65 years of age or older — \$59.50.
- aa. Fur dealer license, annual — \$264.
- bb. Aquaculture unit license, annual — \$30.
- cc. Retail bait dealer license, annual — \$36.
- dd. Wholesale bait dealer license, annual — \$146.50.
- ee. Game breeder license, annual — \$18.
- ff. Taxidermy license, annual — \$18.

- gg.* Trout fishing license, lifetime, 65 years of age or older — \$63.
- hh.* Trout fishing license, lifetime, disabled veteran — \$63.
- ii.* Fishing license, annual, veteran — \$5.
- jj.* Combination hunting and fishing license, annual, veteran — \$5.

15.10(2) Nonresidents.

- a.* Fishing license, annual — \$46.
- b.* Fishing license, seven-day — \$35.50.
- c.* Fishing license, three-day — \$18.50.
- d.* Fishing license, one-day — \$10.
- e.* Third-line fishing permit, annual — \$12.
- f.* Paddlefish fishing license, annual — \$47.
- g.* Trout fishing fee — \$15.50.
- h.* Boundary waters sport trotline license, annual — \$47.50.
- i.* Hunting license, annual — \$129.
- j.* Hunting license, annual, including the wildlife habitat fee — \$142.
- k.* Hunting license, annual, under 18 years of age — \$30.
- l.* Hunting license, annual, under 18 years of age, including the wildlife habitat fee — \$43.
- m.* Hunting license, five-day (not applicable to deer or wild turkey seasons) — \$75.
- n.* Hunting license, five-day, including the wildlife habitat fee (not applicable to deer or wild turkey seasons) — \$88.
- o.* Deer hunting license, antlered or any-sex deer — \$345.50.
- p.* Deer hunting license, antlerless-deer-only, required with the purchase of an antlered or any-sex deer hunting license — \$146.50.
- q.* Deer hunting license, antlerless-deer-only — \$263.50.
- r.* Preference point issued under Iowa Code section 483A.7(3) “*b*” or 483A.8(3) “*e*” — \$58.50.
- s.* Holiday deer hunting license issued under Iowa Code section 483A.8(6), antlerless-deer-only — \$88.
- t.* Wildlife habitat fee — \$13.
- u.* Migratory game bird fee — \$10.
- v.* Wild turkey hunting license, annual — \$117.
- w.* Fur harvester license, annual — \$232.
- x.* Fur harvester license, annual, including the wildlife habitat fee — \$245.
- y.* Fur dealer license, annual — \$586.50.
- z.* Fur dealer license, one-day, one location — \$292.50.
- aa.* Location permit for fur dealer — \$66.
- bb.* Aquaculture unit license, annual — \$66.
- cc.* Retail bait dealer license, annual — \$146.50.
- dd.* Wholesale bait dealer license, annual — \$292.50.

ee. Game breeder license, annual — \$30.50.

ff. Taxidermy license, annual — \$30.50.

571—15.11 to 15.15 Reserved.

DIVISION II
MULTIPLE OFFENDER AND WILDLIFE VIOLATOR COMPACT

571—15.16(481A,481B,482,483A,484A,484B) Multiple offenders—revocation and suspension of hunting, fishing, and trapping privileges from those persons who are determined to be multiple offenders.

15.16(1) Definitions. For the purpose of this rule, the following definitions shall apply:

“*Department*” means the Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034.

“*Multiple offender*” means any person who has equaled or exceeded five points for convictions in Iowa Code chapters 481A, 481B, 482, 483A, 484A, 484B, and 716 during a consecutive three-year period as provided in subrule 15.16(3).

“*Revocation*” means the taking or cancellation of an existing license or privilege.

“*Suspension*” means to bar or exclude one from applying for or acquiring licenses or privileges for future seasons.

15.16(2) Recordkeeping procedures. For the purpose of administering this rule, it shall be the responsibility of the clerk of district court for each county to deliver, on a monthly basis, disposition reports of each charge filed under Iowa Code chapters 456A, 481A, 481B, 482, 483A, 484A, 484B, and 716 to the department. Dispositions and orders of the court of all cases filed on the chapters listed in this subrule shall be sent to the department regardless of the jurisdiction or the department of the initiating officer.

a. License suspensions. In the event of a license suspension pursuant to Iowa Code section 481A.133, the clerk of court shall immediately notify the department.

b. Entering information. Upon receipt of the disposition information from the clerks of court, the department will, on a monthly basis, enter this information into a licensed system that is directly accessible to all law enforcement agencies of the state.

c. Disposition report information. Information from the disposition report that will be entered into an electronic license system which includes but may not be limited to the following:

- (1) County of violation,
- (2) Name of defendant,
- (3) Address of defendant,
- (4) Social security or driver’s license number,
- (5) Date of birth,
- (6) Race,
- (7) Sex,
- (8) Height,
- (9) Weight,
- (10) Date and time of violation,
- (11) Charge and Iowa Code section,
- (12) Officer name/C-number who filed charge, and
- (13) Date of conviction.

15.16(3) Point values assigned to convictions. Point values for convictions shall be assessed as stated in this subrule. Multiple citations and convictions of the same offense will be added as separate convictions:

a. Convictions of the following offenses shall have a point value of three:

- (1) Illegal sale of birds, game, fish, or bait.
- (2) More than the possession or bag limit for any species of game or fish.
- (3) Hunting, trapping, or fishing during the closed season.
- (4) Hunting by artificial light.
- (5) Hunting from aircraft, snowmobiles, all-terrain vehicles or motor vehicle.
- (6) Any violation involving threatened or endangered species.
- (7) Any violations of Iowa Code chapter 482, except sections 482.6 and 482.14.

- (8) Any violation of nonresident license requirements.
- (9) No fur dealer license (resident or nonresident).
- (10) Illegal taking or possession of protected nongame species.
- (11) The unlawful taking of any fish, turtle, game, or fur-bearing animal.
- (12) Illegal taking, possession, or transporting of a raptor.
- (13) Hunting, fishing, or trapping while under license suspension or revocation.
- (14) Illegal removal of fish, minnows, frogs, or other aquatic wildlife from a state fish hatchery.
- (15) Any fur dealer violations except failure to submit a timely annual report.
- (16) Any resident or nonresident making false claims to obtain a license.
- (17) Illegal taking or possession of hen pheasant.
- (18) Applying for or acquiring a license while under suspension or revocation.
- (19) Taking game from the wild—see Iowa Code section 481A.61.
- (20) Violation of Iowa Code sections 483A.27(7) and 483A.27A.
- (21) Any violation of Iowa Code section 716.8 while hunting, fishing, or trapping.

b. Convictions of the following offenses shall have a point value of two:

- (1) Hunting, fishing, or trapping on a refuge.
- (2) Illegal possession of fur, fish, turtle, or game.
- (3) Chasing wildlife from or disturbing dens.
- (4) Trapping within 200 yards of an occupied building or private drive.
- (5) Possession of undersized or oversized fish.
- (6) Shooting within 200 yards of occupied building or feedlot.
- (7) No valid resident license relating to deer, turkey, or paddlefish.
- (8) Illegal importation of fur, fish, or game.
- (9) Failure to exhibit catch to an officer.
- (10) Trapping or poisoning game birds, or poisoning game animals.
- (11) Violations pertaining to private fish hatcheries and aquaculture.
- (12) Violations of the fur dealers reporting requirements.
- (13) Violation of Iowa Code section 481A.126 pertaining to taxidermy.
- (14) Loaded gun in a vehicle.
- (15) Attempting to unlawfully take any fish, turtle, game, or fur-bearing animals.
- (16) Attempting to take game before or after legal shooting hours.
- (17) Wanton waste of fish, game or fur-bearing animals.
- (18) Illegal discharge of a firearm pursuant to Iowa Code section 481A.54.
- (19) Any violation of Iowa Code section 482.14 pertaining to commercial fishing.
- (20) Failure to tag deer, turkey, or paddlefish.
- (21) Applying for or obtaining more than the legal number of licenses allowed for deer or turkey.
- (22) Illegal transportation of game, fish or furbearers.
- (23) Violation of Iowa Code section 483A.27, except section 483A.27(7).

c. All other convictions of provisions in Iowa Code chapters 481A, 481B, 482, 483A, 484A, and 484B shall have a point value of one.

15.16(4) Length of suspension or revocation.

a. The term of license suspension or revocation shall be determined by the total points accumulated during any consecutive three-year period, according to the following: 5 points through 8 points is one year, 9 points through 12 points is two years, and 13 points or over is three years.

b. Any person convicted of a violation of any provision of Iowa Code chapters 481A, 481B, 482, 483A, 484A, and 484B under the circumstances described in Iowa Code section 481A.135(2) shall have an additional suspension of one year. Any person convicted of a violation of any provision of Iowa Code chapters 481A, 481B, 482, 483A, 484A, and 484B under the circumstances described in Iowa Code section 481A.135(3) shall have an additional suspension of two years. Any person convicted of a violation of any provision of Iowa Code chapters 481A, 481B, 482, 483A, 484A, and 484B under the circumstances described in Iowa Code section 481A.135(4) shall have an additional suspension of three years. The foregoing provisions apply whether or not a person has been found guilty of a simple misdemeanor, serious misdemeanor or aggravated misdemeanor pursuant to Iowa Code sections 481A.135(2), 481A.135(3) and 481A.135(4). If a magistrate

suspends the privilege of a defendant to procure another license and the conviction contributes to the accumulation of a point total that requires the department to initiate a suspension, the term of suspension shall run consecutively up to a maximum of five years. After a five-year suspension, remaining time will be calculated at a concurrent rate.

15.16(5) *Points applicable toward suspension or revocation.* If a person pleads guilty or is found guilty of an offense for which points have been established by this rule but is given a suspended sentence or deferred sentence by the court as defined in Iowa Code section 907.1, the assigned points will become part of that person's violation record and apply toward a department suspension or revocation.

15.16(6) *Notification of intent to suspend and revoke license.* If a person reaches a total of five or more points, the department shall provide written notice of intent to revoke and suspend hunting, fishing, or trapping licenses as provided in 571—Chapter 7. If the person requests a hearing, it shall be conducted in accordance with 571—Chapter 7.

15.16(7) *Dates of suspension or revocation.* The suspension or revocation shall be effective upon failure of the person to request a hearing within 30 days of the notice described in subrule 15.16(6) or upon issuance of an order affirming the department's intent to suspend or revoke the license after the hearing. The person shall immediately surrender all licenses and shall not apply for or obtain new licenses for the full term of the suspension or revocation.

571—15.17(456A) *Wildlife violator compact.* The department has entered into the wildlife violator compact (the compact) with other states for the uniform enforcement of license suspensions. The compact, a copy of which may be obtained by contacting the department's law enforcement bureau, is adopted herein by reference. The procedures set forth in this rule shall apply to license suspensions pursuant to the wildlife violator compact.

15.17(1) *Definitions.* For purposes of this rule, the following definitions shall apply:

"Compliance" with respect to a citation means the act of answering a citation through an appearance in a court or through the payment of all fines, costs, and surcharges, if any.

"Department" means the Iowa department of natural resources.

"Issuing state" means a participating state that issues a fish or wildlife citation to a person.

"Participating state" means any state which enacts legislation to become a member of the wildlife violator compact. Iowa is a participating state pursuant to Iowa Code section 456A.24(14).

15.17(2) *Suspension of licenses for noncompliance.* Upon the receipt of a valid notice of failure to comply, as defined in the compact, the department shall issue a notice of suspension to the Iowa resident. The notice of suspension shall:

a. Indicate that all department-issued hunting (including furbearer) or fishing licenses shall be suspended, effective 30 days from the receipt of the notice, unless the department receives proof of compliance.

b. Inform the violator of the facts behind the suspension with special emphasis on the procedures to be followed in resolving the matter with the court in the issuing state. Accurate information in regard to the court (name, address, telephone number) must be provided in the notice of suspension.

c. Notify the license holder of the right to appeal the notice of suspension within 30 days of receipt. Said appeal shall be conducted pursuant to 571—Chapter 7 but shall be limited to the issues of whether the person so notified has a pending charge in the issuing state, whether the person has previously received notice of the violation from the issuing state, and whether the pending charge is subject to a license suspension for failure to comply pursuant to the terms of the compact.

d. Notify the license holder that, prior to the effective date of suspension, a person may avoid suspension through an appearance in the court with jurisdiction over the underlying violations or through the payment of all fines, costs, and surcharges associated with the violations.

e. Indicate that, once a suspension has become effective, the suspension may only be lifted upon the final resolution of the underlying violations.

15.17(3) *Reinstatement of licenses.* Any license suspended pursuant to this rule may be reinstated upon the receipt of an acknowledgement of compliance from the issuing state, a copy of a court judgment, or a certificate from the court with jurisdiction over the underlying violations and the payment of applicable Iowa license fees.

15.17(4) Issuance of notice of failure to comply. When a nonresident is issued a citation by the state of Iowa for violations of any provisions under the jurisdiction of the natural resource commission which is covered by the suspension procedures of the compact and fails to timely resolve said citation by payment of applicable fines or by properly contesting the citation through the courts, the department shall issue a notice of failure to comply.

a. The notice of failure to comply shall be delivered to the violator by certified mail, return receipt requested, or by personal service.

b. The notice of failure to comply shall provide the violator with 14 days to comply with the terms of the citation. The violator may avoid the imposition of the suspension by answering a citation through an appearance in a court or through the payment of all fines, costs, and surcharges, if any.

c. If the violator fails to achieve compliance, as defined in this rule, within 14 days of receipt of the notice of failure to comply, the department shall forward a copy of the notice of failure to comply to the home state of the violator.

15.17(5) Issuance of acknowledgement of compliance. When a person who has previously been issued a notice of failure to comply achieves compliance, as defined in this rule, the department shall issue an acknowledgement of compliance to the person who was issued the notice of failure to comply.

15.17(6) Reciprocal recognition of suspensions. Upon receipt of notification from a state that is a member of the wildlife violator compact that the state has suspended or revoked any person's hunting or fishing license privileges, the department shall:

a. Enter the person's identifying information into the records of the department.

b. Deny all applications for licenses to the person for the term of the suspension or until the department is notified by the suspending state that the suspension has been lifted.

571—15.18 to 15.20 Reserved.

DIVISION III SPECIAL LICENSES

571—15.21(483A) Fishing license exemption for patients of substance abuse facilities.

15.21(1) Definition. For the purpose of this rule, the definition of "substance abuse facility" is identical to the definition of "facility" in Iowa Code section 125.2(8).

15.21(2) Procedure. Each substance abuse facility may apply to the department of natural resources for a license exempting patients from the fishing license requirement while fishing as a supervised group as follows:

a. Application shall be made on a form provided by the department and shall include the name, address and telephone number of the substance abuse facility including the name of the contact person. A general description of the type of services or care offered by the facility must be included as well as the expected number of participants in the fishing program and the water bodies to be fished.

b. A license will be issued to qualifying substance abuse facilities and will be valid for all patients under the care of that facility.

c. Patients of the substance abuse facility must be supervised by an employee of the facility while fishing without a license pursuant to this rule. An employee of the substance abuse facility must have the license in possession while supervising the fishing activity of patients.

d. Notwithstanding the provisions of this rule, each employee of the substance abuse facility must possess a valid fishing license while participating in fishing.

571—15.22(481A) Authorization to use a crossbow for deer and turkey hunting during the bow season by handicapped individuals.

15.22(1) Definitions. For the purpose of this rule:

"Bow and arrow" means a compound, recurve, or longbow.

"Crossbow" means a weapon consisting of a bow mounted transversely on a stock or frame and designed to fire a bolt, arrow, or quarrel by the release of the bow string, which is controlled by a mechanical or electric trigger and a working safety.

“*Handicapped*” means a person possessing a physical impairment of the upper extremities that makes a person physically incapable of shooting a bow and arrow. This includes difficulty in lifting and reaching with arms as well as difficulty in handling and fingering.

15.22(2) *Application for crossbow permit.* An individual requesting use of a crossbow for hunting deer or turkey must submit an application for a crossbow permit on forms provided by the department. The application must include a statement signed by the applicant’s physician declaring that the individual is not physically capable of shooting a bow and arrow. The physician shall be a licensed physician, osteopathic physician, physician assistant, or advanced registered nurse practitioner. A first-time applicant must submit the crossbow permit application no later than ten days before the last day of the license application period for the season the person intends to hunt.

15.22(3) *Crossbow permit—issuance and use.* Approved applicants will be issued a permit authorizing the individual to hunt deer and turkey with a crossbow. The crossbow permit must be carried with the license and on the person while hunting deer and turkey and must be exhibited to a conservation officer upon request.

15.22(4) *Validity and forfeiture of permit.* A permit authorizing the use of a crossbow for hunting deer and turkey will be valid for as long as the person is incapable of shooting a bow and arrow. If a conservation officer has probable cause to believe the person’s handicapped status has improved, making it possible for the person to shoot a bow and arrow, the department may, upon the officer’s request, require the person to obtain in writing a current physician’s statement. The physician shall be a licensed physician, osteopathic physician, physician assistant, or advanced registered nurse practitioner. If the person is unable to obtain a current physician’s statement confirming that the person is incapable of shooting a bow and arrow, the department may initiate action to revoke the permit pursuant to 571—Chapter 7.

15.22(5) *Restrictions.* Crossbows equipped with pistol grips and designed to be fired with one hand are illegal for taking or attempting to take deer or turkey. All projectiles used in conjunction with a crossbow for deer hunting must be equipped with a broadhead.

571—15.23(483A) Free hunting and fishing license for low-income persons 65 years of age and older or low-income persons who are permanently disabled.

15.23(1) *Purpose.* Pursuant to Iowa Code section 483A.24(15), the department of natural resources will issue a free annual combination hunting and fishing license to low-income persons who meet the age status or permanently disabled status as defined.

15.23(2) *Definitions.*

“*Age status*” means a person who has achieved the sixty-fifth birthday.

“*Low-income person*” means a person who is a recipient of a program administered by the state department of human services for persons who meet low-income guidelines.

“*Permanently disabled*” means a person who meets the definition in Iowa Code section 483A.4.

15.23(3) *Procedure.* Each person shall apply to the department of natural resources for a license as follows:

a. Application shall be made on a form provided by the department and shall include the name, address, height, weight, color of eyes and hair, date of birth, and gender of the applicant. In addition, applicants shall include a copy of an official document such as a birth certificate if claiming age status, or a copy of an award letter from the Social Security Administration or private pension plan if claiming permanent disabled status. The application shall include an authorization allowing the department of health and human services to verify the applicant’s household income if proof of income is provided through the department of health and human services.

b. The free annual hunting and fishing combination license will be issued by the department upon verification of program eligibility. The license issued under this rule will be valid until January 10 of the subsequent year. Proof of eligibility must be submitted each year in order to obtain a free license.

c. A person whose income falls below the federal poverty guidelines may apply for this license by providing either of the following:

(1) A current Notice of Decision letter. For purposes of this rule, a “current Notice of Decision letter” shall mean a letter from the department of health and human services dated in the month the application is received or dated in the five months immediately preceding the month the application is received that describes the applicant’s monthly or annual household income.

(2) If a person does not have a Notice of Decision letter as described in subparagraph 15.23(3)“c”(1), a

document shall be provided that states that the applicant's annual income does not exceed the federal poverty limit for the current year and lists income from all sources, including but not limited to any wages or compensation, social security, retirement income, dividends and interest, cash gifts, rents and royalties, or other cash income. In addition, the applicant shall provide documentation of such income by submitting a copy of the applicant's most recently filed state or federal income tax return to the department. In the event an applicant does not have a tax return that was filed within the last year because the applicant's income level does not require the filing of a tax return, the applicant shall so notify the department, shall provide to the department bank statements, social security statements or other relevant income documentation identified by the department, and shall meet with the department to verify income eligibility under this rule.

Federal poverty guidelines are published in February of each year and will be the income standard for applicants from that time until the guidelines are available in the subsequent year. The guidelines will be shown on the application and will be available upon request from the department.

15.23(4) Revocation. Any license issued pursuant to rule 571—15.23(483A) may be revoked, in whole or in part, by written notice, if the director determines that a license holder had provided false information to obtain a license under this chapter or has violated any provision of this chapter and that continuation of the license is not in the public interest. Such revocation shall become effective upon a date specified in the notice. The notice shall state the extent of the revocation and the reasons for the action. Within 30 days following receipt of the notice of a revocation, the license holder may file a notice of appeal, requesting a contested case hearing pursuant to 561—Chapter 7. The notice of appeal shall specify the basis for requesting that the license be reinstated.

571—15.24(483A) Free annual fishing license for persons who have severe physical or mental disabilities.

15.24(1) Purpose. Pursuant to Iowa Code section 483A.24(9), the department of natural resources will issue a free annual fishing license to Iowa residents 16 or more years of age who have severe mental or physical disabilities who meet the definition of "severe mental disability" or "severe physical disability" in subrule 15.24(2).

15.24(2) Definitions. For the purposes of this rule, the following definitions apply:

"*Severe mental disability*" means a person who has severe, chronic conditions in all of the following areas which:

1. Are attributable to a mental impairment or combination of mental and physical impairments;
2. Result in substantial functional limitations in three or more of the following areas of major life activities: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency;
3. Reflect the person's need for a combination and sequence of services that are individually planned and coordinated; and
4. Requires the full-time assistance of another person to maintain a safe presence in the outdoors.

"*Severe physical disability*" means a disability that limits or impairs the person's mobility or use of a hand or arm and that requires the full-time assistance of another person or that makes the person dependent on a wheelchair for the person's normal life routine.

15.24(3) Procedure. Each person shall apply to the department of natural resources for a license as follows:

a. Application shall be made on a form provided by the department and shall include the name, home address, home telephone number, height, weight, eye and hair color, date of birth, and gender of the applicant and other information as required. The license issued under this rule will be issued by the department upon verification of program eligibility and will be valid until January 10 of the subsequent year. Proof of eligibility must be submitted each year in order to obtain the license.

b. The application shall be certified by the applicant's attending physician with an original signature and, based upon the definition of severe mental disability or severe physical disability as provided for in this rule, declare that the applicant has a severe mental or physical disability. A medical statement from the applicant's attending physician specifying the applicant's type of disability shall be on 8½" x 11" stationery of the attending physician or on paper inscribed with the attending physician's letterhead. For purposes of this rule, the attending physician must be a currently practicing licensed physician, osteopathic physician, physician assistant, or advanced registered nurse practitioner.

15.24(4) Revocation. Any license issued pursuant to rule 571—15.24(483A) may be revoked, in whole or in part, by written notice, if the director determines that a license holder had provided false information to obtain a license under this chapter or has violated any provision of this chapter and that continuation of the license is not in the public interest. Such revocation shall become effective upon a date specified in the notice. The notice shall state the extent of the revocation and the reasons for the action. Within 30 days following receipt of the notice of a revocation, the license holder may file a notice of appeal, requesting a contested case hearing pursuant to 561—Chapter 7. The notice of appeal shall specify the basis for requesting that the license be reinstated.

571—15.25(483A) Transportation tags for military personnel on leave from active duty.

15.25(1) Military transportation tags for deer and turkey. The military transportation tag shall include the following information: name, birth date, current address of military personnel; species and sex of animal taken; date of kill; and weapon used. Only conservation officers of the department shall be authorized to issue military transportation tags.

15.25(2) Annual limit for military transportation tags. A person receiving a military transportation tag shall be limited to one military deer tag and one military turkey tag annually.

15.25(3) Regulations apply to military personnel. With the exception of the license requirement exemption set forth in Iowa Code section 483A.24(7), all hunting and fishing regulations shall apply to active duty military personnel.

571—15.26(483A) Special nonresident deer and turkey licenses. The commission hereby authorizes the director to issue special nonresident deer and turkey licenses pursuant to the provisions of 561—Chapter 12.

571—15.27 to 15.39 Reserved.

DIVISION IV
EDUCATION AND CERTIFICATION PROGRAMS

571—15.40(483A) Hunter education program.

15.40(1) This division clarifies the term “hunting license” as used in Iowa Code section 483A.27 in relation to the hunter education course requirement, and explains the requirements for individuals who wish to demonstrate their knowledge of hunter education so as to be eligible to purchase an Iowa hunting license. For the purpose of this division, a hunting license, pursuant to Iowa Code sections 483A.1 and 483A.24, includes:

1. Hunting licenses for legal residents except as otherwise provided.
2. Hunting licenses for nonresidents.
3. Hunting preserve licenses.
4. Free annual hunting and fishing licenses for persons who are disabled or are 65 years of age or older and qualify for low-income status as described in Iowa Code section 483A.24.
5. Veteran’s hunting and fishing licenses as described in Iowa Code section 483A.24.

15.40(2) Deer and wild turkey license applications. Individuals are not required to exhibit a certificate showing satisfactory completion of a hunter education course when applying for a deer or wild turkey license.

These rules are intended to implement Iowa Code chapters 456A, 481A, and 483A.

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

22. Chapter 16, “Docks and Other Structures on Public Waters” – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action for Chapter 16. This Notice of Intended Action is the result of Law Enforcement and Parks, Forests and Preserves Bureaus’ Executive Order 10 rule review.

Chapter 16 regulates docks on water bodies open to the public for boating or other recreational uses. This includes a permitting system for docks operated by residential owners, commercial entities, and governmental subdivisions. This chapter also contains the rules for the Department’s dock management area (DMA) program. The primary purposes of the chapter are to balance the needs of dock owners with those of the general public on public lakes and to reduce conflicts between neighboring dock owners. Additionally, the DMA program provides dock access to members of the public who are not riparian property owners.

Craig Cutts, Law Enforcement Bureau Chief
Conservation and Recreation Division
Meeting Date: November 9, 2024

Attached: Chapter 16 - NOIA

NATURAL RESOURCE COMMISSION [571]

Notice of Intended Action

Proposing to rescind and replace chapter

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 16 “Docks and Other Structures on Public Waters,” Iowa Administrative Code, and adopt a new Chapter 16 with the same title.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 461A.4 and 462A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 461A.4, 461A.11, 461A.18, 462A.27, and 462A.32.

Purpose and Summary

Chapter 16 regulates docks on water bodies open to the public for boating or other recreational uses. This includes a permitting system for docks operated by residential owners, commercial entities, and governmental subdivisions. It also contains the rules for the Department of Natural Resources’ (Department) dock management area program (DMA).

The primary purposes of the chapter are to balance the needs of dock owners with those of the general public on public lakes and to reduce conflicts between neighboring dock owners. Additionally, the DMA program provides dock access to members of the public who are not riparian property owners.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa.

Jobs Impact

This rule making has not identified any impact on jobs.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 571--Chapter 11.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking. Written comment in response to this rule making must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to: Craig Cutts, Law Enforcement Bureau Chief, at Craig.Cutts@dnr.iowa.gov.

Public Hearing

Two public hearings at which persons may present their views orally or in writing will be held on January 30, 2024 from 12:00 p.m. to 1:00 p.m. and January 31, 2024 from 4:00 p.m. to 5:00 p.m. at the Wallace State Office Building. The hearings will also be available online. Persons who wish to attend the conference call or Google Meet virtual meeting should contact Craig Cutts via e-mail.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action proposed:

Item 1. Rescind 571—Chapter 16 and adopt the follow new chapter in lieu thereof:

CHAPTER 16 DOCKS AND OTHER STRUCTURES ON PUBLIC WATERS

571—16.1(461A,462A) Definitions.

“Artificial lake” means all river impoundments and all other impoundments of water to which the public has a right of access from land or from a navigable stream inlet. Examples are Lake Panorama, Lake Delhi, Lake Nashua, and Lake Macbride.

“Boat” means “watercraft” as defined in Iowa Code section 462A.2.

“Boat hoist” or *“lift”* means a structure placed in the water or below the ordinary high-water mark for boat storage, including platforms for storage of personal watercraft. For the purposes of this chapter, a boat hoist that is designed to store up to two small vessels such as personal watercraft or one-person sailboats may be treated as a single hoist. For the purposes of this chapter, storage of stand-up paddleboards on racks above the platform of a dock is not counted as a boat hoist or lift; however, a rack for storage of canoes or kayaks is a boat hoist.

“Catwalk” means a platform no more than four feet wide installed to provide access from a dock to a moored boat or boat hoist.

“Commercial dock” means a dock used as part of a business, including a dock extending from residential property if one or more mooring spaces at the dock are rented for a fee. A dock maintenance fee charged by a property owners' association to its members is not a basis to classify a dock as commercial. This definition is not applicable to docks in dock management areas or concession operations administered by the department.

“Commission” means the natural resource commission.

“Common dock” means a dock serving two or more adjoining shoreline properties.

“Department” means the department of natural resources.

“Director” means the director of the department of natural resources or the director's designee.

“Dock” means a platform-type structure extending from shoreline property over a public water body, including but not limited to platforms that provide access to boats moored on the water body.

“Dock management area” or *“DMA”* means an area designated by the department in the bed of a water body adjoining a state park, wildlife management area, or recreation area or adjoining a strip of land that was dedicated to the public and is subject to the jurisdiction of the department pursuant to Iowa Code section 461A.11(2). A dock management area as designated by the department includes an area adjoining public land from which docks extend.

“*Impoundment*” means a body of water formed by constructing a dam across a waterway.

“*Public dock*” means a dock constructed and maintained to provide public access from public land to a water body.

“*Public land*” means land that is owned by the state, a city, or a county or land that has been dedicated for public access to a public water body.

“*Public water body*” is a water body to which the public has a right of access.

“*Rental*” means taking compensation, trading, or bartering for the usage of a slip or hoist on a Class I or Class III dock, including the rental of a vehicle parking spot that includes the privilege of using a hoist or slip on a Class I or Class III dock. “*Shoreline property*” means a parcel of property adjoining (littoral to) a lake or adjoining (riparian to) a river or other navigable stream.

“*Slip*” means a mooring space, usually adjacent to a dock, sometimes accessed by a catwalk.

“*Water body*” means a river or other stream, a natural lake, an artificial lake or other impoundment, or an excavated pit.

DIVISION I PRIVATE, COMMERCIAL AND PUBLIC DOCKS

571—16.2(461A,462A) Scope of division and classes of permits. Permits are required for docks on all water bodies open to the public for boating or other recreational uses. This division governs permits for all types of docks except docks in dock management areas designated by the department. Classes of permits are designated as follows: Class I permits authorize standard private docks, other private docks in specified areas, and docks permitted by the U.S. Army Corps of Engineers; Class II permits authorize docks that are managed by governmental entities and extend from shoreline property owned by those governmental entities; Class III permits authorize nonstandard private docks; and Class IV permits authorize commercial docks. A dock that involves placement of fill or construction of a permanent structure in a state-owned public water body also requires a construction permit issued under 571—Chapter 13. A dock issued a permit by the U.S. Army Corps of Engineers, located on a water body managed by the U.S. Army Corps of Engineers, does not require a state dock permit under this chapter.

571—16.3(461A,462A) Standard requirements for all docks. All docks are subject to the following requirements:

16.3(1) *Adverse impacts on aquatic ecosystem.* All docks, hoists, slips and related structures shall be located, sized, configured, constructed and installed to limit their adverse impacts on the aquatic ecosystem. In areas of sensitive aquatic habitat, docks and hoists shall be located, configured, constructed and installed to minimize harm to aquatic habitat. Other restrictions may be placed on docks that are in a state-protected waters area as necessary to protect the natural features of the designated area.

16.3(2) *Adverse impacts on public access for recreational use.* A dock shall not be configured to enclose an area of a public water body and create a private water area or otherwise adversely affect public recreational use of the water body. Where walking or wading parallel to the shore below the ordinary high-water mark would be physically practical except for the obstruction created by a dock, the dock owner shall not prevent a person from stepping on or over the dock to bypass the obstruction.

16.3(3) *Location and offsets.* To the extent practical, a dock and boat hoists shall be placed near the center of the shoreline property frontage and installed perpendicular to the ordinary high-water mark to maximize offsets from neighboring properties. Each dock, hoist, moored vessel and other permitted structure shall be offset a minimum of five feet from an adjoining property line and five feet from the projection of a line perpendicular from the ordinary high-water mark at the common boundary with adjoining shoreline property as determined by the department. A minimum gap of ten feet shall be maintained between adjoining docks (including “L” or “T” or catwalk segments), hoists or moored boats. Where projection of a line perpendicular

from the ordinary high-water mark is impractical, it is the intent of this rule that a ten-foot gap be maintained in a manner that is equitable to each adjoining shoreline property owner.

16.3(4) *Length.* A dock shall not extend farther from the water's edge than the distance necessary for reasonable access to the water body in relation to characteristics of the water body in the vicinity of the dock site and the impacts on the water body and other users. Access to maintain one or more boats in water with a minimum depth of three feet shall be considered sufficient access.

16.3(5) *Display of 911 address.* Each dock owner shall display the 911 address, including the street and city, assigned to the property served by the dock. The owner of a dock authorized by an individual permit shall also display the dock permit number. The information shall be displayed in block letters and numbers at least one inch high in a color contrasting with the background, on the water end of the dock, facing away from shore, and shall be plainly visible.

16.3(6) *Winter removal.* Each dock must be removed from public waters before December 15 of each year and shall not be reinstalled until the following spring unless the removal requirement is waived by a condition of a dock permit or by rule 571—16.18(461A,462A).

16.3(7) *No enclosure of private docks.* Private docks and docks in dock management areas shall not be enclosed by roofs or sides. Hoists may be enclosed by roofs and sides constructed of soft-sided natural fiber or synthetic fiber materials for the purpose of protecting watercraft.

16.3(8) *Materials and flotation specifications.* Every new floating structure authorized by this chapter shall use flotation methods and devices of a type constructed of low-density, closed-cell rigid plastic foam; high-impact polyethylene fiberglass material; wood products pressure-treated with a product approved by the United States Environmental Protection Agency for aquatic use; or other inert materials to provide flotation. Synthetic (such as plastic or fiberglass) or metal containers not originally manufactured as flotation devices may be used as dock flotation devices if they have been cleaned of any product residue, sealed and watertight, and filled with a closed-cell rigid plastic foam.

16.3(9) *Flow of water.* All docks shall be constructed and placed in a manner that allows the free flow of water beneath them.

16.3(10) *Excavation, fill and aquatic vegetation removal prohibited.* No bed material may be excavated or fill placed, and no aquatic vegetation may be removed below the ordinary high-water mark of a water body in association with construction of a dock unless excavation, placement of fill, or aquatic vegetation removal is specifically authorized by a construction permit issued under 571—Chapter 13.

16.3(11) *Storage, use, and dispensing of fuel.* The storage, use, and dispensing of any fuel on a dock on or over a public water body or adjacent public land shall be in compliance with Iowa Code chapter 101 and administrative rules that implement Iowa Code chapter 101.

16.3(12) *Electrical service.* Any electrical service on or leading to any dock used for storage or dispensing of fuel must comply with the National Electrical Code, latest revision. All electrical service leading to docks shall include ground fault circuit interrupter protection.

16.3(13) *Anchoring of river docks.* All river docks must be securely anchored to prevent them from becoming floating hazards during times of high river flows. The riparian owner is responsible for dock retrieval and removal when necessary to prevent or remove a navigation hazard.

16.3(14) *Access for inspection.* A dock, boat hoist, raft, platform, mooring buoy or any other structure on a public water body may be physically inspected at any time by a representative of the department as needed to determine whether it was placed and is maintained in a manner consistent with the requirements in these rules or with a permit issued under these rules.

571—16.4(461A,462A) Class I permits for standard private docks. This rule establishes criteria and procedures for Class I permits for private docks qualifying as standard docks under criteria in this rule and for certain other docks in areas listed in this rule.

16.4(1) *Criteria for standard docks.* A Class I permit for a standard dock may authorize a total of one dock and up to two hoists serving one residence. It may authorize a common dock serving two or more residences located on adjoining shoreline properties. A common dock may include up to three hoists per shoreline property and be eligible for a Class I dock permit. The dock must extend from shoreline property on which one or more of the residences are located and must meet all of the following criteria:

a. *Dock length limits.* A dock on a natural lake may extend the greater of 100 feet from the water's edge or far enough so that the outer 50 feet of the dock is in 3 feet of water up to a maximum of 300 feet from the water's edge. These lengths shall be measured from the water's edge when the dock is installed. A dock on an artificial lake or river may extend the lesser of 50 feet from the water's edge or one-fourth of the width of the waterway measured from the water's edge when the dock is installed. However, the department may give notice to a property owner that a shorter dock length is necessary to avoid interference with navigation or an adjoining property owner's access. The width of an "L" or "T" segment at the outer end of a dock is included in measuring the length of the dock.

b. *Width and configuration of docks on natural lakes.* A dock on a natural lake may have no more than one "L" or "T" segment. The total length of the "L" or "T" segment facing opposite from shore may not be greater than 20 feet including the width of the dock. The total area of the "L" or "T" segment may not exceed 200 square feet. That part of the main dock forming the center of a "T" segment or an extension of an "L" segment is included in measuring the area of the "T" or "L" segment. No other part of the dock may be more than six feet wide. Catwalks shall be at least two feet wide and considered as part of the dock. Catwalks shall be limited in length as in an "L" or "T" segment of the dock construction and may not extend beyond the width of the hoist, except that a catwalk may be extended around the hoist for access to the hoist.

c. *Compliance with standard requirements.* The dock and associated hoists must comply with the standard requirements in rule 571—16.3(461A,462A) for all docks.

d. *Other structures not authorized.* A Class I permit does not authorize placement of any other anchored or floating structure, such as a swim raft.

16.4(2) *Class I permits for private docks in other specified areas.* This subrule authorizes issuance of Class I permits for private docks in certain areas where circumstances, including narrowness of the water areas specified below, require different dock and hoist configurations. In the following areas, docks that fail to comply with the offset or ten-foot gap requirement in subrule 16.3(3) but that meet other standard dock requirements in rule 571—16.3(461A,462A) are eligible for a Class I permit, unless they obstruct navigation or an adjoining property owner's access: canals off West Okoboji Lake; Okoboji Harbor; inside harbor of Harbourage at Clear Lake; Venetian Village Canal at Clear Lake; Cottage Reserve on Lake Macbride; Lake Panorama; canals at Lake Manawa; and Lake Delhi.

16.4(3) *Procedures for issuance of Class I dock permits.* The owner of a standard dock eligible for a Class I permit under the criteria in subrule 16.4(1) or a dock in an area specified in subrule 16.4(2) shall apply for a Class I dock permit via the department's website. The applicant shall certify that the dock meets the criteria for a Class I permit. The department shall approve the application based on the applicant's certification and shall assign a permit number, which may be a series of numbers or letters or a combination of numbers and letters. The applicant is responsible for obtaining stickers with the permit numbers and letters, for attaching them to the end of the dock facing opposite from the shoreline, and for displaying the 911 address as provided in subrule 16.3(5). Class I dock permits authorized by this rule are issued without administrative fee and remain valid until the property is sold or transferred. In the event the property is sold or transferred, the new owner may request to transfer the Class I dock permit as provided in subrule 16.11(1). A Class I dock permit shall be valid only while dock and hoists comply with the criteria for a Class I permit.

571—16.5(461A,462A) Class II permits for docks authorized by governmental entities that own or otherwise control shoreline property. This rule authorizes issuance of a Class II dock permit to a governmental entity for docks authorized by that entity to extend from public land owned or controlled by the entity. A Class II permit may include all docks and hoists authorized by a governmental entity on one water body. The Class II dock permit shall require that all docks comply with the standard requirements in rule 571—16.3(461A,462A). Class II permits may include exceptions as needed to provide continuing authorization for docks and hoists that were lawfully installed and maintained before the effective date of certain requirements as set forth in this rule. A dock on a natural lake may extend the greater of 100 feet from the water's edge or far enough so that the outer 80 feet of the dock is in 3 feet of water up to a maximum of 300 feet from the water's edge. These lengths shall be measured from the water's edge when the dock is installed. The governmental entity authorizing maintenance of a dock and boat hoists shall be responsible for enforcing the standard requirements and length limit. The department reserves authority to determine whether the requirements of rule 571—

16.3(461A,462A) and the length limit are met upon complaint of a person who claims that a public or private right is adversely affected by a permitted dock. If the department determines that a dock or hoist must be moved or removed from the water body because of an adverse effect, the department shall issue an administrative order to the governmental entity that is authorizing maintenance or use of the dock and to the person who is maintaining or using the dock. Issuance of the administrative order shall trigger a right of the governmental entity and the affected person to a contested case. If shoreline property is public land but there is uncertainty concerning the relationship between the authority of the governmental entity and the authority of the department, the Class II permit shall include a recital concerning the relative authorities of the department and the permittee. Class II permits are issued without fee and are valid until a classification change is made.

571—16.6(461A,462A) Class III permits for nonstandard private docks. All private docks that are not authorized by Class I or Class II permits shall require a Class III dock permit. In determining whether to issue a Class III permit for a private dock or to condition the permit by denying an application in part, the department shall apply the following criteria:

16.6(1) A Class III private dock permit shall require docks or hoists to be in compliance with requirements in rule 571—16.3(461A,462A), except as provided in rule 571—16.8(461A,462A).

16.6(2) An individual private dock on a natural lake may be permitted by a Class III permit to extend 100 feet from the water's edge or far enough so that the outer 80 feet of the dock is in 3 feet of water when the dock is installed. These lengths shall be measured from the water's edge when the dock is installed. If the water level declines after installation, additional segments may be installed during the season as needed to maintain 80 feet of dock in 3 feet of water, up to a maximum length of 300 feet from the water's edge. However, the department may give notice to a permittee that a shorter dock length is required to avoid interference with navigation or an adjoining property owner's access. The maximum permitted length of an individual private dock on an artificial lake or river is the lesser of 50 feet from the water's edge or one-fourth of the width of the waterway measured from the water's edge at normal water levels. The width of an "L" or "T" segment at the outer end of a dock is included in measuring the length of the dock.

16.6(3) The maximum number of hoists authorized by a Class III permit for an individual private dock is one hoist for every 10 feet of shoreline.

16.6(4) A Class III permit for an individual private dock on a natural lake may not authorize "L" or "T" segments containing more than a total of 240 square feet including the area of the adjoining parts of the main dock.

16.6(5) An individual private dock may be exempted by permit condition from the winter removal requirement in appropriate circumstances under criteria in rule 571—16.12(461A,462A).

571—16.7(461A,462A) Class IV permits for commercial docks. In determining whether to issue a Class IV permit for a commercial dock or to condition the permit by denying an application in part, the department shall apply the following criteria:

16.7(1) A Class IV permit shall require docks or hoists to be in compliance with requirements in rule 571—16.3(461A,462A), except as provided in rule 571—16.8(461A,462A). Greater offsets may be required for new commercial docks or hoists if needed to minimize boat traffic and congestion that spills over in front of other shoreline property not owned or controlled by the applicant.

16.7(2) A commercial dock on a natural lake may be permitted to extend a maximum of 300 feet from the water's edge. However, the applicant must provide justification for a length greater than 150 feet and demonstrate that there are no appropriate alternatives available.

16.7(3) The maximum number of hoists or slips authorized by a permit for a commercial dock is one hoist or slip for every ten feet of shoreline. This limit shall not apply where a business operated on the shoreline property primarily involves boat sales, rentals, storage, or other boat services. In calculating the hoist limit, courtesy hoists shall not be counted if they are provided without charge to boaters to temporarily moor their boats while they go ashore to access services at a business on the shoreline property.

16.7(4) A permit for a commercial dock shall not be issued or the permit will include restrictions as needed to prevent uses of the dock that would be incompatible with zoning of the shoreline property from which the dock extends (including special use exceptions or variances recognized by the local governing body). However, a change in local zoning ordinance or termination of a local variance or special use exception shall not automatically be a ground for the department to revoke or refuse to renew a dock permit.

16.7(5) Authorization for roofs or sides on commercial docks or slips may be restricted as needed to minimize adverse visual impact on owners of other property and the public.

16.7(6) Each mooring site (slip) shall be marked by an identifying number or letter, in block style at least 3 inches high, of contrasting color, and located uniformly near the vessel's bow.

571—16.8(461A,462A) Exceptions for renewal of Class III and Class IV permits for existing docks. This rule provides certain exceptions to length limits, hoist limits and platform size limits for docks and hoists that lawfully existed before the effective date of the limits. Criteria for exceptions to offset requirements are separately listed in subrule 16.8(2). Exceptions under this rule are granted at the discretion of the department.

16.8(1) Class III and Class IV permits shall include exceptions as needed to provide continuing authorization for docks and hoists that were lawfully installed and maintained before the effective date of certain requirements as set forth in this rule. Permits shall include exceptions to the length limits in subrules 16.6(2) and 16.7(2) for docks up to 300 feet long that were lawfully installed and maintained before the effective date of the length limits. Permits shall include exceptions to the hoist limit in subrules 16.6(3) and 16.7(3), and to the platform size limit in subrule 16.6(4) for docks and hoists that were lawfully installed and maintained before the effective date of the limits. Any exceptions granted for such docks will expire upon sale or transfer of the property.

16.8(2) An exception to the offset requirements in subrule 16.3(3) shall be granted if the applicant can satisfy all three of the following criteria:

a. The lack of offset on one side of the property is compensated for by a larger offset on the other side of the property;

b. The applicant provides the department with a copy of the written consent of each affected adjoining property owner or an affidavit attesting that the affected adjacent property owner named in the affidavit has verbally given the applicant consent for the requested exception, or provides adequate documentation that the adjoining shoreline parcel is burdened by restrictive covenants, easements, or other valid use restrictions which impose on the owner of the parcel an obligation to tolerate docks and hoists that would otherwise violate the offset or gap requirements in subrule 16.3(3); and

c. The applicant demonstrates that no other dock or hoist configuration is physically practical.

571—16.9(461A,462A) Initial decision and right of appeal. The decision on an application for a Class II, Class III or Class IV permit shall be provided in writing and may grant the permit, grant the permit with specific conditions, or deny the permit. If the decision is to deny the permit or to issue a permit with specific conditions that deny the application in part, the written decision shall include notice of the applicant's right to request a contested case under 571—Chapter 7. An applicant's request for a contested case may include a request for a waiver under the provisions of Iowa Code section 17A.9A and 571—Chapter 11.

571—16.10(461A,462A) Application and administrative fees.

16.10(1) The applicant for a Class II, Class III or Class IV permit shall apply via the department's website. If the applicant for a Class III or Class IV permit is not the owner of the shoreline property from which the dock extends, the applicant shall identify the contractual relationship between the applicant and each property owner and shall submit as part of the application the written consent from each owner. The application shall be accompanied by plans and drawings which accurately show the size and location of each boat hoist, slip, platform, catwalk, buoy, or other structure to be maintained in front of the shoreline property. Docks in front of nonadjoining shoreline properties on the same water body owned by the same person or legal entity may be included in one application. An application for renewal of a permit for an existing dock and hoists must

specifically describe each requested modification. The applicant shall submit an administrative fee with the application. The application will be assigned to a conservation officer to investigate.

16.10(2) The Class III permit application fee shall be \$125 for one or more individual private docks. The Class IV permit application fee shall be \$250 for one or more commercial docks. A Class III permittee shall pay an annual administrative fee of \$50 for each hoist or slip in excess of a total of four hoists or slips. A Class IV permittee shall pay an annual administrative fee of \$50 for each hoist or slip in excess of a total of six hoists or slips, except for each hoist or slip designated in the permit as courtesy mooring for customers and affixed with a sign identifying it as a courtesy hoist or slip. The hoist/slip fee is due on March 1 of each year or whenever a permit is modified by adding a hoist or slip. Any fees owed to the department shall be paid in full prior to the installation of any portion of an individual private dock or commercial dock and before a boat is placed in a hoist or slip. The department may waive the permit application fee if the application is for a minor modification of an existing permit without an extension of the term of the permit.

571—16.11(461A,462A) Duration and transferability of permits; refund of application fees; suspension, modification, or revocation of permits; complaint investigation; property line location.

16.11(1) *Duration and transferability of dock permits; administrative fee refunds.* With the exception of Class I dock permits, each dock permit shall be issued for a term of five years unless a shorter term is needed due to specified circumstances. The administrative fee paid with an application is nonrefundable unless the application is withdrawn before the department incurs administrative expense in investigating the application. A dock permit is transferable to a new owner of the shoreline property upon request to the department by the new owner; however, if the permit contains exceptions pursuant to rule 571—16.8(461A,462A), those exceptions shall expire upon transfer, and the new owner shall immediately bring the dock into compliance with all current rules.

16.11(2) *Suspension, modification, or revocation of permits.* A dock permit may be modified, suspended, or revoked, in whole or in part, by written notice served in compliance with Iowa Code section 17A.18, if the director determines that the dock is a hazard to other users of the water body, that a violation of any terms or conditions of the permit has occurred, or that continuation of the permit is contrary to the public interest. Such modification, suspension, or revocation is effective upon a date specified in the notice. The notice shall state the extent of the modification, suspension, or revocation, the reasons for the action, and any corrective or preventative measures to be taken by the permittee to bring the dock, structure, or activity into compliance. Within 30 days following receipt of the notice of a revocation or modification, or during the course of a suspension, the permittee may request a hearing in order to present information demonstrating that the alleged violation did not occur or that required corrective and preventative measures have been taken, or to present any other information relevant to a decision as to whether the permit should be reinstated, modified, or revoked. The hearing shall be conducted as prescribed by 571—Chapter 7. After completion of the hearing, a final decision will be made concerning the status of the permit. In the event that no hearing is requested, notices of modification and revocation shall remain in effect, and suspended permits shall be reinstated, modified, or revoked. These procedures are not intended to limit the authority of a department law enforcement officer to issue a citation for a violation of a provision of Iowa Code chapter 461A or 462A, or a provision in this chapter.

16.11(3) *Investigation of complaints.* Any person adversely affected by a permitted dock or associated boat hoist may request, in writing, an investigation and a hearing to reconsider the permit. Requests for hearings shall specify adverse effects on the complainant and shall be made in accordance with procedures described in 571—Chapter 7.

16.11(4) *Determining property boundaries.* An applicant for a permit, a permittee, and an owner of shoreline property adjoining property of an applicant or permittee are responsible for determining the accurate location of common boundaries of their respective properties.

571—16.12(461A,462A) Exemptions from winter removal requirement. This rule provides for exemptions from the general requirement in Iowa Code section 462A.27 that nonpermanent structures be removed on or before December 15 of each year. Docks and other structures subject to destruction or damage by ice movement must be removed. Where a dock may be left in ice without damage to the dock, it must have

reflective material visible from all directions to operators of snowmobiles, other motorized machines, or wind-propelled vessels lawfully operated on the frozen surface of the water body. Generally, ice damage is greatest on Iowa's rivers and natural lakes. Docks must be removed by December 15 of each year unless they have the required reflective materials and are specifically exempted by a condition of a dock permit or are located in one of the areas listed as follows: artificial lakes; Upper Gar Lake; canals off West Okoboji Lake; Okoboji Harbor; Lazy Lagoon portion of Triboji dock management area; Smith's Bay on West Okoboji Lake; area between the trestle and U.S. Highway 71 bridges on Okoboji lakes; Templar Park on Big Spirit Lake; Venetian Village Canal and Harbourage Inlet on Clear Lake; Casino Bay of Storm Lake; Black Hawk Marina at Black Hawk Lake; and canals off Lake Manawa and Carter Lake. A permit shall not authorize an exception from the winter removal requirement unless the applicant provides adequate documentation that the dock will not be damaged by normal ice movement.

571—16.13(461A,462A) General conditions of all dock permits. All dock permits, unless specifically excepted by another provision of this chapter, shall include the following conditions of approval:

16.13(1) The permit creates no interests, personal or real, in the real estate below the ordinary high-water mark nor does it relieve the requirement to obtain federal or local authorization when required by law for such activity. The permit does not authorize the permittee to prevent the public from using areas of the water body adjacent to the permitted structure. However, a lawfully permitted private dock or commercial dock is property of the permittee. Use of the dock is reserved to the permittee and the permittee's invitees, subject to the public right of passage stated in subrule 16.3(2).

16.13(2) A permit is valid only while the permittee has the necessary permissions to use the adjoining shoreline property from which the dock projects.

16.13(3) The permittee shall not charge a fee for use of the dock or associated structure unless: the permit is for a commercial dock; the fee is expressly authorized by the permit; or the permittee is a homeowners association and the fee is for recovery of expenses incurred in providing access to association members.

571—16.14(461A,462A) Permit criteria for rafts, platforms, or other structures. A raft, platform, or other structure maintained on a public water body requires authorization in a permit. The raft, platform, or other structure may not be placed more than 250 feet from the shoreline, shall be equipped with reflectors that are visible from approaching boats, and shall be subject to the winter removal requirement unless specifically exempted by the permit.

DIVISION II DOCK MANAGEMENT AREAS

571—16.15(461A) Designation or modification of dock management areas.

16.15(1) *Purposes and status of dock management areas.* The director may designate an area of public land under the commission's jurisdiction and adjoining water as a dock management area. The primary purpose of dock management areas is to accommodate requests for boating access from owners of properties that are close to a water body but do not include riparian or littoral property rights. Dock permittees have priority use of the docks for mooring of vessels. However, the docks may be used by members of the public at their own risk for fishing and emergency mooring when public use does not interfere with the permittee's use. Other uses allowed by the permittee shall be the responsibility of the permittee.

16.15(2) *Criteria for designation or enlargement.* In designating a dock management area or authorizing enlargement of an existing dock management area, the director shall apply the following criteria:

a. The shoreline property in question shall be public land and shall have been developed and managed for recreational access to water or determined by the department to be suitable for such access.

b. The establishment or enlargement of a dock management area shall not adversely affect other public recreational use of the water body.

c. A dock management area shall not be established or enlarged where depth or bottom configuration is

incompatible with the placement of docks.

d. A dock management area shall not be established or enlarged where fish and wildlife habitat, other natural resources or scenic features would be disturbed by the presence of docks.

e. Documentation of need for a new or larger dock management area and the lack of adverse impacts of the proposal must be sufficient to clearly outweigh and overcome a presumption against increasing the number or size of dock management areas.

571—16.16(461A) Procedures and policies for dock site permits and hoist or slip assignments in dock management areas.

16.16(1) Application permit and slip assignment. A dock site permit authorizes a person to install and maintain a dock in a designated dock management area. Each permit shall identify the number of hoists or slips to be included for storage of boats at the dock. A separate hoist or slip assignment will be issued for each hoist or slip space at the dock. For purposes of these dock management area rules, “permittee” means the person(s) to whom a dock site permit is issued and the person(s) to whom each hoist or slip assignment is issued.

Application forms for dock site permits and hoist or slip assignments in a dock management area shall be made available at a nearby DNR office.

16.16(2) Priority selection process. Dock site permits and hoist or slip assignments shall be available to all members of the public through a selection process based on the following order of priorities. A waiting list shall be established that follows the same order of priorities. First priority is for owners of residences adjoining or immediately across a street from the public land; second priority is for owners of other residences within the housing association or subdivision adjoining or immediately across a street from the public land; third priority is for all other Iowa residents; fourth priority is for nonresidents. The order of priorities, changes in the number of residential units per dock site, and changes in the number of vessels per residential unit will be made effective as existing permits expire. A permittee who has a valid hoist or slip assignment will not their assignment to a new higher priority applicant if the permit is renewed prior to it expiring at the end of the five-year term and payment is received by the deadline established 571-16.19. If the permittee fails to renew the permit, the permittee may be placed on the waiting list and the highest person on the waiting list will be offered the open hoist or slip assignment. Any permittee who moves to a new residence may be considered a new applicant when the current permit expires at the end of the five-year term. The permittee will be placed on the waiting list based on the new address, and the highest person on the waiting list will be offered the open hoist or slip assignment. For purposes of these dock management area rules, “residence” means a single residential living unit, which may be a rental unit. Notwithstanding these priorities, if property in the first or second priority category is redeveloped with higher density residential living units, there is no assurance that dock, hoist or slip space will be available to accommodate such increased density before other property included in the first or second priority categories.

571—16.17(461A) Standard requirements for dock management area docks. Docks in dock management areas shall conform to the following requirements:

16.17(1) Occupancy of docks. At least two residences shall share a dock. The department may require that more residences share a dock if there is a waiting list including people in the first or second priority categories established in rule 571—16.26(461A). A maximum of six residences shall share a dock.

16.17(2) Spacing and alignment. Dock sites where feasible shall be at least 50 feet apart.

16.17(3) Dimensions.

a. Length. A dock may extend the greater of 100 feet from the water’s edge or far enough so that the outer 80 feet of the dock is in 3 feet of water up to a maximum of 300 feet, but the dock shall be no longer than the length for which the applicant provides justification, and the length shall be stated in the permit.

b. Width. Docks shall be at least four feet wide and no more than six feet wide.

16.17(4) Configuration.

a. “L” or “T” segments. A dock shall have no more than one “L” or “T” segment. The total length of the

“L” or “T” segment facing opposite from shore shall not be greater than 20 feet including the width of the dock. The total area of the “L” or “T” segment shall not exceed 200 square feet. That part of the main dock forming the center of a “T” segment or an extension of an “L” segment shall be included in measuring the area of the “T” or “L” segment. A smaller platform size limit may be required at locations specified by the department as having limited available space.

b. Catwalks. Catwalks shall be at least two feet wide and considered as part of the dock. The length limit for an “L” or “T” segment stated in paragraph “a” shall be applicable to each catwalk. A catwalk shall not extend beyond the width of the hoist.

c. Hoists. A hoist or other boat storage structure shall not be placed adjacent to any “L” or “T” segment of a dock or adjacent to any other part of a dock that is more than six feet wide. The hoist shall not exceed ten feet in width at locations specified by the department as having limited available space.

16.17(5) *Exceptions for certain dock management areas.* Notwithstanding other provisions in this rule, in artificially constructed lagoon or harbor areas, the configuration and dimensions of the docks, catwalks and hoists shall be determined by the department on an individual basis, taking into consideration the physical characteristics of the area, the mooring pattern of boats and public safety. Except at Lake Macbride, the Clear Lake Harbourage, and Lake Odessa, a maximum of two residences, each in accordance with 571—16.16(461A), shall share a single dock site.

16.17(6) *Display of dock management area sign, DMA name and dock site number.* The end of the dock facing the water shall be marked with the DMA name and dock number as assigned by the department. Each hoist shall also be marked with the hoist assignee’s last name and dock site number in two-inch block letters on one of the upright poles. The dock site permittee shall be responsible for installing and maintaining a sign provided by DNR at the landward entrance to the dock. The sign shall state that the dock is privately constructed; it shall include a caution to members of the public with the statement “use at your own risk”; and it shall include the statement “no diving” with a drawing of a diver over which is superimposed the universal no symbol (a circle with a diagonal slash through it).

16.17(7) *Other requirements.* Standard requirements found in rule 571—16.3(461A,462A) shall apply to all docks in a dock management area except requirements relating to property line offsets and display of information.

571—16.18(461A) Dock management area permit restrictions and conditions. The following conditions and restrictions shall apply to docks in a dock management area.

16.18(1) *Use of dock for mooring.* Only the persons named as permittees shall have use of the dock for mooring. All vessels must be registered to the permittees and listed on the dock management area permit. A dock site permit or hoist/slip assignment may authorize an exception to allow a vessel of a tenant of the permittee’s residential rental unit.

16.18(2) *Equitable sharing of dock costs.* Permittees shall agree on the equitable sharing of the cost of construction, installation, maintenance and removal of the dock and any other component of the dock. In no case shall a dock owner collect more money from hoist/slip permittees than is needed to cover legitimate dock costs nor make a profit from operating the dock. Doing so is grounds for suspension and/or revocation of the dock permit.

16.18(3) *Number of assignments allowed.* Only one dock assignment may be allocated to a residence.

16.18(4) *Number of hoists allowed.* Each permittee may be limited to one hoist for one vessel. The number of hoists and vessels for each permittee should be limited, especially when there is a waiting list that includes people in the first or second priority category established in rule 571—16.16(461A).

16.18(5) *Nontransferability of dock permits and privileges.* Dock permits and hoist or slip assignments shall not be transferred, assigned or conveyed by the permittee to any other person.

16.18(6) *Liability insurance.* Prior to constructing a dock or installing hoists, the dock site permittee shall provide proof of a current liability insurance policy in the amount of \$1 million.

16.18(7) *Winter storage of docks, catwalks and hoists on public property.* Winter storage of docks, catwalks and hoists on public property shall not be allowed unless specifically authorized by a dock site permit or hoist

assignment. Docks, hoists and catwalks shall be stored at locations determined by the state parks bureau district supervisor as appropriate for an individual dock management area. A dock, catwalk or hoist stored on public land without authorization from the department may be removed by the department at the owner's expense.

16.18(8) Land use restrictions. Nothing shall be constructed or placed on public land adjacent to any dock in a dock management area under this rule unless the construction or placement is a necessary appurtenance to the dock as determined by the director.

16.18(9) Expiration of permits. The term of a dock site permit and a hoist or slip assignment shall not exceed five years. Renewals shall be requested on a current application form. A permit expires when the permittee fails to apply for renewal prior to the current permit's expiration date.

16.18(10) Cancellation for nonuse. A dock site permit or hoist/slip assignment may be canceled for nonuse if the dock or hoist/slip is not used at least one time each calendar year in order to provide space for applicants on a waiting list.

16.18(11) Other permit restrictions and conditions. All restrictions and conditions in rule 571—16.13(461A,462A), except subrule 16.13(2), shall apply to all docks in a dock management area.

571—16.19(461A) Fees for docks in dock management areas. Payment of the annual dock site permit fee shall be made upon application. Payment of the annual hoist or slip fee shall be made upon application for the hoist or slip assignment. These fees may be paid in a lump sum in advance for the term of the permit or assignment. Failure to pay the annual fee by April 1 of any year may result in revocation or cancellation of the permit or assignment. Payment of any dock management area fee under this rule shall be made to the department of natural resources as specified in the permit. Annual fees are as follows:

	Dock Fee	Hoist Fee
Beed's Lake	\$100	\$50
Black Hawk Lake Marina	\$200	\$50
Black Hawk Lake/Denison	\$200	\$50
Black Hawk North Shore	\$200	\$50
Blue Lake	\$100	\$50
Clear Lake Ventura Heights	\$250	\$50
Clear Lake Harbourage	\$600	\$100 - hoist or slip fee
Clear Lake North Shore	\$250	\$50
East Okoboji Beach	\$250	\$50
Triboji Lakeshore	\$250	\$50
Triboji Lazy Lagoon	\$250	\$50 - hoist or slip fee
Pillsbury Point	\$250	\$50
Lower Pine Lake	\$100	\$50
Lake Macbride The Pines	\$600	\$100 - slip fee
Lake Macbride Lakecrest	\$600	\$100 - slip fee
Rice Lake	\$100	\$50
Union Grove	\$100	\$50
Lake Odessa	\$100	\$25

571--16.20(461A) Suspension, modification or revocation of dock management area permits. A dock management area permit may be modified, suspended, or revoked, in whole or in part, by written notice, if the director determines that the dock is not safe, that a violation of any terms or conditions of the permit or these rules has occurred, or that continuation of the permit is not in the public interest. Such modification, suspension, or revocation shall become effective upon a date specified in the notice. The notice shall state the extent of the modification, suspension, or revocation, the reasons for the action, and any corrective or preventative measures to be taken by the permittee to bring the dock, structure, or activity into compliance.

Within 30 days following receipt of the notice of a revocation or modification, or during the course of a suspension, the permittee may file a notice of appeal, requesting a contested case pursuant to 571—Chapter 7. The notice of appeal shall specify the basis for requesting that the permit be reinstated.

571—16.21(461A) Persons affected by DMA permit—hearing request. Any person who claims that riparian or littoral property rights are adversely affected by a DMA dock site permit may request, in writing, a hearing to reconsider the permit. Requests for hearings shall show cause and shall be made in accordance with procedures described in 571—Chapter 7.

These rules are intended to implement Iowa Code sections 461A.4, 461A.11

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

23. Chapter 17, “Leases and Permits” – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action for Chapter 17. This Notice of Intended Action is the result of Land and Waters Bureau’s Executive Order 10 rule review.

This chapter is a combination of current Chapters 17, 18, and 19. These chapters covered barge fleeting, fee schedule for rental of state-owned property, and sand and gravel permits, respectively. The Department believes that consolidating these chapters will simplify the rules by eliminating language that is common to multiple chapters. These chapters are logically grouped together as because they all involve permitting activities on, or the leasing of, state-owned lands and waters.

Travis Baker, Land and Water Bureau Chief
Conservation and Recreation Division
Meeting Date: November 9, 2023

Attached: Chapter 17 - NOIA

NATURAL RESOURCE COMMISSION [571]

Notice of Intended Action

Proposing to rescind and replace chapter

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 17, “Barge Fleeting Regulations,” Iowa Administrative Code, and adopt a new Chapter 17, “Leases and Permits.”

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 455A.5(6)“a” and 461A.4(1)“b.”

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 461A.4, 461A.18, 461A.25, and 462A.32.

Purpose and Summary

Proposed Chapter 17 represents a consolidation of current Chapters 17, 18, and 19. The new chapter does the following:

1. Regulates the practice of barge fleeting in order to protect public and private rights and interest in Iowa’s public waters under the Commission’s jurisdiction (current Chapter 17).
2. Provides a lease fee structure for public use of state-owned lands under Commission jurisdiction. These lands are occasionally encroached upon by members of the public, sometimes inadvertently and other times for a specific permitted purpose. The fee structure compensates the public for the occupation of state-owned land through a lease (current Chapter 18).
3. Regulates the removal of sand and gravel from state-owned property under Commission jurisdiction. This is accomplished via a permitting and fee system that compensates the public for

the commercialization of public resources and ensures that waterways do not suffer permanent damage and remain ecologically intact, and that public recreational use is not adversely affected (current Chapter 19).

The Department of Natural Resources (Department) believes that consolidating these chapters will simplify the rules by eliminating language that is common to multiple chapters. This consolidation is consistent with Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2)'s five-year rule review. These chapters are logically grouped together because they all involve permitting activities on, or the leasing of, state-owned lands and waters.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 571--Chapter 11.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Nathan Schmitz ROW Agent 2
Department of Natural Resources
502 East Ninth Street
Des Moines, Iowa 50319

Email: Nathan.schmitz@dnr.iowa.gov

Public Hearings

Two public hearings at which persons may present their views orally will be held via conference call as follows. Persons who wish to attend a conference call should contact Nathan Schmitz via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at a conference call public hearing must submit a request to Nathan Schmitz prior to the hearing to facilitate an orderly hearing.

January 23, 2024
12 noon - 1 p.m. via video/conference call

January 30, 2024
12 noon - 1 p.m. via video/conference call

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action proposed:

ITEM 1. Rescind 571—Chapter 17 and adopt the following **new** chapter in lieu thereof:

CHAPTER 17
LEASES AND PERMITS

571—17.1(461A) Purpose. The purpose of these rules is to regulate the practices of leasing of state-owned land, barge fleeting, and permitting of sand and gravel removal in order to protect public and private rights and interests in public waters of the state of Iowa under the jurisdiction of the commission; to protect public health, safety, and welfare; and to protect fish and wildlife habitat.

571—17.2(461A) Definitions. For the purposes of this chapter, the following definitions apply:

“*Commission*” means the natural resource commission.

“*Deadman*” means an anchor buried in the upland adjacent to a fleeting area.

“*Department*” means the department of natural resources.

“*Director*” means the director of the department of natural resources or the director’s designee.

“*Dolphins*” means a closely grouped cluster of piles driven into the bed of a waterway and tied together so the group acts as a unit to withstand lateral forces from vessels or other floating objects.

“*Fleeting area*” means an area within defined boundaries used to provide barge mooring service and to accommodate ancillary harbor towing under care of a fleet operator. The term does not include momentary anchoring or tying off of tows in transit and under care of the line haul towboat.

“*Lease*” means a lease as authorized under Iowa Code section 461A.25.

“*Material*” means any size particle of sand, gravel, or stone.

“*Mooring barge*” means a barge held in place by anchors or spuds and used to moor other barges during their stay in the fleeting area.

“*Mooring cell*” means a sheet pile structure, usually filled with earth, stone, or concrete, used to hold barges or other vessels in place.

“*Permit*” means an agreement authorized under Iowa Code section 461A.53.

“*Person*” means any individual, firm, partnership, joint venture, joint stock company, association, public or private corporation, municipality, cooperative, estate, trust, receiver, executor, administrator, or fiduciary and any representative appointed by order of any court or otherwise acting on behalf of others.

“*Riparian rights*” means the legal rights that assure the owner of land abutting a stream or lake access to or use of the water.

“*State-owned lands and waters*” means lands and waters acquired by the state by fee title and sovereign lands and waters.

“*Watercraft*” means any vessel that through the buoyant force of water floats upon the water and is capable of carrying one or more persons.

571—17.3(461A) Application for lease or permit. An applicant for, or a renewal of, a lease or permit shall submit an application to the department on forms provided by the department.

571—17.4(461A) Lease and permit approval. If the director determines that there is not a material issue concerning whether the application complies with applicable criteria in these rules, a lease will be presented to the commission for further consideration. Upon approval of the commission, the lease will be presented to the executive council for final consideration. Permits will be signed by the director or designee.

571—17.5(461A) Fee adjustments. Beginning January 1, 2024, and on each subsequent January 1, the lease or permit fee shall be adjusted on a cumulative basis, by the percentage of

the Consumer Price Index annual rate for the previous year for the Midwest Urban Region, published by the U.S. Department of Labor, Bureau of Labor Statistics. This change in fee will be applied when leases or permits are created or renewed.

571—17.6(461A) Renewals of leases or permits. The permit or lease holder shall request renewal of the lease or permit no less than six months prior to its expiration or risk loss of operator's right to the area. The appropriate application fee must accompany the application documents. A lease or permit shall remain in force during the processing of an application for renewal, including any appeals process.

571—17.7(461A) Disputes concerning leases. Contested case procedures are not applicable to disputes concerning leases under this chapter, except as set forth in rule 571—17.8(461A) and subrule 17.10(9). A commission decision whether or not to recommend a lease or a particular condition of a lease is final agency action, subject to the right of an applicant or other affected person to file with the director a written request for reconsideration by the commission. The director must receive the request for reconsideration within 30 days after the commission's decision on a proposed lease. A commission decision to recommend a lease will be forwarded to the executive council of Iowa for approval after 30 days following the commission's decision unless the director has been notified of a written request for reconsideration or the filing of a petition for judicial review of the commission's recommendation.

571—17.8(461A) Termination for cause. Permits or leases may be terminated by the director at any time if a permit or lease holder fails to fulfill the obligations under the permit or lease in a timely and proper manner, or if a permit or lease holder violates any of the terms and conditions of the permit or lease. Termination proceedings shall be in compliance with Iowa Code chapter 17A and 571—Chapter 7. Upon termination or expiration of the permit or lease, the permit or lease holder shall immediately stop all operations and remove all equipment from the lands and waters covered by the permit or lease within a time frame designated in the notice of termination. In the event of failure of the permit or lease holder to remove all equipment from the premises within such time period, the director shall have the right to remove the equipment at the expense of the permit or lease holder.

571—17.9(461A) Lease fees for state-owned property, riverbed, lakebed, and waterfront lands. The following guidelines are for the purpose of expediting the administration of applications for lease and use of land under the jurisdiction of the natural resource commission, excepting those lands leased for agricultural purposes, commercial concession agreements, and agreements covering the removal of sand, gravel, and other natural materials.

17.9(1) Annual lease fee. Beginning January 1, 2024, the fee for leases shall be \$0.0600 per square foot. Leases deemed commercial by the commission will have a minimum lease value of \$300 and those deemed nonprofit or noncommercial by the commission will have a minimum lease value of \$150.

17.9(2) Administration fee. All nonfleeting leases shall be assessed a one-time charge of 18 percent to cover the department's cost of inspecting lease sites, reviewing applications, preparing leases, and administering the lease program.

17.9(3) Exceptions to standard lease fee. When persons apply for permission to convert or have converted state property under the jurisdiction of the commission to personal use and the commission determines that leasing is an appropriate alternative to removal or that the above rates are not appropriate, the annual lease fee shall be determined by the commission. When determining the fee, the commission may consider availability of the property for public use, the type of personal use being made of the property, appraisal, effect on the natural resources and other items appropriate for the area involved.

571—17.10(461A) Barge fleeting regulations. The purpose of this rule is to regulate the

practice of barge fleeting in order to protect public and private rights and interest in public waters of the state of Iowa under the jurisdiction of the commission.

17.10(1) *Applicability.* This rule is applicable to all public waters under the jurisdiction of the commission except that portion of the Mississippi River conveyed to certain cities by 1945 Iowa Acts, chapter 249; 1961 Iowa Acts, chapter 299; or special charters enacted by the Legislature in 1856 and 1857. This rule regulates the use of those waters for barge fleeting, including the installation of structures, physical site modification such as dredging, and operation of fleeting equipment and maneuvering of barges within the fleet.

17.10(2) *Barge fleeting leases.* A person shall not assert any exclusive privilege to conduct barge fleeting and mooring service for hire, or not for hire, and shall not prevent or obstruct any lawful use of navigable waters under the jurisdiction of the commission except within a fleeting area leased by the executive council of Iowa or at a loading or off-loading facility necessary to carry on commerce, provided the facility is constructed in compliance with Iowa department of transportation, U.S. Army Corps of Engineers, and all other applicable permits and regulations.

17.10(3) *Restricted areas.* Leases shall not be issued for a fleeting area in the following locations unless the department, subject to the approval of the commission, determines that fleeting in such areas is not contrary to the purpose of these rules as stated in rule 571—17.1(461A):

a. A site subject to unusual hazards including but not limited to high wind, strong current, violent ice movement, and hydraulic surges during the time fleeting operations are proposed to be carried out.

b. A site receiving high use for recreation, sport fishing, or commercial fishing, unless the fleeting area can be placed or structured to be compatible with such uses.

c. A site immediately adjacent to industries or other facilities, which, together with fleeting operations, present a substantial risk of fire, explosion, water pollution, or other serious safety hazards.

d. A site where fleeting area activities would restrict or interfere with or have a substantial adverse effect on the use and enjoyment of an area owned by federal, state, or local government, including but not limited to public parks, game refuges, forests, or recreation areas used for access to docks, slips, harbors, marinas, boat launching ramps or unique biological or physical features of the river valley itself.

e. A site immediately adjacent to or over a dam, sill, lock, breakwater, revetment, navigation aid, or wing dam.

f. A site within established navigation channels for commercial or recreational vessels.

g. A site within the approach area for a lock portion of a dam structure.

h. A site adjacent to bridges or vessel approach areas to bridges.

17.10(4) *Prohibited areas.* Leases shall not be issued for a fleeting area in the following locations:

a. A site that will have a substantial adverse effect on fish or wildlife (mussels, fish spawning, waterfowl, or furbearer) habitat due to dredging, propeller wash or other activity related to fleeting.

b. A site that would have an adverse impact on documented threatened and endangered species.

c. A site adjacent to national monuments or registered landmarks.

17.10(5) *Riparian rights.* A fleeting area shall not be leased in any location that would interfere with the rights and privileges of the riparian property owner except with written permission of the riparian property owner.

17.10(6) *Standards.* The following standards shall apply to operation of fleeting areas:

a. A fleeting lease shall be construed to do no more than give the operator the right to designate and improve an area to be utilized for fleeting. The lease creates no interest, personal or real, in the real estate below the ordinary high-water mark except as provided in the

lease.

b. Improvements in fleeting areas shall be limited to items such as construction of dolphins, mooring cells, deadmen, mooring barge anchors, and other similar methods of ensuring retention of barges if approved by the department. Improvements shall be constructed in a manner consistent with engineering standards of the U.S. Army Corps of Engineers. Structures associated with barge fleeting leases will be covered by the fees of the barge fleeting lease.

c. Fleeting activities within leased fleeting areas shall be limited to barge mooring service, ancillary harbor towing and minor barge repair or servicing. No washing or cleaning of barges is permitted, unless conducted in compliance with the requirements of Iowa Code chapter 455B, the washing activities will not have a substantial adverse effect on fish or wildlife (mussels, fish spawning, waterfowl, or furbearer) habitat, and the department specifically approves the cleaning activity.

d. Barges shall not be moored to trees or other natural features of an area except with the approval of the riparian property owner or during an emergency.

e. Barge fleeting shall be conducted in a manner that minimizes bank erosion attributable to the fleeting operation.

f. Leased fleeting areas may be used for navigation and recreational pursuits such as boating and fishing only to the extent that such use does not interfere with fleeting activities. Other waterway users shall not obstruct barge fleeting activities within leased fleeting areas.

g. The right of entry of barges into a fleeting area may be refused by:

(1) The operator.

(2) The department, after conferring with the operator, when there is an imminent hazard to the public interest or to public health, safety or welfare.

h. The operator shall, at all times, be responsible for the safety and security of the barges in the fleeting area and shall take reasonable precautions to eliminate hazards to boaters or other persons in the fleeting area.

i. Lights or other warning devices as required by state and federal navigation regulations shall mark moored or fledged barges.

j. The operator shall notify the department of the current name, address, and day and evening telephone numbers of the individual directly responsible for supervising the fleeting area who is to be notified in case of emergency.

k. A lease issued under this chapter may not be exercised until all other necessary permits or approvals have been issued by local, state or federal agencies having jurisdiction over the lease area.

17.10(7) *Application review and approval.* The following process applies to barge fleeting lease applications:

a. Upon receipt of a barge fleeting lease application that complies with the requirements of rule 571—17.3(461A), the department will review the application to determine whether the application complies with applicable criteria in these rules. In order to determine such compliance, the applicant may be required, at the applicant's expense, to provide the department with anchor design criteria, underwater surveys, and dives necessary to determine compliance.

b. Upon determination that an application complies with applicable criteria in these rules, the department staff shall give notice of receipt of the application through publication of one public notice that will be published in a newspaper as defined in Iowa Code section 618.3 where the proposed fleeting area is located or other approved outlets. The notice shall briefly describe the location and nature of the proposed fleeting area, identify the department rules that are pertinent to the application, state whether the application is a new lease or renewal, and provide that a hearing will be scheduled if the director determines that there is a material issue concerning whether the application complies with applicable criteria in these rules. The notice shall allow interested persons 30 days from the date of publication to

submit comments or a request for hearing, and shall state that a request for hearing must be supported by documentation of potential adverse effects of the proposed fleeting facility on an affected or aggrieved person. Notice will also be sent by first-class ordinary mail or an equivalent method of service to the directors of the Iowa department of transportation and the Iowa department of economic development, the Iowa secretary of agriculture, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, and the U.S. Coast Guard.

17.10(8) Barge fleeting lease fees. The following fees shall be paid to the department by applicants and lessees:

a. An annual lease fee based on the dimensions of the area leased as a fleeting area. Beginning January 1, 2024, the rate for the annual lease fee shall be \$4.38 per 100 square feet.

b. A fee of \$1,000 for the cost of review, issuance, and administration of a lease is required at the time of application for a new or renewal lease.

17.10(9) Nonuse. Failure by an operator to substantially exercise the rights granted in a lease issued under this chapter within a period of two years from the issuance of the lease shall render the lease null and void unless extended by the department. Failure by an operator to substantially exercise the rights granted in a lease issued under this chapter for any period of two consecutive years shall create a rebuttable presumption that the operator intends to abandon and forfeit the lease and shall be cause for a review of the lease by the department. The operator may request a contested case proceeding in accordance with Iowa Code chapter 17A and 571—Chapter 7.

571—17.11(461A) Sand and gravel permits. This rule provides the procedures for obtaining a permit for removal of sand and gravel from state-owned lands and waters under the jurisdiction of the department and the rules associated with the holding of a permit.

17.11(1) Permit applications. Applications for permits must be accompanied by an application for a sovereign lands permit pursuant to 571—Chapter 13. Applications will be accepted at any time throughout the year. The permit for sand and gravel will run concurrently with the sovereign lands permit. If more than one application for a permit site is received, issuance will be determined by written sealed bids. Bids shall be based on royalty rates. Bids submitted with a royalty rate less than the current rate will not be accepted. The permit shall be issued to the applicant submitting the highest royalty rate bid.

17.11(2) Application fee. The applicant for a sand and gravel permit shall submit a fee of \$100 for the cost of inspection and issuance of each permit.

17.11(3) Insurance. Prior to issuance of permits, approved applicants shall provide the department a certificate of insurance, covering the entire permit term, to jointly and severally indemnify and hold harmless the state of Iowa and its agencies, officials, and employees from and against all liability, loss, damage or expense that may arise in consequence of issuance of the permit.

17.11(4) Surety bonds. Prior to issuance of permits, approved applicants shall provide to the department a surety bond in the amount of \$5,000 covering the term of the permit. The surety bond shall guarantee payment to the state of Iowa for all material removed under the permit within 60 days after expiration of the permit, unless the permit holder renews the permit within 30 days of said expiration date, and for the recovery of any costs associated with reclamation or other environmental mitigation required as a condition of issued permits.

17.11(5) Permit conditions and operating procedures. The following shall apply to all sand and gravel permits:

a. Permits require a sovereign lands permit and will run concurrently with that sovereign lands permit.

b. The size and configuration of permit sites shall be as designated by the director. The maximum continuous length of a river or stream covered by each permit shall be 4,500 lineal feet.

c. Removal operations authorized by permits shall not be performed within 30

feet of the existing bank or breach the bank at any location along any lake, stream or river unless written permission is obtained from the director prior to performance of such operations.

d. Removal operations authorized by permits shall not obstruct the flow of water to the extent of preventing its ultimate passage to its usual course below the lands and waters covered by the permits and shall not prevent movement of watercraft through such waters.

e. All equipment at permit sites that is on the surface of water or above or under the water shall be marked to be visible 24 hours per day. Any structure or other device below the water must be marked to indicate to watercraft operators where safe passage may occur. All markings shall conform to the uniform waterway marking system and be provided and installed by permit holders.

f. Permit sites may be inspected by the director at any time during the permit term in order to verify compliance with permit terms and conditions, or thereafter until final payment is made under a terminated permit. Permit holders shall keep a daily record of the amount of material removed in the manner described by the director. All such records shall be open to inspection by the director at all times.

g. Permit holders shall furnish an itemized statement of material removal operations to the director within ten days after the last day of each calendar month. Statements shall also be filed in months when no materials are removed. Reporting procedures may be modified on a case-by-case basis at the discretion of the director, to accommodate differences in material removal or operation methods. However, reporting periods shall not be greater than one-month intervals. Permit holders shall notify the department ten days prior to the initial start of removal operations or whenever the previous monthly statement indicated no materials were removed. Each cubic yard of sand, gravel, and stone removed under permits shall be considered to weigh 3,000 pounds. Statements shall be submitted on forms furnished by the department and shall indicate the following:

(1) Hours of removal operations performed each day on lands and waters covered by the permit.

(2) Tons of material removed from the lands and waters covered by the permit each day.

(3) Tons of material, from all sources, stockpiled at the operations site at the end of the month.

h. Royalty payments. Permit holders shall make royalty payments on a monthly basis for all material removed from permit sites within ten days after the last day of each calendar month. Monthly royalty payments shall be calculated using the tonnage of material removed as reported on the monthly statement. The royalty rate shall be \$0.2500 cents per ton or the rate determined by sealed bids.

These rules are intended to implement Iowa Code sections 461A.4, 461A.18, 461A.25, 461A.52, 461A.53, 461A.55 to 461A.57, and 462A.32.

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

24. Chapter 20, “Manufacturer’s Certificate of Origin” – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action for Chapter 20. This Notice of Intended Action is the result of the Communications, Outreach, and Marketing Bureau’s Executive Order 10 rule review.

This chapter applies to all vessels required to be titled under Iowa Code chapter 462A. The chapter contains titling procedures for boat dealers, purchasers, and county recorders. The certificate of origin is required by the United States Coast Guard and the information required for the certification is specified in the Code of Federal Regulations.

Tammie Krausman, Communications, Outreach, and Marketing Bureau Chief
Conservation and Recreation Division
Meeting Date: November 9, 2023

Attached: Chapter 20 - NOIA

NATURAL RESOURCE COMMISSION [571]

Notice of Intended Action

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 20, “Manufacturer’s Certificate of Origin,” Iowa Administrative Code, and adopt a new Chapter 20 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 462A.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 462A.3, 462A.77 and 462A.79.

Purpose and Summary

Chapter 20 defines the required elements of a manufacturer’s certificate of origin for vessels that must be titled within the state. It also prescribes the procedures related to use and recording of the certificate of origin by purchasers and county recorders when titling a vessel.

Consistent with Executive Order 10, Iowa Administrative Bulletin Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17.7(2)’s five-year rule review, this chapter was edited for length and clarity. Specifically, provisions in this chapter that were repetitive to statute or to rules elsewhere or that referenced outdated departmental forms were removed.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 571-Chapter 11.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 16, 2024. Comments should be directed to:

Susan Stocker
Iowa DNR
502 E 9th Street
Des Moines, IA 50319
Susan.stocker@dnr.iowa.gov

Public Hearing

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

January 16, 2024, 1-2PM, Wallace State Office Building, Conference room 4E

January 18, 2024, 1-2PM, Wallace State Office Building, Conference room 4E

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request

by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action proposed:

ITEM 1. Rescind 571—Chapter 20 and adopt the following **new** chapter in lieu thereof:

CHAPTER 20
MANUFACTURER'S CERTIFICATE OF ORIGIN

571—20.1(462A) Definitions. As used in this chapter, unless the context clearly requires a different meaning:

“At retail” means to dispose of a vessel to a person who will devote it to a consumer use.

“Beam or width” means the transverse distance between the outer sides of the boat at the widest point excluding handles and other similar fittings, attachments, and extensions.

“Capacity plate” means the U.S. Coast Guard capacity plate bearing the information required by federal regulations governing boats and associated equipment. It shall not mean capacity plate information furnished by the boating industry association, national marine manufacturers association or any similar organization.

“Department” means department of natural resources.

“Essential parts” means all integral and body parts of a vessel required to be titled under Iowa Code chapter 462A, the removal, alteration, or substitution of which would tend to conceal the identity of the vessel or substantially alter its appearance, model, type or mode or method of operation.

“Length” means the straight line horizontal measurement of the overall length from the foremost part of the boat to the aftermost part of the boat, measured from end to end over the deck excluding sheer, and measured parallel to the centerline. Bow sprits, bumpkins, rudders, outboard motor brackets, handles, and other similar fittings, attachments, and extensions are not included in the measurement.

“Manufacturer's certificate of origin” means a certification signed by the manufacturer or importer that the vessel described has been transferred to the person or dealer named and that the transfer is the first transfer of the vessel in ordinary trade or commerce. The terms “manufacturer's certificate,” “importer's certificate,” “manufacturer's statement,” “MSO” and “MCO” shall be synonymous with the term “manufacturer's certificate of origin.”

“New vessel” means every vessel which has not been sold at retail and not previously titled in this state or any other state.

“Person” means an individual, partnership, firm, corporation, or association.

“Reconstructed vessel” means every vessel of a type required to be titled under Iowa Code chapter 462A materially altered by the removal, addition, or substitution of essential parts, new or used.

“Specially constructed vessel” means every vessel of a type required to be titled under Iowa Code chapter 462A, not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vessels and not materially altered from its original construction.

571—20.2(462A) Applicability. This chapter applies to all vessels required to be titled under Iowa Code chapter 462A.

571—20.3(462A) Certificate of origin—content. The following information shall be furnished, required and stated in the certificate of origin.

20.3(1) Date of transfer.

20.3(2) Invoice number which covers the transfer of this particular vessel.

20.3(3) Name and complete address of dealer to whom the boat is being transferred.

20.3(4) Trade name and model of vessel.

20.3(5) Model year of vessel.

20.3(6) Manufacturer's hull identification number (HIN) or serial number of hull if HIN not available.

20.3(7) The type of boat, hull material, propulsion type, fuel type (if applicable), and engine drive type shall be listed in accordance with current United States Coast Guard requirements as specified in the Code of Federal Regulations.

20.3(8) Length overall in feet and inches (exact measurement required). For pontoon boats and houseboats this shall be the deck measurement.

20.3(9) U.S. Coast Guard capacity plate information (where applicable).

a. Maximum horsepower rating.

b. Maximum persons capacity in whole persons.

c. Maximum weight capacity (persons, motor, gear, etc.).

20.3(10) A certification by the manufacturer that this is the first transfer of a new vessel and that all information given is true and accurate.

20.3(11) Manufacturing firm name and complete address.

20.3(12) Signature and title of authorized person.

20.3(13) Information regarding assignment of the vessel to facilitate transferring it from the dealer to the purchaser. The information shall consist of:

a. The purchaser's name and address.

b. Certification that the vessel is new and has never been registered in this or any other state.

c. Signature of authorized agent or dealer.

571—20.4(462A) Procedure—dealer.

20.4(1) Upon sale of a vessel the dealer shall complete the first assignment information required on the reverse of the certificate of origin.

20.4(2) The dealer shall deliver the certificate of origin to the purchaser along with a bill of sale or receipt showing that the person has purchased the vessel for consumer use.

571—20.5(462A) Procedure—purchaser.

20.5(1) The purchaser shall utilize the information contained on the certificate of origin to complete the information required on the application for vessel title.

20.5(2) The purchaser shall surrender the certificate of origin to the county recorder upon applying for a vessel title.

571—20.6(462A) Procedure—county recorder.

20.6(1) The county recorder shall verify that the information contained in the application and the certificate of origin correspond and shall utilize that information so far as possible in issuing the vessel title.

20.6(2) The county recorder shall retain the certificate of origin as a part of the permanent record of that vessel's title transactions.

571—20.7(462A) Vessel titling. A person shall not title a vessel after December 31, 1987, without furnishing to the county recorder a manufacturer's certificate of origin.

These rules are intended to implement Iowa Code sections 462A.3, 462A.77 and 462A.79.

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

25. Chapter 21, “Habitat Lease Program” – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action for Chapter 21. This Notice of Intended Action is the result of Land and Waters Bureau’s Executive Order 10 rule review.

This chapter sets rules for the habitat lease program. This program is utilized to enhance habitat for wildlife and recreational opportunities by allowing local farmers and ranchers to lease acres to crop production, haying, and grazing on state-owned land.

Travis Baker, Land and Water Bureau Chief
Conservation and Recreation
Meeting Date: November 9, 2023

Attached: Chapter 21- NOIA

NATURAL RESOURCE COMMISSION [571]

Notice of Intended Action

Proposing to rescind and replace chapter

The Natural Resource Commission hereby proposes to rescind Chapter 21 “Agricultural Lease Program,” Iowa Administrative Code, and adopt new Chapter 21, “Habitat Lease Program.”

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 455A.5(6)“a,” 456A.24(5), and 456A.38.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 456A.24(2), 456A.24(5), 456A.38, and 461A.25.

Purpose and Summary

Proposed Chapter 21 regulates the Department’s Habitat Lease and Beginning Farmer Program. The purpose of this program is to provide an economic opportunity to a local farmer while simultaneously enhancing habitat for wildlife and providing recreational opportunities to the public.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 571--Chapter11

Public Comment

Any interested person may submit comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Nathan Schmitz
Department of Natural Resources
502 East Ninth St
Des Moines, Iowa 50319
Email: Nathan.schmitz@dnr.iowa.gov

Public Hearings

Two public hearings at which persons may present their views orally will be held via conference calls as follows. Persons who wish to attend a conference call should contact Nathan Schmitz via email. A conference call number will be provided prior to each hearing. Persons who wish to make oral comments at a conference call public hearing must submit a request to Nathan Schmitz prior to the hearing to facilitate an orderly hearing.

January 23, 2024
12 noon - 1 p.m. via video/conference call

January 30, 2024
12 noon – 1 p.m. via video/conference call

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action proposed:

ITEM 1. Rescind 571—Chapter 21 and adopt the following **new** chapter in lieu thereof:

CHAPTER 21
HABITAT LEASE PROGRAM

571—21.1(456A) Purpose. The purpose of the habitat lease program is to enhance habitat for wildlife in the state of Iowa, thereby providing recreational opportunities to the public. Utilization of habitat leases provides practices which are essential to successful wildlife habitat management and vegetation management and reduces associated operating expenses.

571—21.2(456A) Definitions.

“*Cash rent*” means an agreed-upon sum of money to be paid to the department.

“*Crop share*” means a sum of money to be paid to the department based upon the value of an agreed-upon portion of the harvested crop at the local market price on the date the crop is harvested.

“*Crop year*” means a one-year period terminating each February 28.

“*Department*” means the department of natural resources.

“*Director*” means the director of the department of natural resources or a designee.

“*Land manager*” means the department employee or authorized agent responsible for managing a particular area under department jurisdiction.

“*Lease*” means the written form used to enter into an agreement whereby an operator is authorized to engage in farming operations on land under the jurisdiction of the department according to stated terms and conditions.

“Operator” means any party who enters into a lease with the department as provided in these rules.

“Program” means the lease to beginning farmers program as provided in Iowa Code section 456A.38.

“Sovereign land” means state-owned land within the ordinary high-water mark of meandered rivers and lakes where ownership was transferred directly from the United States to the state of Iowa upon its admission to the union.

571—21.3(456A) Habitat lease policy. The policy of the department is to lease agricultural land under its jurisdiction so as to protect and enhance natural resources and to provide public use opportunities. Generally accepted farming practices will be followed so long as they are commensurate with good resource management practices. All leases shall be in writing.

21.3(1) Agricultural land use. Leased agricultural land is subject to any practice necessary to enable the department to carry out its resource management and subject to recreational use by the public according to the laws of the state of Iowa. Operators shall not inhibit any lawful use of the land by the public including, but not limited to, use by the public for hunting and fishing as described by the rules of the department and the laws of the state of Iowa, except as otherwise may be agreed to between the department and the operator.

21.3(2) Soil conservation. Farming practices shall not exceed compliance-based soil loss limits as established by the USDA Natural Resource Conservation Service or the local soil and water conservation district.

21.3(3) Lease basis. Leases shall be in writing on a cash rent basis, except a crop share basis may be utilized when determined to be in the state’s best interest.

21.3(4) United States Department of Agriculture programs. The inclusion, by the operator, of land under lease in any U.S. Department of Agriculture program will be allowed only if it is compatible with the department’s management plan established for said land.

571—21.4(456A) Lease to beginning farmers program.

21.4(1) Beginning farmers program. This program shall be implemented in accordance with Iowa Code section 456A.38.

21.4(2) Establishing annual lease payments. Iowa Code section 456A.38(3)“d” provides criteria the department uses to determine lease payment amounts, including, but not limited to, the cost of the establishment or maintenance of water quality practices, wildlife habitat, vegetation management, or food plots, if applicable.

571—21.5(456A) Alternative lease procedures. In the event that no beginning farmer seeks to participate in the program, or no beginning farmer is found qualified to participate in the program for a given lease, the following procedures shall be followed by the department in administering the habitat lease program.

21.5(1) Advertising for bids. A notice advertising for bids shall be published in at least one local newspaper.

21.5(2) Prebid informational meeting. A prebid informational meeting may be held when the land manager determines that a meeting is in the state’s best interest. Notice of a prebid informational meeting shall be included in the advertisement for bids and in the written instructions to bidders. The meeting shall be held no later than one week prior to the bid opening. If a prebid meeting is required, bidders must attend to qualify to submit a bid.

21.5(3) *Form of bid.* Written sealed bids shall be utilized.

21.5(4) *Public bid opening.* All sealed bids shall be publicly opened as stated in the notice for bids. The results of the bids shall be made available to any interested party.

21.5(5) *Awarding of lease.* The amount of the bid, past experience with the bidder, the bidder's ability to comply with the terms of the lease, and the bidder's ability to perform the required farming practices shall be considered. The department reserves the right to waive technicalities and reject any or all bids not in the best interest of the state of Iowa.

21.5(6) *Negotiated leases.* The land manager may negotiate a lease with any prospective operator, subject to approval of the director, in any of the following instances:

a. No bids are received.

b. Gross annual rent is \$5,000 or less.

c. Where land acquired by the department is subject to an existing tenancy.

d. To synchronize the lease period of newly leased areas with other leases in the same management unit.

e. Where a proposed lease includes only land not accessible to equipment necessary to perform the required farming operations, except over privately owned land, provided the prospective operator possesses legal access to the leased land over said privately owned land.

f. Where the director authorizes a lease as a condition of a land purchase or trade.

571—21.6(456A) Terms applicable to all habitat leases. The following terms and conditions apply to all department habitat leases entered into pursuant to rule 571—21.4(456A) or 571—21.5(456A).

21.6(1) *Final approval of award.* All awards of leases shall be approved by the director. Additionally, awards of all leases on sovereign land shall be subject to approval by the state executive council on recommendation of the natural resource commission.

21.6(2) *Payment of cash rent.* The operator shall pay a minimum of 10 percent of the total gross rent at the time of the signing of the lease and the balance for each crop year on or before December 1, or the operator shall pay 50 percent of the total annual rent each April 1 and the balance for each crop year on or before December 1. The appropriate minimum payment shall be determined by the land manager.

21.6(3) *Payment of crop share rent.* The operator shall pay the total annual rent on December 1 or at the time of harvest, whichever is later.

21.6(4) *Termination.* In accordance with Iowa Code section 562.6, the lease shall serve as the written agreement fixing the time of termination of the tenancy. The lease shall terminate at the end of the agreed-upon lease term without notice. If the department requires leased land for other conservation purposes during the term of the lease, the operator shall relinquish all rights under the existing lease, upon demand by the director, at the end of the current crop year.

21.6(5) *Termination for cause.* If the operator fails to comply with any of the terms of the lease, the department may serve notice on the operator demanding redress within a specified period of time. If compliance is not made within the specified period, the department may proceed to collect any moneys which may be due and payable during the crop year in which the lease is terminated and may void the remainder of the lease. Further, the department may have a landlord's lien as set out by Iowa Code chapter 570.

21.6(6) *Previous agreements.* The department shall recognize legal agreements regarding agricultural leases which are in effect at the time the department acquires jurisdiction to the land covered by those legal agreements.

21.6(7) *Amendment to lease.* Amendments to any lease shall be evidenced by written instruments attached to and made a part of the lease. Final approval of amendments shall be made by the director.

These rules are intended to implement Iowa Code sections 456A.24(2), 456A.24(5), 456A.38, and 461A.25.

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

26. Chapter 22, “Habitat and Public Access Program” – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action for Chapter 22. This Notice of Intended Action is the result of Wildlife Bureau’s Executive Order 10 rule review.

This chapter sets forth the procedures to open private lands to public hunting, while providing landowners with grant funds to create, manage, and enhance wildlife habitat. This chapter has been edited for length and clarity consistent with Executive Order 10; however, the underlying program framework is status quo.

Todd Bishop, Wildlife Bureau Chief
Conservation and Recreation
Meeting Date: November 9, 2023

Attached: Chapter 22 - NOIA

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 22, “Iowa Habitat and Access Program,” Iowa Administrative Code, and adopt a new Chapter 22 with the same title.

Legal Authority for Rule Making

This rulemaking is proposed under the authority provided in Iowa Code section 483A.3B(3)“c”(1).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 483A.3B(3).

Purpose and Summary

The Commission proposes to adopt rules governing the state’s popular Habitat and Access Program (IHAP). IHAP provides technical assistance for the development and management of wildlife habitat as well as financial incentives to landowners in exchange for public hunting access. Since its creation in 2011, IHAP has had 274 properties enrolled, providing 40,190 acres of public recreational access. Currently, there are approximately 238 properties enrolled, providing around 33,407 acres of access. IHAP is funded by a federal grant awarded by the U.S. Department of Agriculture and from a portion of state-based wildlife habitat fees.

Consistent with Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2)’s five-year rule review, this chapter was edited for length and clarity.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 571-Chapter 11.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking. Written comments in response to this rule making must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 18, 2024. Comments should be directed to:

Nick Baumgarten
Wildlife Bureau
502 East Ninth Street
Des Moines, IA 50319
Nick.baumgarten@dnr.iowa.gov

Public Hearing

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

January 16, 2024 from 1:00-2:00PM, Wallace State Office Building, Conference room 4E
and

January 18, 2024 from 1:00-2:00PM, Wallace State Office Building, Conference room 4E

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action proposed:

ITEM 1. Rescind 571—Chapter 22 and adopt the following **new** chapter in lieu thereof:

CHAPTER 22
HABITAT AND PUBLIC ACCESS PROGRAM

571—22.1(456A,483A) Purpose and authority. These rules set forth the procedures to open private lands to public hunting, while providing grant funds to create, manage, and enhance wildlife habitat.

571—22.2(456A,483A) Eligibility. In order to be eligible for this program, an applicant shall:

22.2(1) Have land in Iowa that already contains wildlife habitat or be willing to allow development of wildlife habitat;

22.2(2) Enter into an agreement with the department; and

22.2(3) Allow public access for hunting without charge on at least 40 acres.

571—22.3(456A,483A) Application procedures. Applications will be accepted only from those eligible pursuant to rule 571—22.2(456A,483A).

22.3(1) Applications. Applications must be submitted on forms furnished by the department. Landowners will be notified in writing within 30 days of submission of an application whether they have been accepted into the program.

22.3(2) Project review and selection. Projects will be selected based on the ranked scoring criteria in the application, which prioritize sites with the greatest chance of benefiting wildlife populations and providing adequate recreational hunting opportunities. The criteria include, but are not necessarily limited to: the site's habitat potential, site suitability, priority locations, and other relevant habitat and hunting access factors.

571—22.4(456A,483A) Agreements.

22.4(1) The commission shall enter into an agreement with approved landowners to carry out the purposes of this program.

22.4(2) Enrolled lands are subject to game management area hunting rules as contained in 571—Chapter 51. Access and boundary signs shall be placed and maintained on enrolled lands by

the department.

571—22.5(456A,483A) Cost reimbursement. Whenever a landowner has been found to be in violation of an agreement or terminates the agreement early, the landowner shall reimburse the state a prorated amount of the value of wildlife habitat improvement work completed on the property divided by the entire agreement period multiplied by the unfulfilled years of the agreement, e.g., $(\text{Total Dollars} \div \text{Total Years}) \times \text{Unfulfilled Years} = \text{prorated amount owed}$. Additionally, the landowner may be assessed early termination penalties that the department may be required to pay a contractor performing the wildlife habitat improvement work on the property.

These rules are intended to implement Iowa Code section 483A.3B(3).

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

27. Chapter 23, “Wildlife Habitat Promotion with Local Entities Program”– Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action for Chapter 23. This Notice of Intended Action is the result of Wildlife Bureau’s Executive Order 10 rule review.

Chapter 23 establishes the procedures to provide local entities with their share of wildlife habitat stamp revenues. This allocation is required by law. The wildlife habitat stamp is a required purchase in conjunction with most hunting and trapping licenses. By law, the stamp dollars are to be spent, in part, via an allotment to local entities, and the balance is dedicated for certain conservation efforts. Local entities are defined as county conservation boards. This chapter has been edited for length and clarity consistent with Executive Order 10; however, the underlying grant framework is status quo.

Todd Bishop, Wildlife Bureau Chief
Conservation and Recreation
Meeting Date: November 9, 2023

Attached: Chapter 23 – NOIA

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Rescind and replace chapter

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 23, “Wildlife Habitat Promotion with Local Entities Program,” Iowa Administrative Code and adopt a new Chapter 23 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 455A.5(6)“a.”

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 483A.3.

Purpose and Summary

Chapter 23 establishes the procedures to provide local entities with their share of wildlife habitat stamp revenues. The wildlife habitat stamp is a required purchase in conjunction with most hunting and trapping licenses. By law, the stamp dollars are to be spent, in part, via an allotment to local entities. The rules set forth a grant program to distribute these funds, and specify application procedures, eligible projects, grant award criteria, payment terms, and other general grant administration terms.

Consistent with Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2)’s five-year rule review, this chapter was edited for length and clarity.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 571-Chapter 11.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 18, 2024. Comments should be directed to:

Kelsey Fleming
Iowa DNR
502 E 9th Street
Des Moines, IA 50319
kelsey.fleming@dnr.iowa.gov

Public Hearing

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

January 16, 2024 from 1:00-2:00PM, Wallace State Office Building, Conference room 4E
and

January 18, 2024 from 1:00-2:00PM, Wallace State Office Building, Conference room 4E

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action proposed:

ITEM 1. Rescind 571—Chapter 23 and adopt the following **new** chapter in lieu thereof:

CHAPTER 23
WILDLIFE HABITAT PROMOTION WITH LOCAL ENTITIES PROGRAM

571—23.1(483A) Purpose and definition. The purpose of this chapter is to designate procedures for allotments of wildlife habitat stamp revenues to local entities. These funds must be used specifically for the acquisition of whole or partial interests in land from willing sellers for use as wildlife habitats, and the development and enhancement of wildlife lands and habitat areas. The department will administer the stamp funds for the purposes as stated in the law at both the state and local levels. The following definition applies in these rules:

“Waiver of retroactivity” means approval by the department for an applicant to purchase land prior to the next round of wildlife habitat fund application reviews. The waiver allows the applicant to remain eligible for the next round of wildlife habitat funds when extenuating circumstances exist that require an immediate purchase of the subject property by the applicant or a third party that will hold the property until funds become available to the applicant.

571—23.2(483A) Availability of funds. Habitat stamp funds are dependent on stamp sales. The amount of moneys available at any time will be determined by revenues received by the department. Final stamp sales for each calendar year will be determined by July 1 of the following year.

23.2(1) Local share. Funds available for local entities shall be specified in the department's budget in accordance with legislative appropriations. Funds will be made available during a fiscal year of July 1 to June 30.

23.2(2) Distribution. After deducting 5 percent to be held for contingencies, the remaining local share will be available on a semiannual basis each year.

571—23.3(483A) Project limitations. Because of administrative costs, no application for assistance totaling less than \$3,000 (total project cost—\$4,000) will be considered.

571—23.4(483A) Eligibility for cost-sharing assistance. No project shall be eligible for cost sharing unless it is specifically approved by the commission, or the applicant has received a written waiver of retroactivity from the director, prior to its initiation. A project shall not be eligible for cost sharing unless public hunting and trapping will be allowed; however, the review and selection committee may recommend for commission approval projects with restrictions on hunting and trapping under exceptional circumstances, such as waterfowl refuges. Fees charged for recreational purposes will not be allowed on land purchased or developed with wildlife habitat funds. Wildlife habitat promotion funds shall not be used to fund mitigation lands or banks, or other lands, to satisfy mitigation requirements. Only the following types of project expenditures will be eligible for cost-sharing assistance.

23.4(1) Acquisition projects. Lands or rights thereto to be acquired in fee or by any other instrument shall be appraised by a competent appraiser and the appraisal approved by the department staff. Applicants whose applications have been approved for funding must submit an appraisal that meets the Uniform Appraisal Standards for Federal Land Acquisitions “Yellow Book” (2016). The appraisal requirements may be waived when the staff determines that they are impractical for a specific project. Cost sharing will not be approved for more than 75 percent of the approved appraised value. Acquisition projects are eligible for either cost sharing by direct payments as described in subrule 23.10(3) or by reimbursement to local entities. When a county receives or will receive financial income directly or indirectly from sources that would have been paid to the previous landowner as a result of a purchase agreement or other title transfer action, 75 percent of that income will be transferred to the department unless the grantee has demonstrated and committed to habitat development projects or additional acquisitions on the project site to be funded from the income received. The project review and selection committee must recommend, and the director and commission must approve, plans for the expenditure of income. In the absence of acceptable wildlife habitat development or acquisition plans, the county will transfer 75 percent of income received to the department as it is received. The department will credit that income to the county apportionment of the wildlife habitat stamp fund as described in subrule 23.2(1). The schedule of those reimbursements from a county to the state will be included in the project agreement.

23.4(2) Development and enhancement projects. Equipment purchases are not eligible. Donated labor, materials and equipment use, and force account labor and equipment use shall not be eligible for cost-sharing assistance. Force account means the agency’s own labor and equipment use. Development projects are limited to lands legally controlled by the grantee for the expected life of the project. Development projects are eligible only for reimbursement of reasonable costs actually incurred and paid by the public agency.

571—23.5(483A) Application for assistance.

23.5(1) Form. Applications shall be submitted on forms provided by the department.

23.5(2) Time of submission. The department shall publish on its website the date and time for submitting a funding proposal, providing at least 90 days’ notice. Applications must be submitted

to the department as described on the website. Local entities can obtain a waiver so that acquisition projects may be approved for retroactive payments, provided that funds are available and the project meets all other criteria.

23.5(3) Local funding. By signing the application, the applicant agency is certifying that all required match has been identified and is committed and available for the project. An applicant shall certify in writing that it has the 25 percent match committed and available, by signing on the signature block provided on the application, and shall state the means of providing for the local share. All necessary approvals for acquisition and financing shall be included with the application. All financial income received directly or indirectly from sources that would have been paid to the previous landowner as a result of a purchase agreement or other title transfer action will be completely documented in the application.

571—23.6(483A) Project review and selection.

23.6(1) Review and selection committee.

a. A review and selection committee, hereinafter referred to as the committee, composed of one person appointed by the director to represent the department and designated by the director as chairperson and four persons appointed by the director to represent county conservation boards shall recommend grant applications and amendments for funding. Additionally, there shall be at least two alternates designated by the director to represent the county conservation boards in the event of a conflict of interest.

b. Conflict of interest. An individual who is a member, volunteer, or employee of a county conservation board that has submitted a project shall not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual’s place.

23.6(2) Application rating system. The committee will apply a numerical rating system to each grant application which is considered for fund assistance that will be posted on the department’s website, providing at least 90 days’ notice. The following criteria, with a weight factor for each, will be considered:

Wildlife habitat needs	2
Existing or potential habitat quality	3
Species diversity	1

Each criterion will be given a score of from 0 to 10 that is then multiplied by the weight factor. Three additional criteria will be considered in the rating system:

a. Prior assistance. Any applicant who has never received a prior grant for acquisition of land will be given a bonus of 5 points.

b. Active projects. Any applicant who has one or more active projects at the time of application rating will be assessed 5 penalty points for each project that has not been completed. A project is deemed closed after the project has had a final inspection, all funds have been paid and, in the case of acquisition, the title has been transferred from the seller.

c. Urgency. Projects may be given 1 or 2 bonus points if there is a strong urgency to acquire lands that might otherwise be lost.

d. Cost-effectiveness. Projects will be given 1 point if the grant amount requested is at least 35 percent less than the appraised amount or 2 points if at least 45 percent less than the appraised amount.

All points will be totaled for each application, and those applications receiving the highest

scores will be recommended for fund assistance to the extent of the allotment for each semiannual period, except that any project scoring a total of not more than 45 points will not be funded.

23.6(3) *Applications not selected for fund assistance.* All applications not selected for fund assistance will be retained on file for consideration and possible funding for three consecutive review periods or until a request for withdrawal is received from the applicant.

23.6(4) *Rating system not used.* The rating system will not be applied during any semiannual period in which the total grant request, including backlogged applications, is less than the allotment. Applications will be reviewed only to determine eligibility and overall desirability, and to ascertain that they meet minimum scoring requirements.

23.6(5) *Rating of scores for tiebreakers.* If two or more projects receive the same score, the committee shall use the points awarded to the highest weighted factor and so forth, beginning with existing or potential habitat quality, to determine which project has a higher rank. If after considering the existing or potential habitat quality points the project scores remain tied, the committee will then consider the points awarded for species diversity. If after considering the species diversity points the project scores remain tied, the committee will then consider the points awarded for wildlife habitat needs.

571—23.7(483A) Commission review. The commission will review committee recommendations semiannually at the next following commission meeting. The commission may accept or reject any application recommended for funding.

571—23.8(483A) Grant amendments. Projects for which grants have been approved may be amended, if funds are available, to increase or decrease project scope or to increase or decrease project costs and fund assistance. Project changes must be approved by the selection committee and then by the director prior to their inception. Amendments to increase project costs and fund assistance due to cost overruns will not be approved if the work has already been performed.

571—23.9(483A) Timely commencement of projects. Projects for which grants are approved shall be commenced within six months of the date upon which the grantee is notified that the project is approved, or at another date agreed upon by both parties. Failure to do so may be cause for termination of the project and cancellation of the grant by the commission. Each project will be assigned a project period. Extensions will only be granted in case of extenuating circumstances.

571—23.10(483A) Payments.

23.10(1) *Grant amount.* Grant recipients will be paid 75 percent of all eligible costs incurred on a project up to the amount of the grant unless otherwise specified in the project agreement.

23.10(2) *Project billings.* Grant recipients shall submit billings for reimbursements or cost sharing on forms provided by the department.

23.10(3) *Acquisition projects.* If clearly requested in the project application and the applicant has shown good cause for such procedure, the department may approve direct payment to the seller of the state's share provided that marketable fee simple title, free and clear of all liens and encumbrances or material objections, is obtained by the local entity at the time of payments and state funds are then available.

23.10(4) *Development projects.* On approved development projects, payment will be made by the department only as reimbursement for funds already expended by the local entity.

571—23.11(483A) Record keeping and retention. A grant recipient shall keep adequate records relating to its administration of a project, particularly relating to all incurred costs and direct or indirect income from other sources that normally would have been paid to the previous landowner resulting from a purchase agreement or other title transfer action. A copy of the county's audits particularly showing such income and disbursements for the grant period will be submitted to the department's budget and grants bureau. These records shall be available for audit by appropriate personnel of the department and the state auditor's office. All records shall be retained in accordance with state laws.

571—23.12(483A) Penalties. Whenever any property, real or personal, acquired or developed with habitat stamp fund assistance passes from the control of the grantee or is used for other purposes that conflict with the project purpose, it will be considered an unlawful use of the funds. The department shall notify the local entity of any such violation.

23.12(1) Remedy. Funds used unlawfully must be returned to the department for inclusion in the wildlife habitat stamp fund, or a property of equal value at current market prices and with commensurate benefits to wildlife must be acquired with local, non-cost-shared funds to replace it. Such replacement must be approved by the commission. The local entity shall have a period of two years after notification by the department in which to correct the unlawful use of funds. The remedies provided by this rule are in addition to others provided by law.

23.12(2) Land disposal. Whenever it has been determined and agreed upon by the grantee and the commission that land acquired or developed with habitat stamp fund assistance is no longer of value for the project purpose, or that the local entity has other good cause, the land, with the approval of the commission, may be disposed of and the proceeds thereof used to acquire or develop an area of equal value, or 75 percent of the proceeds shall be returned to the state for inclusion in the wildlife habitat stamp fund.

23.12(3) Ineligibility. Whenever a local agency is in violation of this rule or the grant agreement, it shall be ineligible for further assistance until the matter has been resolved to the satisfaction of the commission.

These rules are intended to implement Iowa Code section 483A.3.

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

28. Chapter 24, “Blufflands Protection Program and Revolving Loan Fund” – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action for Chapter 24. This Notice of Intended Action is the result of Wildlife Bureau’s Executive Order 10 rule review.

Chapter 24 adopts rules implementing a revolving loan fund for the protection of significant blufflands along the Mississippi and Missouri Rivers. These rules are required by state law. The rules specify loan application and approval processes, loan terms, and land management requirements.

Todd Bishop, Wildlife Bureau Chief
Conservation and Recreation
Meeting Date: November 9, 2023

Attached: Chapter 24 - NOIA

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Rescind and replace chapter

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 24, “Blufflands Protection Program and Revolving Loan Fund,” Iowa Administrative Code, and adopt a new Chapter 24 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 161A.80A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 161A.80A.

Purpose and Summary

Chapter 24 adopts rules implementing a revolving loan fund for the protection of significant blufflands along the Mississippi and Missouri Rivers. These rules are required by state law. The rules specify loan application and approval processes, loan terms, and land management requirements.

Consistent with Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2)’s five-year rule review, this chapter was edited for length and clarity.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 571-Chapter 11.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 18, 2024. Comments should be directed to:

Kelly Smith
Iowa DNR
502 E 9th Street
Des Moines, IA 50319
Kelly.Smith@dnr.iowa.gov

Public Hearing

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

January 16, 2024 from 1:00-2:00PM, Wallace State Office Building, Conference room 4E

And

January 18, 2024 from 1:00-2:00PM, Wallace State Office Building, Conference room 4E

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action proposed:

ITEM 1. Rescind 571—Chapter 24 and adopt the following **new** chapter in lieu thereof:

CHAPTER 24
BLUFFLANDS PROTECTION PROGRAM AND REVOLVING LOAN FUND

571—24.1(161A) Definitions. For the purpose of this rule:

“*Fund*” means the bluffland protection revolving fund established in Iowa Code section 161A.80A.

“*State-owned lands*” means lands in which the state holds the fee title through acquisition and lands in which the state holds title by virtue of its sovereignty, including the beds of the Mississippi River and Missouri River.

571—24.2(161A) Types of acquisitions. Acquisition must be fee simple and title to lands purchased must be free of encumbrances, unless approved by the director on the recommendation of the attorney general. Loan applicants shall submit an abstract of title to lands to be purchased with loans from the fund for examination by the attorney general prior to issuance of any loan.

571—24.3(161A) Application for loans. Conservation organizations shall apply for loans on forms available on the department's website.

571—24.4(161A) Approval of loan applications. The director shall appoint a committee to review and evaluate loan applications. The committee shall make appropriate recommendations to the director.

571—24.5(161A) Interest and other terms of loan agreements. Loans shall be for a maximum term of five years with payment due at the end of the loan term. At the end of the loan term, an appropriate conservation easement approved by the department shall be in effect unless the fee title is conveyed to a public entity in trust to be held for conservation purposes. Simple interest at an annual rate of 4 percent shall accrue on the principal amount of the loan and shall be payable with the principal at the end of the loan term. However, interest shall be waived for the period commencing with the effective date of an approved conservation easement. All interest shall be waived if the fee title is conveyed to a public entity in trust for conservation purposes. The loan

agreement and documents establishing security for the loan shall be in a form approved by the department and the attorney general. The applicant shall execute and deliver a first mortgage in favor of the state of Iowa acting through the department of natural resources or provide equivalent security to secure the principal and interest due on the loan. The mortgage shall contain provisions for foreclosure in accordance with Iowa Code chapter 654.

571—24.6(161A) Eligible expenditures with loan funds. Loan funds shall be limited to the following: land purchase, usual and customary incidental costs (not including personnel, staff time, and administrative overhead), land appraisal fees and land survey fees.

571—24.7(161A) Custody and management of land during loan term. Loan recipients must hold title to blufflands acquired throughout the term of the loan. Where practicable, lands purchased with loan funds shall be available for public use under terms and conditions stated in the loan agreement. If the bluffland is sold before the end of the loan term, it must first be offered to a governmental entity. If no governmental entity agrees to purchase the land, it may be sold to a private buyer provided title is first encumbered by a conservation easement granted to the conservation organization or the state of Iowa or its political subdivisions. The easements shall ensure that the natural, scenic or cultural resources of the bluffland are permanently protected. If the bluffland is sold before the end of the loan term, the loan balance shall become due immediately at the time of sale. A loan recipient may enter into agreements, at any time, with governmental entities for the care, management and public use of lands purchased with loan funds.

571—24.8(161A) Loans not to exceed appraised value. Loans from the fund shall not exceed the appraised value of the land to be acquired plus approved incidental expenses listed in rule 571—24.6(161A).

These rules are intended to implement Iowa Code sections 161A.80A and 161A.80B.

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

29. Chapter 25, “Certification of Land as Native Prairie or Wildlife Habitat” – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action for Chapter 25. This Notice of Intended Action is the result of Wildlife Bureau’s Executive Order 10 rule review.

Chapter 25 establishes criteria for land to qualify for native prairie and wildlife habitat property tax exemptions. It also establishes land certification and decertification procedures. The criteria and evaluation procedure ensure that tax exempt lands are providing the public and environmental benefits the tax break is intended to reward. Properties will be evaluated consistent with this rule by the Department and, if eligible, officially certified. Property tax exemptions will be granted by the County Assessor based on the Department’s certification.

Todd Bishop, Wildlife Bureau Chief
Conservation and Recreation
Meeting Date: November 9, 2023

Attached: Chapter 25 - NOIA

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 25, “Certification of Land as Native Prairie or Wildlife Habitat,” Iowa Administrative Code and adopt a new Chapter 25 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 427.1(23) and (24).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 427.1(23) and (24).

Purpose and Summary

Chapter 25 establishes criteria for land to qualify for native prairie and wildlife habitat property tax exemptions. It also establishes land certification and decertification procedures. The criteria and evaluation procedure ensure that tax exempt lands are providing the public and environmental benefits the tax break is intended to reward. Properties will be evaluated consistent with this rule by the Department of Natural Resources (Department) and, if eligible, officially certified. Property tax exemptions will be granted by the County Assessor based on the Department’s certification.

Consistent with Executive Order 10, IOWA ADMINISTRATIVE BULLETIN Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2)’s five-year rule review, this chapter was edited for length and clarity.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 571-Chapter 11.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 18, 2024. Comments should be directed to:

Monica Thelen
Iowa DNR
502 E 9th Street
Des Moines, IA 50319
Monic.thelen@dnr.iowa.gov

Public Hearing

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

January 16, 2024 from 1:00-2:00PM, Wallace State Office Building, Conference room 4E

January 18, 2024 from 1:00-2:00PM, Wallace State Office Building, Conference room 4E

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action proposed:

ITEM 1. Rescind 571—Chapter 25 and adopt the following **new** chapter in lieu thereof:

CHAPTER 25
CERTIFICATION OF LAND AS NATIVE PRAIRIE OR WILDLIFE HABITAT

571—25.1(427) Purpose. The purpose of this chapter is to define lands that qualify for native prairie and wildlife habitat property tax exemptions and to provide procedures whereby owners may have them certified as such.

571—25.2(427) Definitions. Before lands will be certified as either “native prairie” or “wildlife habitat” under Iowa Code section 427.1, they must meet the criteria of the following definitions:

“*Native prairie*” is defined as those lands that have never been cultivated, are unimproved, and are natural or restored grasslands wherein at least 50 percent of the plant canopy is a mixture of grass and forb species that were found originally on Iowa’s prairie lands.

“*Wildlife habitat*” is defined as those parcels of agricultural land of two acres or less, composed of native species having adequate ground cover, that are devoted exclusively for use as habitat for wildlife and are protected from all other economic uses of any kind.

571—25.3(427) Restrictions. Lands classified as native prairie or wildlife habitat under this rule shall not be used for economic gain of any type. This includes the storage of equipment,

machinery, and crops, or receiving lease or rental payments. There shall not be any buildings, used or unused, on the tax parcel containing the exempted area.

571—25.4(427) Maintenance. Maintenance activities, including burning, chemical treatment, or selective brush removal, may be performed on native prairies if approved by the county conservation board or by the department of natural resources in areas not served by a county conservation board. Similar activities, as well as seedings and plantings, may be performed on wildlife habitats if approved by the department of natural resources.

571—25.5(427) Certification. In order to have lands certified as native prairie or wildlife habitat, the taxpayer must make an application to the department of natural resources on forms made available by the department. The application shall describe and locate the property to be exempted on a map.

571—25.6(427) Decertification. Whenever land certified as natural prairie or as wildlife habitat is used for economic gain or otherwise becomes ineligible for tax-exempt status, the Department shall notify the appropriate assessor.

These rules are intended to implement Iowa Code section 427.1.

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

30. Chapter 26, "Relocation Assistance" – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action to rescind Chapter 26, "Relocation Assistance." This Notice of Intended Action is the result of Land and Waters Bureau's Executive Order 10 rule review.

The Department has determined that the contents of this rule chapter are duplicative to Iowa Code chapter 316 and the federal Uniform Relocation Assistance and Real Property Acquisition Act. Repeal of this rule chapter will have no material change on departmental policy. The Department's operations will continue to be governed by these state and federal laws. These other laws will ensure that any person displaced as a result of federally-assisted programs or projects will be treated fairly and equitably under the circumstances.

Travis Baker, Land and Waters Bureau
Conservation and Recreation Division
Meeting Date: November 9, 2023

Attached: Chapter 26 - NOIA

NATURAL RESOURCE COMMISSION [571]

Notice of Intended Action Proposing to rescind and reserve a chapter

The Natural Resource Commission (Commission) hereby proposes to repeal Chapter 26, “Relocation Assistance,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 316.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 316.

Purpose and Summary

Chapter 26 sets forth the policy and procedures to be followed regarding relocation assistance for those being displaced by a Department of Natural Resources’ (Department) land acquisition. Consistent with Executive Order 10, Iowa Administrative Bulletin Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17.7(2)’s five-year rule review, this chapter will be repealed in its entirety.

The Department has determined that the contents of this rule chapter are duplicative of Iowa Code chapter 316 and the federal Uniform Relocation Assistance and Real Property Acquisition Act. Repeal of this rule chapter will have no material change on departmental policy. The Department’s operations will continue to be governed by these state and federal laws.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 571-Chapter 11.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 23, 2024. Comments should be directed to:

Travis Baker
502 E 9th Street
Des Moines, IA 50319
travis.baker@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally will be held via conference call as follows. Persons who wish to attend the conference call should contact Travis Baker via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at a conference call public hearing must submit a request to Travis Baker prior to the hearing to facilitate an orderly hearing.

January 23, 2024
12 noon - 1 p.m.

via video/conference call

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind **571—Chapter 26**.

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

31. Chapter 27, “Lands and Waters Conservation Fund Program” – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action for Chapter 27. This Notice of Intended Action is the result of Parks, Forests, and Preserves Bureau’s Executive Order 10 rule review.

Chapter 27 contains the implementation rules for the Land and Water Conservation Fund (LWCF), a federal cost-share program. LWCF funds the development of local outdoor recreational resources. This chapter identifies eligible participants (county conservation boards and incorporated cities), provides the procedure for the application and approval process, lists eligible uses, and outlines required tracking and documentation of spending. This chapter ensures the federal funds are spent in a manner consistent with federal requirements.

Sherry Arntzen, Parks, Forests, and Preserves Bureau Chief
Conservation and Recreation Division
Meeting Date: November 9, 2023

Attached: Chapter 27 – NOIA

NATURAL RESOURCE COMMISSION [571]

Notice of Intended Action

Proposing to rescind and replace chapter

The Natural Resource Commission (Commission) hereby proposes to rescind and replace Chapter 27, “Lands and Waters Conservation Fund Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 455A.5(6)(a).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 456A.27 through 456A.33 and 456A.34 and 456A.35.

Purpose and Summary

This proposed rulemaking contains the implementation rules for the Land and Water Conservation Fund (LWCF), a federal cost-share program for outdoor recreational resources. The rulemaking establishes eligible participants (county conservation boards and incorporated cities), provides the procedure for the application and approval process, lists eligible uses, and outlines required tracking and documentation of spending. This rulemaking ensures the federal funds are spent in a manner consistent with federal requirements.

Consistent with Executive Order 10, Iowa Administrative Bulletin Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2)’s five-year rule review, this chapter was edited for length and clarity. Specifically, there were provisions in this chapter that were outdated, duplicative, and unnecessary. These provisions have been removed from the new version.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 571 – Chapter 11.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 31, 2024. Comments should be directed to Jessica Flatt at jessica.flatt@dnr.iowa.gov.

Public Hearing

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

January 30, 2024 from Noon-1PM, Wallace State Office Building, Conference room 4E
and

January 31, 2024 from 4:00-5:00PM, Wallace State Office Building, Conference room 4E

The hearings will also be available online. Persons who wish to attend the conference call or Google Meet virtual meeting should contact Jessica Flatt via email.

Persons who wish to make oral comments at the public hearings may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the hearings and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting.

The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action proposed:

ITEM 1. Rescind 571—Chapter 27 and adopt the following **new** chapter in lieu thereof:

CHAPTER 27
LAND AND WATER CONSERVATION FUND PROGRAM

571—27.1(456A) Purpose. The purposes of the federal Land and Water Conservation Fund, hereinafter referred to as the LWCF, are as stated in Section 1(b) of the Land and Water Conservation Fund Act of 1965 (54 U.S.C. §200301). The Iowa department of natural resources, hereinafter referred to as the department, acting through its director, will administer the LWCF for the same purposes at the state and local levels. All state and local projects will comply with the federal statute and program guidelines.

571—27.2(456A) Apportionment distribution.

27.2(1) Iowa apportionment. The state expects to receive an annual apportionment from the LWCF. This annual apportionment, after deducting any amount necessary to cover the department's costs of administering the program and state outdoor recreation planning costs, shall be divided into two shares for state and local entity grants with the local entity share being not less than 50 percent.

27.2(2) Local share. The local share of the annual LWCF apportionment shall be available for local entity grants on an annual basis.

571—27.3(456A) Eligibility requirements. The following eligibility requirements shall apply to local entities:

27.3(1) Participation in the LWCF shall be limited to county conservation boards and incorporated cities.

27.3(2) A local entity shall have assessed outdoor recreation supplies, demands and needs and shall have allowed for input by affected citizens within the service area of any proposed project. Applications shall include documentation of these planning processes.

571—27.4(456A) Assistance ceiling. Local entities are eligible to receive annual assistance from the LWCF of up to \$250,000 per proposal. No grant shall be approved that exceeds the allotment for the review period.

571—27.5(456A) Grant application submission.

27.5(1) Form of application. Grant applications for both state and local projects shall be on forms and follow guidelines provided by the department. Projects selected for funding with land and water conservation assistance must be in accordance with state comprehensive outdoor recreation plan (SCORP) priorities.

27.5(2) Application timing. For local projects, grant applications shall be reviewed and selected for funding on an annual basis as provided in subrule 27.2(2). The department shall publish on its website the date and time for submitting a funding proposal, providing at least 90 days' notice. Applications must be submitted to the department as described on the website. State projects will be reviewed, evaluated and submitted to the National Park Service for approval as soon as practicable

upon notification of Iowa's apportionment.

27.5(3) Local funding. An applicant shall certify that it has committed its share of project costs. Cash donations must be on deposit and a bond issue must have been passed by the electorate if such passage is necessary if either or both is a source of local funding.

27.5(4) Development project application. An application for a development project grant shall include development on only one project site with the exception that an application may include development of a like nature only on several sites.

571—27.6(456A) Project review and selection.

27.6(1) Review and selection committee for local projects.

a. A five-member review and selection committee, hereinafter referred to as the committee, shall be composed of three staff members of the department as appointed by the director, one member appointed by the director with input from the Iowa association of county conservation boards, and one member appointed by the director with input from the Iowa league of cities and the Iowa parks and recreation association. Additionally, there shall be at least two alternates designated by the director with input from both associations and the league of cities. The committee shall determine which grant applications shall be selected for funding at the local level.

b. Conflict of interest. An individual who is a member, volunteer, or employee of an entity that has submitted a project shall not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual's place.

27.6(2) Consideration withheld. The committee will not consider any application that, on the date of the selection session, is not complete, or for which additional pertinent information has been requested and not received.

27.6(3) Open project selection process for local projects. The department will create an open project selection process in program guidelines published at least 90 days prior to a grant application due date. The project selection process rating system will include, at minimum, the following components: objective criteria and standards based on local need and priorities identified in SCORP, process for public participation, assurances that the distribution of LWCF assistance is accomplished in a nondiscriminatory manner and conformance to LWCF eligibility and evaluation criteria.

27.6(4) Open project selection process for state projects. State projects are chosen by the department based on priorities and funding.

571—27.7(456A) Public participation for local projects. All grant applicants will be advised of the time and place of the grant review session. A time period for public comment will be allowed at the review session.

571—27.8(456A) Director's review. The director will review, amend, reject, or approve committee recommendations after each review period for local projects. Appeals of the director's decision may be made to the commission.

571—27.9(456A) Federal review. All applications selected for fund assistance shall be submitted to the administering federal agency for final review and grant approval.

571—27.10(456A) Grant amendments. Projects for which grants have been approved may be amended. Amendments to increase project costs and fund assistance due to cost overruns will not be approved.

571—27.11(456A) Timely commencement of projects and project period. Grant recipients

are expected to carry out their projects in an expeditious manner. Physical work on the project shall commence within one calendar year of the federal award date. Failure to do so may be cause for termination of the project and cancellation of the grant. Project period is assigned by federal statute.

571—27.12(456A) Reimbursements.

27.12(1) *Grant amount.* Grant recipients are reimbursed up to 50 percent of all eligible costs incurred on a project up to the amount of the grant.

27.12(2) *Project billings.* The following information applies to local grants only. Grant recipients shall submit billings for reimbursements on forms provided by the department or through a cover letter. No more than two project billings shall be allowed. A final billing shall be submitted within 90 days following project completion.

27.12(3) *Documentation.* Grant recipients shall provide documentation as required by the department to substantiate all costs incurred on a project.

571—27.13(456A) Recordkeeping and retention. A grant recipient shall keep adequate records relating to its administration of a project, particularly relating to all incurred costs. These records shall be available for audit by appropriate personnel of the department, the state auditor's office and the U.S. Department of the Interior.

These rules are intended to implement Iowa Code sections 456A.27 through 456A.33, 456A.34, and 456A.35.

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

32. Chapter 28, “All-Terrain Vehicle Registration Revenue Cost-Share Program” – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action for Chapter 28. This Notice of Intended Action is the result of Parks, Forests, and Preserves Bureau’s Executive Order 10 rule review.

Chapter 28 sets forth the rules for the all-terrain vehicle registration grant program. The chapter identifies eligible participants (political subdivisions and incorporated private organizations), provides the procedure for the grant application and approval process, lists eligible uses, and outlines required tracking and documentation of spending. These rules are mandated by state law.

Sherry Arntzen, Parks, Forests, and Preserves Bureau Chief
Conservation and Recreation Division
Meeting Date: November 9, 2023

Attached: Chapter 28 – NOIA

NATURAL RESOURCE COMMISSION [571]

Notice of Intended Action

Proposing to rescind and replace chapter

The Natural Resource Commission (Commission) hereby proposes to rescind and replace Chapter 28, “All-Terrain Vehicle Registration Revenue Cost-Share Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 321I.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321I.8.

Purpose and Summary

This proposed rulemaking establishes rules for the all-terrain vehicle registration grant program. The rulemaking identifies eligible participants (political subdivisions and incorporated private organizations), provides the procedure for the grant application and approval process, lists eligible uses, and outlines required tracking and documentation of spending.

Consistent with Executive Order 10, Iowa Administrative Bulletin Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2)’s five-year rule review, this chapter was edited for length and clarity. Specifically, there were provisions in this chapter that were outdated, duplicative, and unnecessary. These provisions have been removed from the new version.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 571 – Chapter 11.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 31, 2024. Comments should be directed to Jessica Flatt at jessica.flatt@dnr.iowa.gov.

Public Hearing

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

January 30, 2024 from Noon-1PM, Wallace State Office Building, Conference room 4E
and

January 31, 2024 from 4:00-5:00PM, Wallace State Office Building, Conference room 4E

The hearings will also be available online. Persons who wish to attend the conference call or Google Meet virtual meeting should contact Jessica Flatt via email.

Persons who wish to make oral comments at the public hearings may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the hearings and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action proposed:

ITEM 1. Rescind 571—Chapter 28 and adopt the following **new** chapter in lieu thereof:

CHAPTER 28
ALL-TERRAIN VEHICLE
REGISTRATION REVENUE GRANT PROGRAM

571—28.1(321I) Definitions.

“All-terrain vehicle (ATV)” means the same as defined in Iowa Code section 321I.1.

“Commission” means the same as defined in Iowa Code section 321I.1. *“Department”* means the same as defined in Iowa Code section 321I.1.

“Designated riding area” means the same as defined in Iowa Code section 321I.1.

“Director” means the same as defined in Iowa Code section 321I.1.

“High-quality natural area” means an area that includes high-quality native plant communities, highly restorable native plant communities or an area that provides critical wildlife habitat. An on-site evaluation by qualified person(s) for each proposed site is necessary in making this determination.

“Local share” means those funds available for use by incorporated organizations or other public agencies through cost-sharing, grants, subgrants or contracts.

“Previously disturbed” means an area where the plant community has been severely disturbed and has not recovered or the natural (native) plant biota is nearly gone. Such an area has been so heavily disturbed that the plant community structure has been severely altered and few or no higher plants of the original community remain. Examples are newly cleared land, cropland, severely overgrazed pasture or second-growth forest, quarries, mines, and sand pits.

“Sponsor” means the incorporated organization or other public agency receiving funding from the all-terrain fund grant program through an agreement to acquire, develop, maintain or otherwise improve designated riding areas and trails.

“State share” means those funds that may be used by the state for administration, law enforcement, or other expenses related to the program.

571—28.2(321I) Purpose and intent. This program provides funds from the all-terrain vehicle registration fund to political subdivisions and incorporated private organizations for the acquisition of land, development and maintenance of designated riding areas and trails, and

facilities for such use on lands which may be in other than state ownership. This chapter is intended to clarify procedures in Iowa Code section 321I.8 and to execute agreements between the department and sponsors, under the authority of the director. All designated riding areas, trails and facilities established or maintained using revenues under this program shall be open to use by the general public.

571—28.3(321I) Distribution of funds. The local share of state all-terrain vehicle registration funds as established in Iowa Code section 321I.8 and this rule shall be distributed in accordance with this chapter and upon execution of agreements. The local share of the registration fund shall be at least 50 percent of appropriate registration revenues. The remaining revenues shall be known as the state share. State share funds shall not exceed 50 percent of the total registration revenue generated for the program per fiscal year.

571—28.4(321I) Application procedures.

28.4(1) Forms. Applications for local share moneys shall be made on forms available from the department. The application must be completed and signed by the chairperson or chief executive officer of the applying sponsor. The application must be accompanied by a copy of the minutes of the sponsoring organization meeting at which the request was approved.

28.4(2) Grant application submission. The process of applying for a grant shall follow guidelines, and the application shall be on form(s) provided by the department. The department shall publish on its website the date and time for submitting an application, providing at least 90 days' notice. Applications must be submitted to the department as described on the website. Applications will be posted on the department's website, at minimum, at least once per year.

571—28.5(321I) Review and selection committee.

28.5(1) The committee responsible for reviewing, ranking and selecting projects to receive funding from the local share of the all-terrain vehicle registration revenue shall be comprised of two representatives appointed by the president of the Iowa Off-Highway Vehicle Association and three department representatives appointed by the director.

28.5(2) The review and selection committee shall meet in a manner as determined by the department within 30 days following the application deadline. Applications eligible for funding will be reviewed and ranked by the committee. The committee's recommendations will be submitted to the director for approval.

571—28.6(321I) Director's review of approved projects. The director shall review, amend, reject or approve committee selections. Appeals of the director's decision may be made to the commission. Applicants shall be notified of their grant status in writing within 30 days after the review and selection committee meeting.

571—28.7(321I) Project selection criteria. In reviewing projects to receive available funding, the following minimum criteria shall be used:

1. Projects proposing maintenance and operation of existing designated riding areas and trails.
2. Development within existing designated riding areas or trails.
3. Projects having documented local support and involvement.
4. Acquisition and development projects located in areas of high demand with preference

given to projects with the most long-term, stable management plan and that have the least adverse environmental and social impacts.

571—28.8(321I) Items eligible for funding. Items listed in this rule or approved by the director which can reasonably be utilized in the operation, development, or maintenance of designated riding areas or trails shall be eligible for funding.

28.8(1) Land acquisition. Purchasing of easements or fee title land acquisition as approved by the review and selection committee and director. Title to property acquired using the local share of registration revenues shall be in the name of the sponsor unless otherwise approved by the commission. The grant may be used for prepayment or reimbursement of land acquisition expenses, including appraisals, surveys and abstracts in addition to the property cost. The grant may pay the sale price or appraised value, whichever is less. Appraisals are required and must be approved by the department. Payments may be made directly to the landowner by the department. The grant agreement may contain provisions in addition to those contained in this chapter for disposal of property if it ceases to be managed and used for the purpose for which it was acquired. Land acquisitions (or leases) using all-terrain registration revenues shall utilize the following specific criteria:

a. Designated riding areas shall be limited to previously disturbed areas. High-quality natural areas and historical and cultural areas shall be avoided. If a proposed riding area contains fragments of any of the aforementioned areas, those areas shall be managed and protected as off-limit sites.

b. In making the determination of whether high-quality natural areas and historical or cultural areas exist, an expert in the said field shall complete a thorough assessment utilizing all available resources, including local expertise.

c. Prior to land acquisition, a public informational meeting shall be held to address the proposed designated riding area. The meeting shall be posted in accordance with Iowa Code section 362.3, and meeting minutes shall be made available to the commission.

d. Neighboring property owners shall be notified of the proposed designated riding area. Public comment received by the department or local political subdivision will be evaluated and presented to the commission.

e. A local project sponsor shall be willing and able to maintain the designated riding area and shall implement and abide by an approved operational plan, which includes a cooperative agreement with the local sponsor and political subdivision.

f. A local sponsoring political subdivision shall support the designated riding area and may provide local input.

g. The topography and associated soil erosion potentials shall be cost-effectively manageable as determined by the review and selection committee.

h. The commission shall make the final determination whether to acquire a tract of land as a designated riding area.

i. An act of the commission can undesignate a riding area.

28.8(2) Operation and maintenance of property that has been designated as a riding area by a local political subdivision and the commission.

28.8(3) Hourly wages may be reimbursed for operation and maintenance. Labor costs shall be documented in a manner approved by the department and shall be accompanied by proof that the cost was paid by the sponsor. If labor and repair are contracted, reimbursement shall be at the amount specified in the grant agreement. The sponsor shall obtain any federal, state or local

permits required for the project.

28.8(4) Actual material cost of tools, gravel, gates, bridges, culverts, and fencing supplies. Diesel fuel, propane, gasoline, oil, parts and repair bills for equipment used for area management.

28.8(5) Purchase of approved equipment to be used for maintenance of designated riding areas. Cost of leasing equipment used to maintain designated riding areas.

28.8(6) Program and facility liability insurance. Insurance shall be in place for project sponsors receiving grant funds. If insurance is purchased by the sponsor, proof of liability insurance shall be provided to the department. The state may purchase a statewide insurance policy covering all project sponsors receiving funds from the grant program, in which case a copy of the policy shall be made available to covered sponsors upon request. This insurance coverage may include liability insurance for the landowner(s) or other insurable interests. All-terrain vehicle fund moneys shall not be used to purchase insurance for special events. The total payment from the all-terrain vehicle fund shall be 100 percent of the approved actual cost. All insurance paid under this subrule must be furnished by companies licensed to do business in Iowa.

28.8(7) Cost of law enforcement for designated riding areas.

28.8(8) Developmental expenditures. Access roads, parking lots, picnicking, camping and playground facilities; sanitary, shelters, and concession facilities; and utilities.

28.8(9) Pursuant to an agreement between the department and the Iowa Off-Highway Vehicle Association, miscellaneous personal expenses for an association representative may be reimbursed at a rate approved by the director. Expenses shall be documented in a manner approved by the department and submitted at the end of the term specified in the agreement.

28.8(10) Travel expenses. In-state travel reimbursement for overnight lodging, registration costs, and mileage to educational events, conferences, and meetings as approved by the review and selection committee and the director. Out-of-state travel for up to three sponsors annually will be eligible. Reimbursement rates will follow department policy.

28.8(11) Direct payment to vendors. The department may establish operational procedures to facilitate direct payment to vendors for:

a. Major expenditures or specialty items, including land acquisitions, development expenses, program liability insurance fees, equipment, and trail signs.

b. Unexpected repairs, including materials or other expenses costing more than \$250 that may be necessary to operate and maintain the designated riding area in a safe manner.

571—28.9(321I) Use of funded items. Manufactured products or machinery purchased by sponsors with all-terrain vehicle fund moneys shall be used only for the purpose of establishing or maintaining designated riding areas, trails, or facilities and as emergency rescue equipment, where applicable.

571—28.10(321I) Disposal or trade of equipment, facilities or property.

28.10(1) Without prior written approval of the department, sponsors shall not dispose of or trade any manufactured products, machinery, facilities or property with a purchase value over \$5,000 if a portion or all of the actual cost was paid for with the all-terrain vehicle fund. Sponsors shall, in the case of equipment or facilities, reimburse the all-terrain vehicle fund a percentage of the disposal price received, that percentage being the percent of the original purchase price paid by the fund.

28.10(2) Real property and equipment shall be disposed of as stipulated in the grant agreement under which they were acquired. Reimbursements from the sale of real property and equipment shall be credited to the all-terrain vehicle fund.

571—28.11(321I) Recordkeeping. Sponsors receiving funds under this program shall keep adequate records relating to the administration of the grant, particularly relating to all incurred costs as stated in the grant agreement. These records shall be available for audit by appropriate personnel of the department and the state auditor's office.

571—28.12(321I) Sponsors bonded. Prior to receiving prepayment from this grant program, all nonpublic sponsors must produce proof that their chairperson and treasurer are covered under a fidelity bond, personal or surety, to the sponsor in a sum of no less than the total prepayment amount for each office.

571—28.13(321I) Competitive bids. Any equipment or development expense costing more than \$2,500 and funded by the all-terrain vehicle fund must be purchased through a competitive bid or quotation process. Documentation of such process must be submitted before funds are released by the state. Items purchased by any other means are not reimbursable by the state.

571—28.14(321I) Prepayment for certain anticipated costs. Only those expenditures contained in signed agreements may be prepaid. Program or facility liability insurance may be prepaid up to 100 percent. Approved facility and development costs and operations and maintenance costs may be prepaid up to 90 percent.

571—28.15(321I) Expense documentation, balance payment or reimbursement.

28.15(1) Documentation of expenditures eligible for prepayment or reimbursement shall be submitted in a manner approved by the department and shall be accompanied by applicable receipts. The sponsoring organization shall sign a certification stating that all expenses for which reimbursement is requested are related to the program and have been paid by the sponsor prior to requesting reimbursement. The sponsoring organization shall provide copies of canceled checks or other verification of expenditure payment.

28.15(2) The sponsor is responsible for maintaining auditable records of all expenditures of funds received whether by prepayment or on a reimbursement basis. This documentation shall include logs of maintenance equipment, operation and repair. Work done under contract to the sponsor requires a copy of the contract and copies of canceled checks showing payment.

28.15(3) Documentation of expenditures under the all-terrain vehicle revenue program must be received within 60 days of the project end date as specified in the grant agreement, unless the project sponsor has requested an extension and the extension has been approved in writing by the department. Failure by the sponsor to complete projects in a timely manner may be cause for termination of the agreement or ineligibility for future grants.

28.15(4) Approved expenditures by the sponsor in excess of the prepayment amount received, up to the maximum approved amount, will be reimbursed by the department if appropriately documented. In instances where the sponsor has expended less than the amount prepaid, the sponsor shall reimburse the balance to the department to be credited back to the all-terrain vehicle fund.

571—28.16(321I) Use of funds. If a grantee desires to use the approved funds for a purpose not within the approved project scope as stated in the grant agreement, the grantee shall request an amendment to the project. If the department and review and selection committee approve a project amendment, the department shall notify the project sponsor in writing. Whenever any real or personal property acquired, developed or maintained with registration funds passes from the control of the grantee or is used for purposes other than the approved project purpose, such an act will be considered an unlawful use of the funds. Whenever the director determines that a grantee is in violation of this rule, that grantee shall be ineligible for further assistance until the matter has been resolved to the satisfaction of the department.

These rules are intended to implement Iowa Code sections 321I.1, 321I.2, and 321I.8

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

33. Chapter 30, "Waters Cost-share and Grant Programs," - Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action for Chapter 30. This Notice of Intended Action is the result of the Land and Waters Bureau's Executive Order 10 rule review.

This chapter contains the rules for the Department's administration of three water-related grant programs, including Water Recreation Access Cost-share, Water Trails, and Low-head Dam Public Hazard. The grant programs benefit dam owners, anglers, paddlers, boaters, tubers, and other recreational users of public waters in Iowa.

Travis Baker, Land and Waters Bureau Chief
Conservation and Recreation Division
Date of NRC Meeting: November 9, 2023

Attached: Chapter 30 – NOIA

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing to rescind and replace chapter

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 30, “Waters Cost-share and Grant Programs,” Iowa Administrative Code and adopt a new Chapter 30 with the same title.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 455A.5(6)“a,” 461A.4(1)“b,” and 462A.3(2).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 452A.79A and chapters 455A, 461A, and 462A.

Purpose and Summary

Chapter 30 creates a cost-share partnership between state and local public entities to acquire or develop public recreational boating accesses to Iowa waters, to plan and develop constructed water trail amenities, and to implement safety projects at low-head dams. These grant programs benefit dam owners, anglers, paddlers, boaters, tubers, and other recreational users of public waters in Iowa.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 571--Chapter 11.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Nate Hooegeveen, River Programs Coordinator
Department of Natural Resources
501 East 9th Street
Des Moines, IA 50319
Email: Nate.Hooegeveen@dnr.iowa.gov

Public Hearings

Two public hearings at which persons may present their views orally will be held via conference call as follows. Persons who wish to attend a conference call should contact Nate Hooegeveen via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at a conference call public hearing must submit a request to Nate Hooegeveen prior to the hearing to facilitate an orderly hearing.

January 23, 2024
12 noon - 1 p.m. via video/conference call

January 30, 2024
12 noon - 1 p.m. via video/conference call

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action proposed:

ITEM 1. Rescind 571—Chapter 30 and adopt the following **new** chapter in lieu thereof:

CHAPTER 30
WATERS COST-SHARE AND GRANT PROGRAMS

DIVISION I
WATER RECREATION ACCESS COST-SHARE PROGRAM

571—30.1(452A) Title and purpose. This division provides rules for the water recreation access cost-share program. The purpose of this division is to define procedures for cost sharing between state and local public agencies to provide for the acquisition or development of public recreational boating accesses to Iowa waters.

571—30.2(452A) Availability of funds. Moneys derived from the excise tax on the sale of motor fuel used in watercraft under Iowa Code section 452A.79 are deposited as a “marine fuel tax” and are subject to appropriation by the general assembly to the department of natural resources. Each year, as part of its approval of the department's capital improvement plan, the commission may designate an amount to be available for this program.

571—30.3(452A) Eligibility of development projects. Projects proposing to develop properties or facilities for the purposes of providing or enhancing recreational boating access consistent with Iowa Code section 452A.79A may apply for funding. Additional eligibility guidance or requirements may be provided during the application process described in 571—30.9(452A).

571—30.4(452A) Eligibility of acquisition projects. Projects proposing to acquire land for recreational boating/canoeing access are eligible to apply for water access funding. Costs for a department-approved appraisal report and the cost of surveys necessary to determine acreage and establish boundaries are also eligible for assistance on those projects approved for funding. Additional eligibility guidance or requirements may be provided during the application process described in 571—30.8(452A).

571—30.5 Reserved.

571—30.6(452A) Waiver of retroactivity. In case of extreme urgency involving land acquisition, a grant applicant may formally request a written “waiver of retroactivity” which, if granted by the director of the department of natural resources, will permit the applicant to acquire the real property immediately without jeopardizing the applicant’s chances of receiving a grant. However, the granting of the waiver in no way implies or guarantees that any subsequent grant application covering the acquisition will be selected for funding by the water access committee. The request for the waiver must include justification regarding the urgency of the acquisition, a description of the land to be acquired, and a county map on which the land to be acquired is located. Acceptable justification would include situations in which land is to be sold at auction or by sealed bids or when the landowner requires immediate purchase.

571—30.7(452A) Establishing project priorities. The director shall appoint a six-member water access committee representing a cross section of department responsibilities for the purpose of reviewing and establishing priorities for cost sharing.

571—30.8(452A) Application procedures. Applications for funds shall be reviewed and selected for funding at least once per year. The department shall publish on its website the date and time for submitting a funding proposal, providing at least 90 days’ notice. Applications must be submitted to the department as described on the website.

571—30.9(452A) Cost-sharing rates. All projects approved for assistance will normally be cost-shared at a 75 percent state/25 percent local ratio. Exceptions to the normal funding formula may occur under the following conditions:

1. Where a local public agency agrees under terms of a long-term agreement to assume maintenance and operation of a department of natural resources water access facility, the approved development or improvements needed on that facility may be funded at up to 100 percent.
2. Where feasible and practical, the department will provide funds to cover 100 percent of materials needed for a development project if the local subdivision agrees to provide 100 percent of the labor and equipment to complete that development.
3. Where joint use will be made of a project by commercial interests as well as by recreational boaters, only that portion of a project attributable to the use by recreational boaters will be cost-shared through this program.
4. When, at the discretion of the director, some alternate funding level is deemed appropriate.

571—30.10(452A) Joint sponsorship. Two or more local public agencies may join together to carry out a water access project. However, for the purposes of the grant program, the committee will accept only one local agency as the prime project sponsor. Any written agreements between the local agencies involved in any joint venture will be made a part of any grant application. The application rating system will be applied only to the prime sponsor. The project agreement will be negotiated with the prime sponsor and reimbursements will be paid to it.

571—30.11(452A) Control of project site. In order for a project site to be eligible for a development grant, it must be under the physical control of the grant applicant, either by fee title, lease, management agreement, or easement. The term of a lease, management agreement, or easement must be commensurate with the life expectancy of the proposed development.

571—30.12(452A) Project agreements.

30.12(1) A cooperative agreement approved by the director between the department and the local grant recipient describing the work to be accomplished and specifying the amount of the grant and the project completion date will be negotiated as soon as possible after a grant has been approved. Maximum time period for project completion shall be two years for acquisition or development projects, unless an extension approved by the director is authorized. However, agreements covering land acquisition will be dependent upon receipt of a department-approved appraisal report since assistance will be based on the approved appraised valuation or the actual purchase price, whichever is the lesser. Approved development projects costing over \$25,000 must have plans certified by a registered engineer before an agreement will be issued.

30.12(2) Cooperative agreements between the department and the local project sponsor may be amended to increase or decrease project scope or to increase or decrease project costs and fund assistance. Any increase in fund assistance will be subject to the availability of funds. Amendments to increase scope or fund assistance must be approved by the director before work is commenced or additional costs incurred. A project sponsor may request amendment of the agreement for a previously completed project to allow commercial use under the conditions specified in 571—30.9(452A), paragraph “3.” The director shall have the authority to approve such amendments.

30.12(3) All approved projects, except those in which the project is owned by the state and managed by a local entity, having a grant request in excess of \$25,000 will be presented to the natural resource commission members for their information prior to project initiation. The commissioners may act to disapprove or modify projects.

571—30.13(452A) Reimbursement procedures. Financial assistance from the water access fund will typically be in the form of reimbursement grants which will be made on the basis of the approved percentage of all eligible expenditures up to the amount of the approved grant.

Reimbursement requests will be submitted on project billing forms provided by the department.

30.13(1) For acquisition projects, one copy each of the following additional documentation will be required.

- a. Deed.
- b. Invoices or bills for any appraisal or survey expense.
- c. All applicable canceled checks or warrants.
- d. A certificate of title prepared by the agency’s official legal officer.

30.13(2) For development projects, grant recipients shall provide documentation as required by the department to substantiate all project expenditures.

30.13(3) Reimbursements will be made on real estate contract payments using the following procedures:

a. The grant recipient will submit to the department a copy of the real estate contract which must stipulate that the grant recipient will get physical control of the property on or before the date the first contract payment is made.

b. The grant recipient will submit to the department a copy of any approval which it is required to obtain from any governing body to enter into a real estate contract.

c. The grant recipient will submit to the department an up-to-date title opinion from its official legal officer indicating that the landowner has and can convey clear title to the grant recipient.

d. The grant recipient will submit a project billing with photocopy of the canceled warrant when claiming reimbursement.

e. When final payment has been made and title obtained, the grant recipient will submit to the department a copy of the deed and a certificate of title from its official legal officer. Only one reimbursement request may be submitted if the total project cost is \$10,000 or less. If more than \$10,000, no more than two reimbursement requests may be submitted.

A final reimbursement request shall be submitted within 90 days following the completion date indicated on the cooperative agreement. Failure to do so may be cause for termination of the project with no further reimbursement to the grant recipient.

Ten percent of the total reimbursement due any grant recipient for a development project will be withheld pending a final site inspection or until any irregularities discovered as a result of a final inspection have been resolved. Final site inspections will be conducted by assigned department staff within 30 days of notification by project sponsor that a project is completed.

571—30.14 to 30.50 Reserved.

These rules are intended to implement Iowa Code section 452A.79.

DIVISION II
WATER TRAILS DEVELOPMENT PROGRAM AND LOW-HEAD DAM PUBLIC HAZARD PROGRAM

571—30.51(455A,461A,462A) Definitions. For purposes of this division, the following definitions shall apply:
“*Commission*” means the natural resource commission.

“*Coordinator*” means the staff person of the department responsible for implementing this division.

“*Department*” means the department of natural resources.

“*Director*” means the director of the department of natural resources.

“*Low-head dam*” means a uniform structure across a river or stream that causes an impoundment upstream, with a recirculating current downstream.

“*Navigable waters*” means all lakes, rivers, and streams that can support a vessel capable of carrying one or more persons during a total of six months period in one out of every ten years.

“*Scoring committee*” means the water trails scoring committee, which consists of the coordinator, two department staff members appointed by the director, and two representatives and two alternates of the water recreation community selected by the director.

“*Sponsor*” means an eligible applicant, as described in these rules.

“*Water trail*” means a point-to-point travel system on a navigable water and a recommended route connecting the points.

571—30.52(455A,461A,462A) Purpose and intent. The water trails development program and the low-head dam public hazard program provide funds to assist development of local water trails on navigable waters of the state of Iowa and to support safety projects for low-head dams in the state of Iowa. The programs will be available to fund two types of projects: those that enhance water trails development and recreation and those that are limited to projects that primarily enhance dam safety in order to reduce drownings.

571—30.53(455A,461A,462A) Program descriptions.

30.53(1) *Water trails development program.* The department will provide funds to cities and counties in the state of Iowa to plan and develop water trails throughout the state. The goal of the water trails development program is to assist and encourage the development of community-driven water trails that provide features described in statewide and local plans and herein.

30.53(2) *Low-head dam public hazard program.* The department will provide funds to dam owners, including counties, cities, state agencies, cooperatives, and individuals, within Iowa to undertake projects that warn the general public about drowning hazards related to low-head dams or that remove or otherwise modify low-head dams to create a safer experience on Iowa’s navigable waters and enhance fish passage, aquatic habitat, and navigation.

571—30.54(455A,461A,462A) Application. The coordinator may announce the availability of funds for the programs, designate a time and place for receiving proposals, identify any additional requirements to those enumerated in this division for successful applications, and provide at least 90 days for sponsors to submit such proposals.

571—30.55(455A,461A,462A) Grant requirements. By submitting a proposal pursuant to this division, a sponsor will agree to the following terms and conditions:

30.55(1) *Agreements.* Before funds are disbursed, the sponsor will enter into a project agreement with the department. The agreement shall detail and further define the relationship of the parties.

30.55(2) *Timely commencement of projects.* Funds must be completely expended within two years of the award. If the sponsor is not able to complete a project within the original time period, the sponsor must seek and receive a written extension from the department to receive reimbursements for expended funds. Any advanced funds must be returned after either the completion date or extension date if the department determines the project cannot be completed in a timely manner.

30.55(3) *Expenditures.* The sponsor shall expend all funds in accordance with the sponsor’s governance documents, which may include applicable provisions of the Iowa Code.

30.55(4) *Record keeping.* The sponsor shall keep all project records for three years after the final report is completed. These records are to be available for audit by the state.

30.55(5) *Permits and licenses.* The sponsor must obtain any and all required licenses and permits from federal, state, and local authorities before commencing any activity pursuant to a grant award.

30.55(6) *Control of project site.* The sponsor must demonstrate that the project site or sites are under the physical control of the sponsor or its partners, either by fee title, lease, management agreement, or easement.

The sponsor assumes long-term maintenance of the integrity of the project and shall enter into such agreements with landowners or other relevant parties as may be necessary to ensure such long-term maintenance.

571—30.56 Reserved.

571—30.57(455A,461A,462A) Proposal evaluation.

30.57(1) Proposals will be evaluated by the scoring committees for each program.

30.57(2) Conflict of interest. An individual who is a member, volunteer, or employee of an entity that has submitted a project shall not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual's place.

571—30.58(455A,461A,462A) Sponsor eligibility.

30.58(1) *Water trails development program.* The water trails development program is limited to local divisions of Iowa government.

30.58(2) *Low-head dam public hazard program.* The low-head dam public hazard program is available to dam owners or their agents, including counties, cities, state agencies, cooperatives, nonprofit organizations, and individuals.

571—30.59(455A,461A,462A) Project eligibility.

30.59(1) *Water trails development program.* The scoring committee will evaluate proposals for water trails development projects. Eligible projects may include master planning, engineering, and development such as water accesses with parking and related easement and property acquisition; navigational, interpretive, and warning signs; portages to aid navigation or avoid hazards; related amenities adjacent to the water trail such as access roads, canoe and bike racks, restrooms, picnic areas, campsites, and water-accessible cabins; and promotional, educational, and educational materials such as mapping, brochures, kiosks, display panels, and online information.

30.59(2) *Low-head dam public hazard program.* The scoring committee will evaluate proposals for projects that enhance safety and fish passage at low-head dams on or adjacent to navigable waters in Iowa. The department may divide grants into categories and scoring criteria corresponding to project types, such as warning signage, feasibility studies, engineering, and construction.

571—30.60(455A,461A,462A) Cost-share requirements.

30.60(1) *Water trails development program.* Grant proposals for water trails development projects require a minimum of 20 percent cost share of the total project to be provided by the sponsor.

30.60(2) *Low-head dam public hazard program.* Grant proposals for low-head dam safety and mitigation projects require a minimum of 50 percent cost share of the total project to be provided by the sponsor.

571—30.61(455A,461A,462A) Evaluation criteria.

30.61(1) *Water trails development program.* The scoring committee will prioritize projects based on impacts for public use, local and private resource contributions, support of statewide and local plans and guidelines, public acceptance, safety, location on a designated or planned water trail, and annual priorities established by the coordinator.

30.61(2) *Low-head dam public hazard program.* The scoring committee will prioritize projects based on public safety, stream health, fish passage, aesthetic, recreational and navigational improvements, urgency of failure, local contributions and stakeholder support, and appropriate cost and scale.

These rules are intended to implement Iowa Code chapters 455A, 461A, and 462A and section 464A.11 and 2008 Iowa Acts, House File 2700.

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

34. Chapter 31, “Publicly Owned Lakes Watershed Program” – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action for Chapter 31. This Notice of Intended Action is the result of the Land & Waters Bureau’s Executive Order 10 rule review.

Chapter 31 provides the procedure to establish a priority list of watersheds above significant public lakes where private landowners are eligible to receive cost-share moneys to establish soil and water conservation practices. For larger context, as part of annual appropriations to the Iowa Department of Agriculture and Land Stewardship, the State allocates cost-share moneys for approved soil and water conservation practices on watersheds above certain publicly owned lakes. These areas must first be identified on a priority list established by the Department. These practices provide a benefit to the landowner through soil conservation and to the public through improved water quality in the affected public lakes.

Travis Baker, Land & Waters Bureau Chief
Conservation and Recreation
Meeting Date: November 9, 2023

Attached: Chapter 31 - NOIA

NATURAL RESOURCE COMMISSION [571]

Notice of Intended Action

Proposing to rescind and replace chapter

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 31, “Publicly Owned Lakes Program,” Iowa Administrative Code and adopt a new Chapter 31, “Publicly Owned Lakes Watershed Program.”

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 456A.24(5) and 456A.33A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 456A.33A.

Purpose and Summary

Chapter 31 provides the procedure to establish a priority list of watersheds above significant public lakes where private landowners are eligible to receive cost-share moneys to establish soil and water conservation practices. For larger context, as part of annual appropriations to the Iowa Department of Agriculture and Land Stewardship, the State allocates cost-share moneys for approved soil and water conservation practices on watersheds above certain publicly owned lakes. These areas must first be identified on a priority list established by the Department of Natural Resources (Department). These practices provide a benefit to the landowner through soil conservation and to the public through improved water quality in the affected public lakes. Consistent with Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2)’s five-year rule review, this chapter was edited for length and clarity.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 571 Iowa Administrative Code chapter 11.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

George Antoniou
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Email: george.antoniou@dnr.iowa.gov

Public Hearings

Two public hearings at which persons may present their views orally will be held via conference call as follows. Persons who wish to attend a conference call should contact George Antoniou via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at a conference call public hearing must submit a request to Mr. Antoniou prior to the hearing to facilitate an orderly hearing.

January 23, 2024
12 noon - 1 p.m.

via video/conference call

January 30, 2024
12 noon - 1 p.m.

via video/conference call

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action proposed:

ITEM 1. Rescind 571—Chapter 31 and adopt the following **new** chapter in lieu thereof:

CHAPTER 31

PUBLICLY OWNED LAKES WATERSHED PROGRAM

571—31.1(456A) Purpose. The purpose of this chapter is to set forth the policy and procedures to be utilized by the department of natural resources to establish a priority list of watersheds above significant public lakes where private landowners are eligible to receive cost-share moneys to establish soil and water conservation practices pursuant to Iowa Code chapter 161A.

571—31.2(456A) Definitions.

“*Commission*” means the natural resource commission.

“*Department*” means the department of natural resources.

“*Division*” means the department of agriculture and land stewardship, division of soil conservation and water quality.

“*Program*” means the publicly owned lakes watershed program.

“*Significant public lake*” means a lake meeting the criteria set forth in Iowa Code section 456A.33B(1)“c.”

“*Watershed*” means those lands that drain into a significant public lake.

571—31.3(456A) Priority of watersheds. Pursuant to Iowa Code section 456A.33A, the commission shall annually establish a priority list of watersheds above existing or proposed significant public lakes.

571—31.4(456A) Application. Applications shall be submitted annually, as specified by the division. The division will then forward received applications to the department for determination of program eligibility. The department will review applications based on compliance with application requirements.

These rules are intended to implement Iowa Code section 456A.33A.

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

35. Chapter 33, “Resource Enhancement and Protection Program: County, City, Private Open Spaces and Conservation Education Grant Programs” – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action for Chapter 33. This Notice of Intended Action is the result of the Conservation & Recreation Division’s Executive Order 10 rule review.

Chapter 33 defines the processes and requirements for entities to receive funding through the private cost-sharing funds in the county, city, private open spaces and conservation education grant programs of the Resource Enhancement and Protection Fund (REAP). REAP is funded through a state appropriation and, by law, those funds must protect Iowa’s natural resource heritage of air, soils, waters, and wildlife for the benefit of present and future citizens.

Michelle Wilson, REAP Coordinator
Conservation and Recreation
Meeting Date: November 9, 2023

Attached: Chapter 33 - NOIA

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing to rescind and replace chapter

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 33, “Resource Enhancement and Protection Program: County, City, and Private Open Spaces Grant Programs” and adopt a new Chapter 33, “Resources Enhancement and Protection Program: County, City, Private Open Spaces and Conservation Education Grant Programs.”

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 455A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code Chapter 455A, subchapter II.

Purpose and Summary

New Chapter 33 consolidates the processes and requirements for entities to receive funding through the private cost-sharing funds in the county, city, private open spaces and conservation education grant programs of the Resource Enhancement and Protection Fund. These provisions were formerly in two administrative chapters (571-12, Div. I and 571-33). They will now be located in new Chapter 33.

Consistent with Executive Order 10, Iowa Administrative Bulletin Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2)’s five-year rule review, this chapter was edited for length and clarity. Additionally, several provisions in the merged chapters were repetitive to underlying statute and have been removed.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 pm on January 26, 2024. Comments should be submitted electronically to Michelle Wilson at Michelle.Wilson@dnr.iowa.gov.

Public Hearing

Two public hearings will be held on the following dates:

January 18, 2024; 1:30-3:30PM; Wallace State Office Building, Conference room 5W (in person only)

January 25, 2024; 1:30–3:30PM; virtual meeting via Zoom

The January 25, 2024 hearing will be a virtual meeting only. A link for the virtual meeting will be provided to those who make a request to take part in the virtual hearing. The request for the link shall be submitted to Ms. Wilson by 9:00 am on January 25, 2024.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule making action proposed:

ITEM 1. Rescind 571—Chapter 33 and adopt the following **new** chapter in lieu thereof.

CHAPTER 33
RESOURCE ENHANCEMENT AND PROTECTION PROGRAM: COUNTY, CITY,
PRIVATE OPEN SPACES AND CONSERVATION EDUCATION GRANT PROGRAMS
DIVISION I GENERAL
PROVISIONS

571—33.1(455A) Purpose. The purpose of these rules is to define procedures for the administration of the private cost-sharing funds within the open spaces account, the county conservation account, the city park and open spaces account, and the conservation education grant program of the resource enhancement and protection (REAP) fund.

571—33.2(455A) Resource enhancement policy. The REAP program and its various elements shall constitute a long-term integrated effort to wisely use and protect Iowa's natural resources through the acquisition and management of public lands; the upgrading of public park and preserve facilities; environmental education, monitoring, and research; and other environmentally sound means. Expenditure of funds from the county conservation account, the city park and open spaces account and the private cost-sharing portion of the open spaces account shall be in accord with this policy.

571—33.3(455A) Definition. In addition to the definitions in Iowa Code section 455A.1, the following definition shall apply to this chapter:

“Open spaces” means those natural or cultural resource areas that contain natural vegetation, fish, or wildlife, or have historic, scenic, recreation and education value. Examples of open spaces in cities and towns include, but are not limited to, parks, riverfronts and town squares. In rural areas, open spaces include, but are not limited to, such areas as woodlands, prairies, marshlands, river corridors, lake shores, parks and wildlife areas.

571—33.4(455A) Grant applications, general procedures.

33.4(1) Applications for all grant programs shall be made on forms provided by the department.

33.4(2) Applications shall provide sufficient detail as to clearly describe the scope of the project. Any application that is not complete at the time of project review and scoring, or for which additional pertinent information has been requested and not received, shall not be considered for funding.

33.4(3) Application deadlines are the same for county, city, and private open space grant programs. Applications will be reviewed and projects selected for funding at least once per year. The department shall publish on its website the date and time for submitting a funding proposal, providing at least 90 days' notice. Applications must be submitted to the department as described on the website.

33.4(4) Joint applications are permitted. One entity must serve as the primary applicant. Joint projects sponsored by entities competing for funds from different REAP accounts (e.g., a joint city/county project) are allowable. Applications must clearly spell out the respective shares of project costs to be derived from various REAP accounts if the project is approved for funding. Any cooperative agreement between joint applicants must be provided as a part of the application.

33.4(5) Applicants shall not use other department grants, such as land and water conservation fund or wildlife habitat promotion with local entities, as leveraged funds for a project requesting REAP funds. Likewise, REAP funds shall not be used as matching funds for applications to other grants.

571—33.5(455A) Appraisals. Appraisal reports must be approved or disapproved in writing by the director. Grants may include incidental costs associated with the acquisition, including, but not limited to, costs for appraisals, abstracts, prorated taxes, deed tax stamps, recording fees and any necessary surveys and fencing.

571—33.6(455A) Groundwater hazard statements. Grantees must obtain a properly completed groundwater hazard statement on all proposed acquisitions before the acquisition is completed. The statement must be filed with the department and county recorder pursuant to Iowa Code section 558.69. Prior to the acquisition of any property that has an abandoned or unused well, hazardous waste disposal site, solid waste disposal site, or underground storage tank, the grantee must file with the department a plan that details how these conditions will be managed to best protect the environment. This plan must be approved in writing by the director before the land is acquired.

571—33.7(455A) Rating systems not used. During any funding cycle when total grant requests are less than the allotment available, the rating system need not be applied. All applications will be reviewed by the appropriate committee for eligibility to ensure they meet minimum scoring requirements and to ensure consistency with program policy and purposes.

571—33.8(455A) Applications not selected for grants. All applications for projects considered eligible but not scoring high enough to be awarded a grant immediately will be retained by the department until two months prior to the next regular submittal date during which time they may be funded. If not approved for funding by that time, applicants will be notified by the department in writing. The original application will be returned to applicants only upon request. The applicant may resubmit the project or an amended version of the project for scoring and consideration during the next application cycle by resubmitting an original or amended application and five copies by the respective deadline.

571—33.9(455A) Similar development projects. An application for a development project grant may include development on more than one area if that development is of a like type (e.g., tree and shrub plantings).

571—33.10(455A) Timely commencement and completion of projects. Grant recipients are expected to commence and complete projects in a timely and expeditious manner. A project period commensurate with the work to be accomplished will be established and included in the project agreement. Project sponsors may receive up to 90 percent of approved grant funds at the start of the project period. Failure to initiate the project or to complete it in a timely manner may be cause for termination of the project, return of unused grant funds at the time of termination, and cancellation of the grant by the department.

571—33.11(455A) Waivers of retroactivity. Normally, grants for acquisitions or developments completed prior to application scoring will not be approved. However, an applicant may make written request for a waiver of retroactivity to allow project elements to be considered for grant assistance. Waivers will be granted in writing by the director and receipt of a waiver does not ensure funding, but only ensures that the project will be considered for funding along with all other applications.

571—33.12(455A) Project amendments. Projects for which grants have been approved may be amended, if funds are available, to increase or decrease project scope or to increase or decrease project costs and grant amount. All amendments must be approved by the appropriate project review and selection committee and by the director. Amendments that result in an increase in the cost of the project in excess of \$25,000 or 25 percent of the approved cost, whichever is greater, or that involve a change in the project purpose also must be approved by the commission.

571—33.13(455A) Record keeping and retention. Grant recipients shall keep adequate records relating to the administration of a project, particularly relating to all incurred expenses. These records shall be available for audit by representatives of the department and the state auditor's office. All records shall be retained in accordance with state laws.

571—33.14(455A) Penalties. Whenever any property, real or personal, acquired or developed with REAP funds passes from the control of the grantee or is used for purposes other than the approved project purpose, it will be considered an unlawful use of the funds. If a grantee desires to use the approved funds for a purpose other than the approved project purpose that is an approved use of funds under the provisions of Iowa Code chapter 455A and these rules, the grantee shall seek an amendment to the project purpose by following the provisions provided in this rule. The department shall notify the grantee of any such violation.

33.14(1) Remedy. Funds used without authorization, for purposes other than the approved project purpose, or unlawfully must be returned to the department for deposit in the account of the REAP fund from which they were originally apportioned. In the case of diversion of property acquired with REAP fund assistance, property of equal value at current market prices and with similar open space benefits may be acquired with local, nongrant funds to replace it. Such replacement must be approved by the appropriate review and selection committee and the director. In the case of diversion of personal property, the grantee shall remit to the department at the current valuation of the real estate. The grantee shall have a period of two years after notification by the department in which to correct the unlawful use of funds. The remedies provided in this subrule are in addition to others provided by law.

33.14(2) Land disposal. Whenever the department, and, if a city or county, the grantee, determine that land acquired or developed with REAP fund assistance is no longer of value for the program purposes, or that the grantee can show good cause why the land should no longer be used in accord with the approved project purpose, the land may be disposed of with the director's approval and the proceeds therefrom used to acquire or develop an area of equal value, or the grantee shall remit to the department funds at the current valuation of the real estate for inclusion in the account from which the grant was originally made. If land acquired through the private grant program is determined to be no longer of interest by the state, the

proposed dispersal of the property shall be reviewed by the grantee, and the grantee shall have the first right of refusal on an option to take title to the property in question. For projects that only received developmental money, the life of the project is deemed closed after a period of 20 years from the date of the original grant; repayment of the grant will not be required.

33.14(3) *Ineligibility.* Whenever the director determines that a grantee is in violation of this rule or in violation or noncompliance with other grants administered by the department, that grantee shall be ineligible for further assistance until the matter has been resolved to the satisfaction of the commission.

571—33.15(455A) *Public communications.* Grant recipients shall participate in public communications activities to inform the public of the REAP program and of their particular project. The project will not be considered successfully completed, for purposes of this rule, until evidence is provided to the department REAP coordinator that the following requirements have been met. The remaining 10 percent payment of the grant total will not be issued until such evidence has been provided. Evidence includes but is not limited to photographs showing sign placement, newspaper or magazine clippings, printed brochures or flyers available to the public, exhibits for public display and other related materials. Information gathered from site inspections by the department may also be considered acceptable evidence.

33.15(1) *Signs.* Grant recipients are required to adequately display the 12-inch by 12-inch REAP signs, provided by the department at no charge, on project locations where appropriate so that users of the project can readily see that REAP is at least partially responsible for the project. The REAP signs will be maintained and replaced as necessary as long as the department has signs available.

33.15(2) *Dedication ceremony.* Grant recipients shall hold a public meeting or event to dedicate the project. Information provided during the event shall include information in regard to the REAP program and its role in supporting the project. This information shall also be provided to local news media by use of a news release. Local and state elected officials shall be invited to attend and participate.

33.15(3) *Grants include public communications plan.* A description of the public communications plan shall be included in every project submitted as a grant request. Grant recipients shall carry out the plan if their project is funded.

DIVISION II COUNTY GRANTS

571—33.16(455A) *County conservation account.* All funds allocated to counties under this program may be used for land easements or acquisitions, capital improvements, stabilization and protection of resources, repair and upgrading of facilities, environmental education, and equipment; except as restricted by Iowa Code section 455A.19.

33.16(1) *Expenditure guidelines.* All expenditures and restrictions shall be in accordance with Iowa Code section 455A.19. Expenditure of funds for personnel costs are allowed by Iowa Code section 455A.19, but only when personnel are clearly directed toward the purpose and policy of the REAP program. Personnel costs are not allowable under the competitive grant program. Up to 20 percent of a total project's cost may be used to cover costs of engineering and design work or other consultant fees directly associated with the project.

33.16(2) *Competitive grant project planning and review committee.*

a. The makeup of this committee is as follows: two representatives of the department appointed by the director; two county conservation board directors appointed by the director of the department with input from the Iowa association of county conservation boards; and one member selected every three years by a majority vote of the director's appointees. Additionally, there shall be at least two alternates designated by the director with input from the Iowa association of county conservation boards. The members shall select a chairperson at the first meeting during each calendar year. Terms of appointment to the committee shall be on a three-year staggered term basis.

b. Conflict of interest. An individual who is a member, volunteer, or employee of an entity that has submitted a project shall not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual's place.

33.16(3) Competitive grant project selection criteria. Under the competitive grant program, a project planning and review committee shall establish criteria and scoring systems to be utilized in project evaluation. The criteria and scoring system shall be submitted to the director and natural resource commission for approval. Criteria and scoring systems must be distributed to all counties at least 90 days prior to the project application deadline. In order to be eligible for award, an applicant must receive, at a minimum, 50 percent of the total allowable points.

33.16(4) Availability of funds. Those funds allocated on a per capita basis and those awarded in the competitive grant program shall be allocated only to counties dedicating property tax revenue at least equal to 22 cents per \$1,000 of the assessed value of the county's taxable property to conservation purposes. Annual certification from the county auditor of each county shall be made on forms provided by the department. The certification shall include information on total assessed value of taxable property in the county; budget of the county conservation board, including a distinction of that which is derived from sources other than property taxes; and a schedule of expenditures and staffing. A copy of this certification must be filed with the director. REAP program funds received shall not reduce or replace county tax revenues appropriated for county conservation purposes.

a. County conservation purposes include and are limited to the following activities and responsibilities:

(1) Operation and maintenance of real property and equipment under the jurisdiction and control of the county conservation board, and utilized by the public for museums, parks, preserves, parkways, playgrounds, recreational centers, county forests, county wildlife areas, establishment and maintenance of natural parks, multipurpose trails, restroom facilities, shelter houses and picnic facilities and other county conservation and recreational purposes as provided in Iowa Code section 350.4.

(2) The acquisition and development of real estate utilized for purposes authorized by Iowa Code chapter 350. The cost of planning, engineering or architectural services directly related to acquisition and development is allowable as a county conservation purpose.

(3) The county conservation board's share of joint operations of facilities and programs as described in Iowa Code section 350.7. The cost of the county's weed control program, as required by Iowa Code chapter 317, may specifically be included as a county conservation purpose if the county conservation board director or a member of the county conservation board staff is appointed county weed commissioner by the board of supervisors, and is given full authority to plan and accomplish an environmentally sound vegetative management program.

(4) The administration of the county conservation program, including and limited to the expenses of board members, salary and expenses of the county conservation board director, and related clerical, technical and support costs charged directly to the county conservation board's budget.

(5) Any reimbursement from the county conservation board's budget for the actual expense of county-owned equipment, use of county equipment operators, supplies, and materials of the county, or the reasonable value of county real estate made available for the use of the county conservation board as provided by Iowa Code section 350.7. Such reimbursements shall be supported by daily time and activity records detailing the hourly charge for equipment and operator use, the specific quantities and cost of materials used, or a fee appraisal prepared by an independent fee appraiser and approved by the director.

(6) No other costs, including indirect costs as computed for purposes of federal grant programs or distribution of general county overhead, are allowable as a county conservation purpose.

33.16(5) Certification procedures. The annual certification that a county is dedicating property tax revenue at least equal to 22 cents per \$1,000 of the assessed value of the county's taxable property to conservation purposes shall be submitted by the county auditor to the department on forms provided by the department. Certification is based upon actual expenditures for conservation purposes during the previous fiscal year. Submission of a certification by October 1 of any year will qualify the county for per capita funds held in reserve for that county and establish eligibility for participation in the competitive grant program. The certification will remain in effect through June 30 of the following year. Counties that fail to meet this requirement for any given fiscal year are ineligible for that fiscal year. A county that is ineligible can reestablish eligibility for a future fiscal year through the certification process.

The levy of property taxes for county conservation board purposes shall be calculated in the following

manner. First, the actual expenditures for all county conservation purposes for the fiscal year shall be determined. Next, the total of all receipts derived from county conservation activities and all grants and donations received or billed for from whatever source for county conservation purposes shall be determined. The total of all receipts and grants shall then be subtracted from the total expenditures. This result shall then be divided by the total taxable value of all county property to determine the amount per thousand utilized to support county conservation purposes.

Transfers of property tax receipts to the reserve account established under Iowa Code section 350.6 shall be included as expenditures in the fiscal year that transfers occur for purposes of the calculation of the certified levy. Withdrawals from the reserve account and expenditures and receipts reflected in the special resource enhancement account created as provided in Iowa Code section 455A.19 shall not be included in the calculation of the certified levy.

If a dispute arises over the appropriateness of a county expenditure as a county conservation purpose or the accuracy and correctness of the certified levy by the county auditor, the director shall notify the state auditor and request that a recommendation be included in the next audit report. Upon receipt of the audit report, the director shall make a final determination and adjust subsequent distributions to the county or request reimbursement from the county as necessary.

33.16(6) *Fund distribution schedule.* Funds from the county resource account which are distributed on a per capita and per county basis shall be distributed by the department to each eligible county quarterly.

33.16(7) *Special account.* Each county board of supervisors shall create a special resource enhancement account in the office of the county treasurer, and the county treasurer shall credit all REAP funds from the state to that account.

REAP funds received by the county shall not be used to fund any program or activity that was funded in prior years by other county revenues. Expansion of previously funded programs is permitted. Each county board director, as part of financial documentation regarding the special resource enhancement and reserve accounts, shall document that county expenditures of REAP funds supported only programs and activities not funded in prior years by county revenues other than REAP funds. For purposes of this documentation, expenditures from the special resource enhancement account for land acquisition shall be viewed as a new program and not a continuation of previous land acquisition programs. Expenditures from the special resource enhancement account for routine maintenance of facilities must involve only facilities previously constructed or otherwise acquired with REAP funds. REAP funds may be used for renovation, expansion or upgrading of facilities regardless of the source of funding for the original facilities, except as prohibited by Iowa Code section 455A.19. Likewise, expenditures from the special resource enhancement account for equipment, supplies, materials, or staff salaries must directly relate to the establishment or expansion of programs or activities with REAP funds, and such programs or activities shall not have been previously funded with other county revenues.

Failure to adequately document expenditures from the special resource enhancement account or to provide the documentation as previously described regarding these expenditures upon request by the state auditor or department staff will result in the county losing its eligibility to receive per capita and competitive grants from the REAP program for a period of one to three years. A county which loses its eligibility may reestablish its eligibility by certifying that the county tax dollars dedicated to county conservation purposes during the previous fiscal year were at least 22 cents per \$1,000 of assessed taxable property.

DIVISION III CITY GRANTS

571—33.17(455A) Competitive grants to cities. Fifteen percent of available funds in the REAP fund (after the \$350,000 annual allocation to the conservation education board and 1 percent of revenues to the fund are allocated to the administration fund) shall be allocated annually to the city park and open spaces grant account. That 15 percent shall be divided into three portions according to the percentage of the state's urban population in each category, with each portion available on a competitive basis to cities falling within one of the following three size categories: (1) cities of less than 2,000; (2) cities between 2,000 and 25,000; and (3) cities larger than 25,000. Funds shall be initially apportioned to each category as per this rule. If at the time of project review and scoring there are funds available in any category which exceed the requests for grants in

that category, those funds may, at the director’s discretion, be transferred to another category where requests exceed the funds available.

33.17(1) Eligible sponsors. Any incorporated city or town in the state may make application for a grant.

33.17(2) Grant ceilings. Incorporated cities and towns are eligible to receive annual grants from the REAP fund in accordance with the following schedule:

Population	Maximum
0 — 1,000	\$ 50,000
1,001 — 5,000	75,000
5,001 — 10,000	100,000
10,001 — 25,000	125,000
25,001 — 50,000	150,000
50,001 — 75,000	200,000
over 75,000	300,000

The grant ceiling may be waived upon approval by the director if (1) the project is regional in nature or is projected to serve a minimum of 100,000 people; or (2) the project cannot be staged over a multiyear period so that a separate grant application might be submitted each year.

33.17(3) Review and selection committee.

a. The director shall appoint a five-member review and selection committee to evaluate project applications. This committee shall include one member representing each of the three size classes of cities (e.g., one from a city of less than 2,000, one from a city of 2,000 to 25,000, and one from a city of over 25,000). The director shall request a list of candidates from the Iowa league of cities and Iowa parks and recreation association. The remaining two members of the committee shall be a representative of the department and an at-large member. Additionally, there shall be at least two alternates designated by the director from the candidates list provided by the Iowa league of cities and the Iowa parks and recreation association. The committee shall elect its own chairperson from its members. Members shall serve three-year staggered terms.

b. Conflict of interest. An individual who is a member, volunteer, or employee of an entity that has submitted a project shall not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual’s place.

33.17(4) Project selection criteria. A project planning and review committee shall establish criteria and scoring systems to be utilized in project evaluation. The criteria and scoring system shall be submitted to the director and natural resource commission for approval. Criteria and scoring systems must be distributed to all counties at least 90 days prior to the project application deadline. In order to be eligible for award, an applicant must receive, at a minimum, 50 percent of the total allowable points.

DIVISION IV PRIVATE GRANTS

571—33.18(455A) Private cost-sharing program. At least 10 percent of the funds placed in the open spaces account shall be made available for cost sharing with private entities for cost sharing at a maximum level of 75 percent.

33.18(1) Protection defined. Protection is defined as the purchase of all or a portion of the rights associated with ownership of real property so as to ensure that open space values associated with that property are protected in perpetuity. Protection methods, in order of preference, include, but are not limited to, fee title acquisition, purchase of easements, or other mechanisms that provide long-term assurance of open space protection. Title for acquired properties shall be vested in the state of Iowa, and projects must be consistent with priorities established by the department.

33.18(2) Eligibility to participate. Any trust, foundation, incorporated conservation organization, private individual, corporation or other nongovernmental group able to provide funds or interest in land sufficient to equal at least 25 percent of a proposed protection project may submit or cause to have submitted a project for funding consideration. Except however, a private organization established to benefit a specific governmental

entity is not eligible to submit a project. Governmental entities are also not eligible to submit a project.

33.18(3) *Grant amount.* The department will provide grants for up to 75 percent of the appraised cost of the land plus incidental acquisition costs. Costs in excess of these must be borne by the grantee.

33.18(4) *Project review and selection committee.*

a. The director shall appoint a committee to review and score projects. The committee shall include the following: three persons representing the private sector and two alternates selected from a pool of potential names as submitted to the director by the various private eligible groups; administrator of the conservation and recreation division of the department, or the administrator's designee; and the bureau chiefs of the department's wildlife bureau and parks, forests, and preserves bureau or their designees. The committee shall elect its own chairperson from its members. The committee will report to the director the order in which proposed projects were ranked using criteria as specified in subrule 33.18(5).

b. Conflict of interest. An individual who is a member, volunteer, or employee of an entity that has submitted a project shall not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual's place.

33.18(5) *Project selection criteria.* A project planning and review committee shall establish criteria and scoring systems to be utilized in project evaluation. The criteria and scoring system shall be submitted to the director and natural resource commission for approval. Criteria and scoring systems must be distributed to all counties at least 90 days prior to the project application deadline. In order to be eligible for award, an applicant must receive, at a minimum, 50 percent of the total allowable points.

33.18(6) *Department rejection of applications.* The director may remove from consideration by the project review and selection committee any application for funding the acquisition of property that the department determines is not in the state's best interest for the department to manage. The department's basis for determining such interest may include, but not be limited to, inaccessibility to the project area, environmental contamination and unacceptable use restrictions, management cost, the proximity to other governmental entities that may impose use restrictions or special tax assessments on the area, or lack of conformance with priorities established by the department. Examples of use restrictions can include prohibitions on hunting, trapping, timber harvest, vegetation management, and easements that affect the range of public use and activities that could otherwise be allowed.

33.18(7) *Certification of availability of funds.* Applicants must certify at the time of application that sufficient funds, land, letter of credit, or other acceptable financial instrument is available from private sources to cover the private share of the project.

33.18(8) *Acquisition responsibilities and process.* The grantee is responsible for obtaining an appraisal that is approvable by the department and for obtaining the director's written approval of that appraisal. The grantee is responsible for negotiating an option to purchase the property with the seller. If the option contains any requirements for action by the department or restrictions on the use of the land, those requirements or restrictions must be approved by the director and the commission before they are incorporated into the option. The grantee is responsible for closing the transaction, recording the transaction with the appropriate county recorder, and providing the department with a copy of the deed naming the department as owner and a title vesting certificate. The director may, under special conditions, allow title to be vested in the name of a city or county. Necessary assurances may include the placement of special conditions on that title, the existence of an approved, long-term management agreement or other measures as deemed appropriate by the commission. The department may provide assistance at the request of the grantee, or at the director's recommendation.

DIVISION V CONSERVATION EDUCATION BOARD

571—33.19(455A) Conservation education program policy. The conservation education program board shall constitute a long-term integrated effort to support conservation education for Iowa educators and students. To support this policy, the board may establish guidelines from time to time to direct applicants to priority areas for funding and shall give preference to grants that meet these guidelines. The board may provide funding for activities that expand the impact of the project and provide accessibility for widespread adoption of programs for implementation by others. The board may provide funding for tracking of project implementation and evaluation.

33.19(1) Conservation education program board. The board will review and amend, as needed, the review and selection criteria for competitive grants and policies of conduct.

33.19(2) Definitions. The following definitions shall apply to this division:

“Board” means REAP conservation education program board.

“Conservation education programs” means programs developed for formal (K-12 students), nonformal (preschool, adult and continuing education) and higher education (postsecondary and adult) programs, within the subject areas of natural resource conservation and environmental protection.

“Educator” means any person who teaches environmental/conservation education. This may apply to certified teachers, governmental or private naturalists, education specialists, or others so determined by the board.

“Environmental/conservation education materials” means materials that are developed or produced that provide knowledge, skills, processes and strategies that enhance Iowa citizens’ understanding of natural resources conservation and environmental issues.

“Stipends for Iowa educators who participate in innovative conservation education programs” may include tuition costs; acceptable food and lodging costs; substitute teacher costs; mileage expenses or separate allowances when applicable for educators to attend board-approved environmental/conservation education workshops, in-service programs and conferences; and other costs as approved by the board.

571—33.20(455A) Eligibility for funds. In years in which funds are made available, grant applications may be submitted by institutions of higher learning; government agencies, including local school districts; nonpublic schools; area education agencies; organizations; and individuals with an Iowa residence. Preference shall be given to Iowa participants.

571—33.21(455A) Grant applications, general procedures.

33.21(1) Applications for all grant programs shall be made on forms provided by the department.

33.21(2) The board shall establish criteria and scoring systems to be utilized in the project evaluation and approved during a regularly scheduled board meeting. Criteria and scoring systems must be distributed to all potential applicants at least 90 days prior to the project application deadline.

33.21(3) Joint applications are permitted. One entity must serve as the primary applicant. Joint projects sponsored by entities (e.g., an organization or institution, and an area education agency) competing for funds from different REAP accounts are allowable. Applications must clearly spell out the respective shares of project costs to be derived from various REAP accounts if the project is approved for funding. Any cooperative agreement between joint applicants must be provided as a part of the application.

33.21(4) Similar development projects. An application for a conservation education program grant may serve more than one target population (e.g., scouting and K-6 classrooms).

571—33.22(455A) Grantee responsibilities.

33.22(1) Timely completion of projects. Projects are expected to be completed in a 12-month time period; however, up to 18 months may be allowed by the board for grants difficult to accomplish in 12 months. The board may consider extending the time period of a grant upon request.

33.22(2) Record keeping and retention. Grant recipients shall keep adequate records relating to the administration of a project, particularly all incurred expenses. These records shall be available for audit by representatives of the department and the state auditor’s office. All records shall be retained in accordance with state laws.

33.22(3) Midterm and final reports. Grantees shall provide midterm and final reports that include information detailing progress toward goals and objectives, expenditures and services on forms provided for those reports. The reports shall clearly identify the status of fundraising relevant to the approved project and problems that may cause a delay in completing the project within the approved project period. Failure to submit reports by the due date shall result in suspension of financial payments to the grantee until the time that the report is received. Grants are considered active until the board notifies the grantee that the grant has been terminated or completed by the terms of the grant. At the completion of the project and prior to the final payment, a final written report shall be submitted by the grantee to the board. The final 10 percent payment shall be withheld

pending this report, which shall include a 75- to 100-word summary of project results. This summary will be posted on the state environmental education website. No new awards shall be made for continuation programs when there are delinquent reports from prior grants.

33.22(4) *Contract revisions.* The grantee shall immediately inform the board of any revisions in the project budget in excess of 10 percent of a line item. The board and the grantee may negotiate a revision to the contract to allow for expansion or modification of services, but shall not increase the total amount of the grant. The board retains the authority to approve or deny contract revisions.

33.22(5) *Nonapplication of copyright.* Program materials developed from REAP funds for conservation education materials shall bear the REAP logo. However, materials developed under this grant shall not be copyrighted by the grantee unless the board gives permission.

33.22(6) *Restrictions.* Funds allocated under this chapter shall not be used for out-of-state travel or equipment, such as typewriters, computers, and hardware, or for construction, renovation, or remodeling costs unless specifically approved by the board.

571—33.23(455A) Board review and approval. The board or its designee shall review and rank projects for funding, and funds shall be awarded on a competitive basis. If delegated, the reviewing, scoring and ranking of projects will be presented to the board as recommendations. The board may approve or deny funding for any project or part thereof.

33.23(1) In each year that funds are made available by the Iowa legislature, payments shall be as follows:

a. For grant periods in excess of 90 days, up to 50 percent shall be paid at the beginning of the grant period, up to 40 percent at the midpoint of the grant period, and the balance upon successful completion as determined by the board.

b. For grant periods of fewer than 90 days, 75 percent shall be paid at the beginning of the grant period and the balance at successful completion as determined by the board.

33.23(2) The board shall notify successful applicants and shall provide a contract for signature. This contract shall be signed by an official with authority to bind the applicant and shall be returned to the department prior to the award of any funds under this program.

571—33.24(455A) Waivers of retroactivity. Normally, grant program developments completed prior to application scoring will not be approved. However, an applicant may make written request for a waiver of retroactivity to allow project elements to be considered for grant assistance. Waivers will be issued in writing by the board. Receipt of a waiver does not ensure funding, but only ensures that the project will be considered for funding along with all other applications.

571—33.25(455A) Penalties. Whenever any property, real or personal, acquired or developed with REAP funds passes from the control of the grantee or is used for purposes other than the approved project purpose, it will be considered an unlawful use of the funds. If a grantee desires to use the approved funds for a purpose other than the approved project purpose, the grantee shall seek an amendment to the project purpose. The board shall notify the grantee of any apparent violation.

571—33.26(455A) Remedy. Funds used unlawfully, without authorization, or for other than the approved project purpose shall be returned to the department within the period specified by the board or director. The remedies provided in this rule are in addition to others provided by law.

571—33.27(455A) Termination for convenience. The contract may be terminated in whole or in part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the future expenditure of funds. The parties shall agree upon the termination conditions, including the effective date, and, in the case of partial terminations, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date and shall cancel as many outstanding obligations as possible.

571—33.28(455A) Termination for cause. The contract may be terminated in whole or in part at any time before the date of completion whenever it is determined by the board that the grantee has failed to comply

substantially with the conditions of the contract. The grantee shall be notified in writing by the department of the reasons for the termination and the effective date. The department shall administer the conservation education grants contingent upon their availability. If there is a lack of funds necessary to fulfill the fiscal responsibility of the conservation education grants, the contracts shall be terminated or renegotiated. The board may terminate or renegotiate a contract upon 30 days' notice when there is a reduction of funds by executive order. The grantee shall not incur new obligations for the terminated portion after the effective date and shall cancel as many outstanding obligations as possible.

33.28(1) *Failure to initiate or complete project.* Failure to initiate or complete the project in a timely manner shall be cause for termination of the project by the board. The grantee shall return unused grant funds at the time of termination.

33.28(2) *Ineligibility.* Whenever the board determines that a grantee is in violation of these rules, that grantee shall be ineligible for further assistance until the matter has been resolved to the satisfaction of the board.

571—33.29(455A) Responsibility of grantee at termination. Within 45 days of the termination, the grantee shall supply the department with a financial statement detailing all costs up to the effective date of the termination. If the grantee expends moneys for other than specified budget items approved by the board, the grantee shall return moneys for unapproved expenditures.

571—33.30(455A) Appeals. Appeals to the decisions on grant awards shall be filed with the director of the department. The letter of appeal shall be filed within ten working days of receipt of notice of decision and shall be based on a contention that the process was arbitrary; was conducted outside of statutory authority; violated state or federal law, policy, or rule; did not provide adequate public notice or was altered without adequate public notice; or involved conflict of interest by staff or board members. The director of the department shall notify the board of the appeal. The board may submit evidence in support of its decision within ten days of notice from the director. The director shall issue a decision within a reasonable time following receipt of the appeal.

These rules are intended to implement Iowa Code sections 455A.19 and 455A.21

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

36. Chapter 34, "Community Forest Grant Program" – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action to rescind Chapter 34. This Notice of Intended Action is the result of the Forestry Section's Executive Order 10 rule review.

This chapter provides guidelines and procedures for operating certain forestry grant programs; however, the Department believes that the chapter is unnecessary. These grant programs can be successfully run by Department staff without the rules. The federal grants that are the basis for the grant programs contain detailed requirements for how funds must be distributed, used, and accounted for. The Department can run the grant programs based on the federal requirements, supplemented by a standard grant agreement that recipients already sign.

Jeff Goerndt, State Forester
Conservation and Recreation Division
Meeting Date: November 9, 2023

Attached: Chapter 34 - NOIA

NATURAL RESOURCE COMMISSION[571]

**Notice of Intended Action
Proposing to rescind and reserve chapter**

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 34, “Community Forest Grant Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 455A.5(6)“a.”

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 456A.24(13) and Iowa Code Chapter 461A.

Purpose and Summary

The purpose of this chapter is to define the cost sharing procedures between state and local public agencies or volunteer organizations to fund community tree planting projects. The Commission proposes to repeal the chapter, as the program can be run with more flexibility without these rules under the terms of the underlying federal grants and the accompanying grant agreements signed by recipients and the Department of Natural Resources (Department).

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Natural Resource Commission for a waiver of the discretionary provisions, if any, pursuant to 571--Chapter 11.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 23, 2024. Comments should be directed to:

Jeff Goerndt
Department of Natural Resources
502 East 9th Street
Des Moines, IA 50319
Email: jeff.goerndt@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally will be held via conference call as follows. Persons who wish to attend the conference call should contact Jeff Goerndt via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Jeff Goerndt prior to the hearing to facilitate an orderly hearing.

January 23, 2024
12 noon - 1 p.m.

via video/conference call

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action proposed:

ITEM 1. Rescind and reserve **571-Chapter 34**.

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

37. Chapter 35, “Fish Habitat Promotion for County Conservation Boards” – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action for Chapter 35. This Notice of Intended Action is the result of Fisheries Bureau’s Executive Order 10 rule review.

Chapter 35 implements a grant program where fishing license fee funds are used by county conservation boards to conduct projects that provide access to, protection of, or enhancement of fish habitat for anglers. DNR is directed to implement this program by Iowa Code. Counties may voluntarily participate in this grant program, incurring the costs of staff time and required cost sharing. This rule chapter benefits anglers by distributing grant funds for projects throughout the state.

Joe Larscheid, Fisheries Bureau Chief
Conservation and Recreation Division
Meeting Date: November 9, 2023

Attached: Chapter 35 - NOIA

NATURAL RESOURCE COMMISSION [571]

Notice of Intended Action

Proposing to rescind and replace chapter

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 35, “Fish Habitat Promotion for County Conservation Boards,” Iowa Administrative Code and adopt a new Chapter 35 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 483A.3A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 483A.3A.

Purpose and Summary

Chapter 35 implements a grant program where fishing license fee funds are used by county conservation boards to conduct projects that provide access to, protection of, or enhancement of fish habitat for anglers. The Department of Natural Resources (Department) is directed to implement this program by Iowa Code. Counties may voluntarily participate in this grant program, incurring the costs of staff time and required cost sharing. This rule chapter benefits anglers by distributing grant funds for projects throughout the state.

Consistent with Executive Order 10, Iowa Administrative Bulletin Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17.7(2)’s five-year rule review, this chapter was edited for length and clarity.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 571—Chapter 35 and adopt the following **new** chapter in lieu thereof:

CHAPTER 35
FISH HABITAT PROMOTION FOR COUNTY CONSERVATION BOARDS

571—35.1(483A) Purpose and definitions. The purpose of this chapter is to designate procedures for the allotment of fish habitat revenue to county conservation boards. These funds shall be used specifically to acquire from willing sellers whole or partial interest in land for use as or for protection of fish habitats and to develop and enhance fishable waters and habitat areas.

The following definitions apply in these rules:

“*Commission*” means the natural resource commission.

“*County*” means a county conservation board.

“*Department*” means the department of natural resources.

“*Director*” means the director of the department of natural resources.

“*District*” means a county conservation district.

571—35.2(483A) Availability of funds. Fish habitat funds are dependent on sales. Revenues received by the department determine the amount of moneys available at any time.

35.2(1) Local share. Funds available for county conservation boards shall be specified in the department's budget in accordance with legislative appropriations. At least 50 percent of the fish habitat revenue will be apportioned to county conservation boards.

35.2(2) Distribution. After deduction of 5 percent to be held for contingencies, the remaining local share will be available on an annual basis. The department shall divide fish habitat funds equally among the districts. The districts have two years to obligate fish habitat funds once the funds are made available. After two years, the department will apportion all unobligated funds equally among the districts.

571—35.3(483A) Program eligibility. All counties are eligible to participate in this program.

571—35.4(483A) Eligibility for cost-sharing assistance. A project is not eligible for cost sharing unless the

commission specifically approves the project or the applicant has received a written waiver of retroactivity from the director prior to the project's initiation. A project must allow for public fishing to be eligible for cost sharing; however, the review and selection committee as described in 35.6(1) may recommend for commission approval projects with restrictions on boating.

35.4(1) Acquisition projects. A licensed appraiser shall appraise lands or rights thereto to be acquired, and the appraisal shall be approved by department staff. The appraisal requirement may be waived when the staff determines that it is impractical for a specific project. The cost share shall not be approved for more than 90 percent of the approved appraised value. Acquisition projects are eligible for cost share either by direct payment as described in subrule 35.11(6) or by reimbursement to counties.

35.4(2) Eligible acquisition activities.

- a. Acquisition for pond and lake construction.
- b. Acquisition of fishable streams, ponds and lakes.
- c. Acquisition for watershed protection.

35.4(3) Development projects. Eligible expenditures for development projects include, but not be limited to, preliminary expenses; contracts; the purchase of materials and supplies; rentals; and extra labor that is hired only for the specific project. The purchase of equipment is not an eligible expenditure. Donated labor, materials and equipment-use and use of a county's own labor and equipment are not eligible for cost-share assistance. Development projects are limited to lands legally controlled by the county for the expected life of the project. Development projects are eligible only for reimbursement of reasonable costs actually incurred and paid by the county.

35.4(4) Enhancement projects. For purposes of this rule, "enhancement" is considered to be synonymous with "development." Eligible enhancement activities include:

- a. Physical placement of fish habitats in ponds, lakes, pits and streams.
- b. Armoring of pond, lake, pit and stream shores.
- c. Construction of aeration systems.
- d. Dredging of ponds or lakes.
- e. Construction of ponds and lakes.
- f. Construction of sediment-retaining basins.
- g. Repair of lake dam/outlets.
- h. Manipulation of fish populations and aquatic vegetation.
- i. Removal of dams.
- j. Construction of fish ladders.
- k. Construction of fish barriers.
- l. Construction of rock-faced jetties.

35.4(5) Project income. When, as a result of a purchase agreement or other title transfer action involving cost sharing with fish habitat funds, a county directly or indirectly receives financial income that would have been paid to the previous landowner, 90 percent of that income shall be transferred to the department unless the county has identified and committed to habitat development projects or additional acquisitions on the project site to be funded from the income received. The project review and selection committee shall recommend, and the director and commission shall approve, plans for the expenditure of income received pursuant to this subrule. In the absence of acceptable fish habitat development or acquisition plans, the county shall transfer to the department 90 percent of the income received as it is received. The department shall credit that income to the county's apportionment of the fish habitat fund as described in 35.2(1). The schedule of those reimbursements from a county to the state shall be included in the project agreement.

571—35.5(483A) Application for assistance. Applications must contain sufficient detail as to clearly describe the scope of the project and how the area will be managed.

35.5(1) Form. Applications must be submitted on forms provided by the department.

35.5(2) Time of submission. Applications for funds will be reviewed and selected for funding at least once per year. The department will publish on its website the date and time for submitting a funding proposal, providing at least 90 days' notice. Applications must be submitted to the department as described on the website. Upon timely notice to eligible recipients, additional selection periods may be scheduled if necessary to expedite

the distribution of funds. In emergencies, a county may request a waiver so that an acquisition project may be approved for retroactive payments if funds are available and the project meets all other criteria.

35.5(3) Joint applications. Joint applications are permitted. One county shall serve as the primary applicant. A joint application shall clearly describe the respective share of project costs for each county named. Any cooperative agreement between the counties named shall be provided as a part of the application.

35.5(4) County funding. An applicant shall certify that it has committed its share of project costs and that these funds are available and shall state the means of providing for the county share. All necessary approvals for acquisition and financing shall be included with the application. All financial income received directly or indirectly that would have been paid to the previous landowner as a result of a purchase agreement or other title transfer action shall be completely documented in the application.

35.5(5) Multiple development projects. An application for development project assistance may include development on more than one area if the development is of a like nature.

[ARC 6789C, IAB 1/11/23, effective 2/15/23]

571—35.6(483A) Project review and selection.

35.6(1) Review and selection committee.

a. Each district shall have a review and selection committee, hereinafter referred to as the committee. Each committee shall be composed of at least five county directors or their designees, with at least two designated alternates. Each district's committee shall determine which grant applications and amendment requests are selected for funding. For advisory purposes only, a department biologist or designee shall be present during review and selection of grant applications and amendment requests.

b. Conflict of interest. An individual who is a member, volunteer, or employee of an entity that has submitted a project may not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual's place.

35.6(2) Consideration withheld. The committee shall not consider any application that on the date of the selection session is incomplete or for which additional pertinent information has been requested but not received.

35.6(3) Application rating system. The committee shall apply a rating system to each grant application considered for fund assistance. The department shall develop the rating system. The rating system shall be used to rate each application, and those applications receiving the highest ratings shall be selected for fund assistance to the extent of the allotment for each annual period. If the amount of grant moneys available exceeds that requested, applications will be reviewed only to determine eligibility.

[ARC 6789C, IAB 1/11/23, effective 2/15/23]

571—35.7(483A) Commission review. The director shall present the committees' recommendations to the commission at its next meeting following the rating of projects for funding. The commission may approve or disapprove funding for any project on the list.

571—35.8(483A) Grant amendments. If funds are available, projects for which grants have been approved may be amended to increase or decrease project scope or to increase or decrease project costs and fund assistance. The director shall approve project changes prior to their inception. Amendments to increase project costs and fund assistance due to cost overruns shall not be approved if funds have already been committed or the work has already been performed.

571—35.9(483A) Timely commencement of projects. Grant recipients are expected to carry out their projects in an expeditious manner. A project for which a grant is approved shall be commenced within six months of the date upon which the grantee is notified that the project is approved, or at another date agreed upon by both parties. Failure to do so may be cause for termination of the project and cancellation of the grant by the commission.

571—35.10(483A) Project period. A project period that is commensurate with the work to be accomplished shall be assigned to each project. Extensions may be granted only in case of extenuating circumstances.

571—35.11(483A) Payments.

35.11(1) Grant amount. Grant recipients will be paid 90 percent of all eligible costs incurred on a project up to the amount of the grant unless otherwise specified in the project agreement.

35.11(2) Project billings. Grant recipients shall submit billings for reimbursement or cost sharing on forms provided by the commission.

35.11(3) Project billing frequency. Project billings shall be submitted on the following basis:

- a. Up to \$10,000 total project cost—one billing.
- b. Over \$10,000 total project cost—no more than two billings.

35.11(4) Documentation. Grant recipients shall provide documentation to substantiate all costs incurred on a project as may be required by the department.

35.11(5) Development projects. Eighty percent of the approved local share may be paid to the county when requested, but not earlier than start-up of the project. The department, pending successful completion and final inspection of the project, shall withhold 20 percent of the local share until any irregularities discovered as a result of a final site inspection have been resolved.

35.11(6) Acquisition projects. The department may make payment directly to a property seller pursuant to the following criteria:

- a. The county requests direct payment in the project application and shows good cause for such procedure;
- b. The seller provides to the county a marketable fee simple title, free and clear of all liens and encumbrances or material objections at the time of payment; and
- c. Sufficient program funds are available at the time of transfer.

571—35.12(483A) Record keeping and retention. A grant recipient shall keep adequate records relating to its administration of a project, particularly relating to all incurred costs and direct or indirect income that normally would have been paid to the previous landowner as a result of a purchase agreement or other title transfer action. A copy of the county's audits showing such income and disbursements for the grant period shall be submitted to the department's budget and grant bureau. These records shall be available for audit by appropriate personnel of the department and the state auditor's office. All records shall be retained in accordance with state law.

571—35.13(483A) Penalties. Whenever any real or personal property acquired or developed with fish habitat fund assistance passes from the control of the grantee or is used for other purposes that conflict with the project purpose, it shall be considered an unlawful use of the funds. The department shall notify the county of any such violation.

35.13(1) Remedy. Funds thus used unlawfully shall be returned to the department for inclusion in the fish habitat fund, or local, non-cost-shared funds shall be used to acquire a replacement property of equal value at current market prices and with commensurate benefits to fish. The replacement property must be approved by the commission. The county shall have a period of two years after notification by the department in which to correct the unlawful use of funds. The remedies provided by this subrule are in addition to others provided by law.

35.13(2) Land disposal. Whenever it has been determined and agreed upon by the grantee and the commission that land acquired or developed with fish habitat fund assistance is no longer of value for the project purpose or that the county has other good cause, the commission may authorize that the land be disposed of and the proceeds thereof used to acquire or develop an area of equal value or that 90 percent of the proceeds be returned to the state for inclusion in the fish habitat fund.

35.13(3) Ineligibility. If the department determines that a county has unlawfully used fish habitat funds, the county shall be ineligible for further assistance until the matter has been resolved to the satisfaction of the commission.

These rules are intended to implement Iowa Code Supplement section 483A.3A.

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

38. Chapter 61, “State Parks, Recreation Areas, and State Forest Camping” – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action for Chapter 61. This Notice of Intended Action is the result of Parks, Forests, and Preserves Bureau’s Executive Order 10 rule review.

Chapter 61 provides guidance and definitions for the citizens of Iowa and other visitors who use state parks, recreation areas, and state for camping, facility rentals, and other recreational uses.

Sherry Arntzen, Parks, Forests, and Preserves Bureau Chief
Conservation and Recreation Division
Meeting Date: November 9, 2023

Attached: Chapter 61 - NOIA

NATURAL RESOURCES COMMISSION [571]

Notice of Intended Action

Proposing to rescind and replace chapter

The Natural Resource Commission (Commission) hereby proposes to rescind and replace Chapter 61, “State Parks, Recreation Areas, and State Forest Camping,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 422.43, 455A.4, 461A.3, 461A.3A, 461A.35, 461A.38, 461A.39, 461A.42, 461A.43, 461A.45 through 461A.51, 461A.57, and 723.4 and Iowa Code chapters 463C and 724.

State or Federal Law Implemented

This rule making implements, in whole or in part, 422.43, 455A.4, 461A.3, 461A.3A, 461A.35, 461A.38, 461A.39, 461A.42, 461A.43, 461A.45 through 461A.51, 461A.57, and 723.4 and Iowa Code chapters 463C and 724.

Purpose and Summary

Chapter 61 provides guidance and definitions for citizens of Iowa and other visitors who use state parks, recreation areas, and state forests for camping, facility rentals, and other recreational uses.

Consistent with Executive Order 10, Iowa Administrative Code XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2)’s five-year rule review, this chapter was edited for length and clarity. Specifically, there were lists of state parks, preserves, and areas managed by other governmental agencies that were removed from this chapter. Also, the proposed rulemaking removes the word possession from the Mines of Spain firearm limitations consistent

with Iowa law, adds protected nesting periods to access parameters for hunting areas or training areas for dogs, and bases damage deposit refunds on an hourly fee instead of an hourly wage of employees.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 571-Chapter 11.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to Jessica Manken at jessica.manken@dnr.iowa.gov

Public Hearing

Two public hearings at which persons may present their views orally or in writing will be held on January 30, 2024 from 12:00 p.m. to 1:00 p.m. and January 31, 2024 from 4:00 p.m. to 5:00 p.m. at the Wallace State Office Building, Conference room 4E. The hearing will also be available online. Persons who wish to attend the conference call or Google Meet virtual meeting should contact Jessica Manken via email.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action proposed:

ITEM 1. Rescind 571—Chapter 61 and adopt the following **new** chapter in lieu thereof:

CHAPTER 61

STATE PARKS, RECREATION AREAS, AND STATE FOREST CAMPING

571—61.1(461A) Definitions.

“Bank” or “shoreline” means the zone of contact of a body of water with the land and an area within 25 feet of the water's edge.

“Basic unit” or “basic camping unit” means the portable shelter used by one to six persons.

“Beach” means the same as defined in rule 571—64.1(461A).

“Beach house open shelter” means a building located on the beach that is open on two or more sides and that may or may not have a fireplace.

“Cabin” means a dwelling available for rental on a nightly or weekly basis. Cabins may or may not contain restroom and kitchen facilities.

“Camping” means erecting a tent, hammock, or shelter of natural or synthetic material; placing a sleeping bag or other bedding material on the ground; or parking a motor vehicle, motor home, or trailer for the apparent purpose of overnight occupancy.

“Centralized reservation system” means a system that processes reservations using more than one method to accept reservations. Each method simultaneously communicates to a centralized database at a reservation contractor location to ensure that no campsite or rental facility is booked more than once.

“Chaperoned, organized youth group” means a group of persons 17 years of age and under, which

is sponsored by and accompanied by adult representatives of a formal organization including, but not limited to, the Boy Scouts of America or Girl Scouts of America, a church, or Young Men’s or Young Women’s Christian Association. “Chaperoned, organized youth group” does not include family members of a formal organization.

“*Fishing*” means the same as described in Iowa Code sections 481A.72, 461A.42 and 481A.76.

“*Free climbing*” means climbing with the use of hands and feet only and without the use of ropes, pins and other devices normally associated with rappelling and rock climbing.

“*Group camp*” means the camping area at Lake Keomah State Park where organized groups (i.e., family groups or youth groups) may camp. Dining hall facilities are available.

“*Immediate family*” means spouses, parents or legal guardians, domestic partners, dependent children and grandparents.

“*Lodge*” means a day-use building that is enclosed on all four sides and may have kitchen facilities such as a stove or refrigerator and that is available for rent on a daily basis. “Lodge” does not include buildings that are open on two or more sides and that contain fireplaces only.

“*Modern area*” means a camping area that has showers and flush toilets.

“*Nonmodern area*” means a camping area in which no showers are provided and that contains only pit-type latrines or flush-type toilets. Potable water may or may not be available to campers.

“*Open shelter*” means a building that is open on two or more sides and that may or may not include a fireplace.

“*Open shelter with kitchenette*” means a building that is open on two or more sides and contains a lockable, enclosed kitchen area.

“*Organized youth group campsite*” means a designated camping area within or next to the main campground where chaperoned, organized youth groups may camp.

“*Person with physical disability*” means any of the following: an individual, commonly termed a paraplegic or quadriplegic, with paralysis or a physical condition of the lower half of the body with the involvement of both legs, usually due to disease or injury to the spinal cord; a person who is a single or double amputee of the legs; or a person with any other physical affliction that makes it impossible to ambulate successfully in park or recreation area natural surroundings without the use of a wheeled conveyance.

“*Possession*” means the same as defined in Iowa Code section 481.A.1(27)

“*Prohibited activity*” means any activity other than fishing as defined in this chapter including, but not limited to, picnicking and camping.

“*Property*” means personal property such as goods, money, or domestic animals.

“*Recreation areas*” means the following areas that have been designated by action of the commission:

<u>Area</u>	<u>County</u>
Badger Creek Recreation Area	Madison
Brushy Creek Recreation Area	Webster
Clair Wilson Park	Dickinson
Emerson Bay and Lighthouse	Dickinson
Fairport Recreation Area	Muscatine
Lower Gar Access	Dickinson
Marble Beach	Dickinson
Mines of Spain Recreation Area	Dubuque
Pilot Knob Recreation Area	Winnebago
Pleasant Creek Recreation Area	Linn
Templar Park	Dickinson
Volga River Recreation Area	Fayette

“*Refuse*” means trash, garbage, rubbish, waste papers, bottles or cans, debris, litter, oil, solvents, liquid or solid waste or other discarded material.

“*Rental facilities*” means facilities that may be rented on a daily or nightly basis and includes open shelters, open shelters with kitchenettes, beach house open shelters, warming lodges, lodges, cabins, yurts and group camps.

“*Reservation window*” means a rolling period of time in which a person may reserve a campsite or rental facility.

“*Scuba diving*” means swimming with the aid of self-contained underwater breathing apparatus.

“*State park*” means areas managed by the state and designated by action of the commission and listed on the department’s Website at www.iowadnr.gov/.

“*State park managed by another governmental entity*” means areas designated by action of the commission and listed on the department’s Website at www.iowadnr.gov/.

“*State preserve*” means the areas or portions of the areas dedicated by actions pursuant to Iowa Code section 465C.10 and listed on the department’s Website at www.iowadnr.gov/

“*Swim*” or “*swimming*” means to propel oneself in water by natural means, such as movement of limbs, and includes but is not limited to wading and the use of inner tubes or beach toy-type swimming aids.

“*Walk-in camper*” means a person arriving at a campground without a reservation and wishing to occupy a first-come, first-served campsite or unrented, reservable campsite.

“*Yurt*” means a one-room circular fabric structure built on a platform that is available for rental on a nightly or weekly basis.

571—61.2(461A) Centralized reservation system. The centralized reservation system of the department accepts and processes reservations for camping, rental facilities, and other special privileges in state parks, recreation areas, and state forests. The system is accessible through the department’s website, www.iowadnr.gov. The operating policies and procedures for the centralized reservation system are available upon request.

571—61.3(461A) Camping in State Parks and Recreation Areas

61.3(1) Procedures for camping registration.

- a. Registration of walk-in campers occupying nonreservable campsites or unrented, reservable campsites will be on a first-come, first-served basis and will be handled by a self-registration process. Registration forms will be provided by the department. Campers shall, within one-half hour of arrival at the campground, complete the registration form, place the appropriate fee in the envelope and place the envelope in the depository provided by the department. One copy of the registration form must then be placed in the campsite holder provided at the campsite. The camping length of stay identified on the camping registration form must begin with the actual date the camper registers, pays and posts the registration at the campsite.
- b. Campsites are considered occupied and registration for a campsite shall be considered complete when the requirements of paragraph 61.3(1)“a” have been met.
- c. Campsite registration must be in the name of a person 18 years of age or older who will occupy the camping unit on that site for the full term of the registration.

61.3(2) Organized youth group campsite registration.

- a. Registration procedures for organized youth group campsites shall be governed by paragraphs 61.3(1)“a,” “b” “c.”
“a,” “b” and “c” of 61.3(1).

b. A chaperoned, organized youth groups may choose to occupy campsites not designated as organized youth group campsites. However, the group is subject to 61.3(1), 61.3(3) and 61.3(5) pertaining to the campsite the group wishes to occupy.

61.3(3) Restrictions on campsite/campground use. This subrule sets forth conditions of public use that apply

to all state parks and recreation areas. Specific areas as listed in subrule 61.3(4), rule 571—61.10(461A) and rule 571—61.13(461A) are subject to additional restrictions or exceptions. The conditions in this subrule are in addition to specific conditions and restrictions set forth in Iowa Code chapter 461A.

- a.* No more than six persons shall occupy a campsite except for the following:
 - (1) Families that exceed six persons may be allowed on one campsite if all members are immediate family and cannot logically be split to occupy two campsites.
 - (2) Campsites that are designated as chaperoned, organized youth group campsites.
- b.* Camping is restricted to one basic unit per site except that a small tent or hammock may be placed on a site with the basic unit.
- c.* Each camping group shall utilize only the electrical outlet fixture designated for its particular campsite.
- d.* Each camping group will be permitted to park one motor vehicle not being used for camping purposes at the campsite. Unless otherwise posted, one additional vehicle may be parked at the campsite.
- e.* All motor vehicles, excluding motorcycles, not covered by the provision in paragraph 61.3(3) “*e*” shall be parked in designated extra-vehicle parking areas.
- f.* Walk-in campers occupying nonreservable campsites or unrented, reservable campsites shall register as provided in subrule 61.3(1) within one-half hour of entering the campground.
- g.* Campers occupying nonreservable campsites shall vacate the campground or register for the night prior to 3 p.m. daily. Registration can be for more than 1 night at a time but not for more than 14 consecutive nights for nonreservable campsites. All members of the camping party must vacate the state park or recreation area campground after the fourteenth night and may not return to the state park or recreation area until a minimum of three nights has passed. All equipment must be removed from the site at the end of each stay. The 14-night limitation shall not apply to volunteers working under a department program.
- h.* Walk-in campers shall not occupy unrented, reservable campsites until 10 a.m. on the first camping day of their stay. Campers shall vacate the campground by 3 p.m. of the last day of their stay. Initial registration shall not exceed two nights. Campers may continue to register after the first 2 nights on a night-to-night basis up to a maximum of 14 consecutive nights, subject to campsite availability. All members of the camping party must vacate the state park, recreation area, or state forest campground after the fourteenth night and may not return to the state park, recreation area, or forest campground until a minimum of three nights has passed. All equipment must be removed from the site at the end of each stay. The 14-night limitation shall not apply to volunteers working under a department program.
- i.* Campers with reservations shall not occupy a campsite before 4 p.m. of the first day of their stay. Campers shall vacate the site by 3 p.m. of the last day of their stay. Campers may register for more than 1 night at a time but not for more than 14 consecutive nights. All members of the camping party must vacate the state park or recreation area campground after the fourteenth night and may not return to the state park or recreation area until a minimum of three nights has passed. All equipment must be removed from the site at the end of each stay. The 14-night limitation shall not apply to volunteers working under a department program.
- j.* Minimum stay requirements for camping reservations. From May 1 to October 31, a two-night minimum stay is required for weekends. The two nights shall be designated as Friday and Saturday nights. However, if October 31 is a Friday, the Friday and Saturday night stay shall not apply. If October 31 is a Saturday, the Friday and Saturday night stay shall apply. The following additional exceptions apply:
 - (1) A Friday, Saturday, and Sunday night stay is required for the national Memorial Day holiday and national Labor Day holiday weekends.
 - (2) A Friday, Saturday, and Sunday night stay is required for the Fourth of July holiday when the Fourth of July occurs on a Monday.
 - (3) Exception to the subrule 571—61.3(3) “*j*” stay requirement. For campgrounds that are 100% reservable, with no walk-in sites, customers can reserve a Saturday stay if the Friday/Saturday stay is not reserved before the booking cut-off time has passed to make a Friday/Saturday stay reservation.
 - (4) Exception to the subrule 571—61.3(3) “*j*” (1) and (2) stay requirements. For campgrounds that are 100% reservable, with no walk-in sites, customers can reserve a Saturday or Sunday separately if the Friday/Saturday/Sunday is not reserved before the booking cut-off time has passed to make a three night

reservation.

k. Buddy campsite reservations. Buddy campsites are between two to four individual sites that are grouped together and can only be reserved and used collectively. Campers reserving buddy campsites through the centralized reservation system must reserve both or all four of the individual sites that make up the group buddy campsite or buddy campsite.

l. In designated campgrounds, equine animals and llamas must be stabled at a hitching rail, individual stall or corral if provided. Equine animals and llamas may be hitched to trailers for short periods of time to allow for grooming and saddling. These animals may be stabled inside trailers if no hitching facilities are provided. Portable stalls/pens and electric fences are not permitted.

m. Campers shall use only straps to secure hammocks to trees on campsites. Straps must be a minimum of one inch wide.

n. Special events. The department director or director's authorized representative may authorize camping in areas outside designated campgrounds for certain special events as defined in rule 571—44.2(321G,321I,461A,462A,481A). Requests shall be reviewed on a case-by-case basis and permitted under the provisions of 571—Chapter 44.

61.3(4) Area-specific restrictions on campground use. In addition to the general conditions of public use set forth in this chapter, special conditions shall apply to specific areas listed as follows:

a. *Brushy Creek Recreation Area, Webster County.*

(1) In the designated equestrian campgrounds, the maximum number of equine animals to be tied to the hitching rails is six. Persons with a number of equine animals in excess of the number permitted on the hitching rail at their campsite shall be allowed to stable their additional animals in a trailer or register and pay for an additional campsite if available.

(2) In the designated equestrian campgrounds, equine animals may be tied to trailers for short periods of time to allow grooming or saddling; however, the tying of equine animals to the exterior of trailers for extended periods of time or for stabling is not permitted.

b. *Recreation area campgrounds.* Access into and out of designated campgrounds shall be permitted from 4 a.m. to 10:30 p.m. From 10:31 p.m. to 3:59 a.m., only registered campers are permitted in and out of the campgrounds.

c. *Lake Manawa State Park, Pottawattamie County.* Except for the following limitations on campground length of stay, campsite use restrictions as stated in subrule 61.3(3) shall apply to Lake Manawa. Campers may register for more than 1 night at a time but not for more than 14 consecutive nights. No person may camp at the Lake Manawa campground for more than 14 nights in any 30-day period.

d. *Walnut Woods State Park, Polk County.* Except for the following limitations on campground length of stay, campsite use restrictions as stated in rule 61.3(3) shall apply to Walnut Woods. Campers may register for more than 1 night at a time but not for more than 14 consecutive nights. No person may camp at the Walnut Woods campground for more than 14 nights in any 30-day period.

61.3(5) Campground fishing. Rule 571—61.13(461A) is not intended to prohibit fishing by registered campers who fish from the shoreline within the camping area.

571—61.4(461A) State Forest camping areas established and marked.

61.4(1) Areas to be utilized for camping shall be established within the following state forests:

- a. Shimek State Forest in Lee and Van Buren Counties.
- b. Stephens State Forest in Appanoose, Clarke, Davis, Lucas and Monroe Counties.
- c. Yellow River State Forest in Allamakee County.

61.4(2) Signs designating the established camping areas shall be posted along the access roads into these areas and around the perimeter of the area designated for camping use.

61.4(3) Areas approved for backpack camping (no vehicular access) shall be marked with appropriate signs and shall contain fire rings.

571—61.5(461A) Campground reservations. Procedures and policies regarding camping reservations in established state forest campgrounds shall be the same as those cited in rule 571—61. 2(461A). Reservations will not be accepted for backpack campsites.

571—61.6(461A) Camping fees and registration.

61.6(1) Fees.

a. Backpack campsites. No fee will be charged for the use of the designated backpack campsites.
b. The fees for camping in established state forest campgrounds shall be set by the department pursuant to 561—Chapter 16.

61.6(2) Procedures for camping registration.

a. Backpack campsites. Persons using backpack campsites shall register at the forest area check station or other designated site.
b. The procedures for camping registration in established state forest campgrounds shall be the same as those cited in paragraphs 61.3(1)“a,” “b,” and “c.”
c. Organized youth group campsites. The procedures for camping registration for organized youth group campsites shall be the same as those cited in subrule 61.3(2).

571—61.7(461A) State forest camping restrictions—area and use.

61.7(1) Restrictions of campsite or campground use in established state forest campgrounds shall be the same as those cited in paragraphs 61.3(3)“a,” “b,” “d” through “j,” and “l” through “n.”

61.7(2) Hours. Access into and out of the established camping areas shall be permitted from 4 a.m. to 10:30 p.m. From 10:31 p.m. to 3:59 a.m., only registered campers are permitted in the campgrounds.

61.7(3) Firearms use prohibited. Except for peace officers acting in the scope of their employment, the use of firearms, fireworks, explosives, and weapons of all kinds by the public is prohibited within the established camping area as delineated by signs marking the area.

571—61.8(461A) Rental facilities.

61.7(1) Procedures for rental facility registration.

a. Registrations for all rental facilities must be in the name of a person 18 years of age or older who will be present at the facility for the full term of the reservation.

b. Rental stay requirements for cabins and yurts.

(1) Except as provided in subparagraphs 61.8(1)“b”(2) and 61.8(1)“b”(3), cabins and yurts may be reserved for a minimum of two nights throughout the entire season.

(2) Cabins and yurts must be reserved for a minimum of three nights (Friday, Saturday, and Sunday nights) for the national Memorial Day holiday weekend, the Fourth of July holiday weekend when the Fourth of July occurs on a Monday, and the national Labor Day holiday weekend.

(3) The department may require cabins with restroom and kitchen facilities to be reserved for a minimum stay of one week (Friday p.m. to Friday a.m.) during the time period beginning with the Friday of the national Memorial Day holiday weekend and ending with the Thursday after the national Labor Day holiday.

(4) All unreserved cabins, all unreserved yurts, and the group camp must be rented for a minimum of two nights on a walk-in first-come, first-served basis. No walk-in rentals will be permitted after 6 p.m.

(5) Reservations or walk-in rentals for more than a two-week stay will not be accepted for any facility.

c. Persons renting cabins, yurts or the group camp facility must check in at or after 4 p.m. on the first day of the rental period. Check-out time is 11 a.m. or earlier on the last day of the rental period.

d. Except by arrangement for late arrival with the park staff, no cabin, yurt or group camp reservation will be held past 6 p.m. on the first night of the reservation period if the person reserving the facility does not arrive. When arrangements for late arrival have been made, the person must appear prior to the park’s closing time established by Iowa Code section 461A.46 or access will not be permitted to the facility until 8 a.m. the following day. Arrangements must be made with the park staff if next-day arrival is to be later than 9 a.m.

e. Except at parks or recreation areas with camping cabins or yurts, no tents or other camping units are

permitted for overnight occupancy in the designated cabin area. One small tent shall be allowed at each cabin or yurt in the designated areas and is subject to the occupancy requirements of paragraph 61.3(3) “b.”

f. Open shelters and beach house open shelters that are not reserved are available on a first-come, first-served basis. If the open shelters with kitchenettes are not reserved, the open shelter portions of these facilities are available on a first-come, first-served basis.

g. Except by arrangement with the park staff in charge of the area, persons renting a lodge, shelter, or beach house open shelter facility and all guests shall vacate the facility by 10 p.m.

61.7(2) *Damage deposits for cabins, lodges, open shelters with kitchenettes, and yurts.*

a. Renters shall pay in full a damage deposit equal to the weekend daily or nightly rental fee for the facility or \$50, whichever is greater, by the established deadline for the facility. If a gathering with keg beer takes place in a lodge or open shelter with kitchenette, the damage deposit shall be waived in lieu of a keg damage deposit as specified in 571—subrule 63.5(3) if the keg damage deposit is greater than the lodge or open shelter with kitchenette damage deposit.

b. Damage deposits will be refunded only after authorized personnel inspect the facility to ensure that the facility and furnishings are in satisfactory condition.

c. If it is necessary for department personnel to clean up the facility or repair any damage beyond ordinary wear and tear, a log of the time spent in such cleanup or repair shall be kept. The damage deposit refund shall be reduced by the applicable hourly fee for the time necessary to clean the area or repair the damage and by the cost of any repairs of furnishings.

d. The deposit is not to be construed as a limit of liability for damage to state property. The department may take legal action necessary to recover additional damages.

571—61.9(461A) Wet and dry storage for vessels. The department may provide limited temporary vessel storage for individuals who own vessels that are actively used on waters in state parks and recreation areas.

61.9(1) *Vessel storage fees.*

A person who fails to pay a vessel storage fee by the established payment due date shall forfeit the slip assignment.

61.9(2) *Storage slip assignment.*

a. Slip assignments shall be made on a first-come, first-served basis. Park staff may establish a waiting list upon receiving more requests for storage slips than the number of slips available. The waiting list shall be maintained in chronological order of the requests received.

b. Slip assignments shall be valid for one year with the option to renew annually.

c. In the event a person on a waiting list refuses a specific slip assignment, the person’s name will be removed from the waiting list.

61.9(3) *Storage slip requirements and conditions.*

a. Each storage slip is limited to no more than one vessel at any given time.

b. All vessels in a storage slip must have a current boat registration.

c. Slip assignments must be in the same name of the person to whom the vessel that will occupy the slip is registered.

d. Dry storage slips shall be maintained in a clean and orderly manner. Failure to maintain the slip in a satisfactory condition will result in forfeiture of the slip assignment and any storage fees paid.

e. Slip assignments are not transferable.

571—61.10(461A) Restrictions—area and use. This rule sets forth conditions of public use that apply to all state parks and recreation areas. Specific areas as listed in subrule 61.3(4), rule 571—61.11(461A) and rule 571—61.14 (461A) are subject to additional restrictions or exceptions. The conditions in this rule are in addition to specific conditions and restrictions set forth in Iowa Code chapter 461A.

61.10(1) *Animals.*

a. The use of equine animals and llamas is limited to roadways or to trails designated for such use.

b. Animals are prohibited within designated beach areas.

c. Livestock are not permitted to graze or roam within state parks and recreation areas. The owner of the livestock shall remove the livestock immediately upon notification by department personnel in charge of the area.

d. Animals are prohibited in all park buildings, with the following exceptions:

(1) Service dogs and assistive animals.

(2) Dogs in designated cabins and yurts. A maximum of two dogs of any size shall be allowed in any designated cabin or yurt.

(3) Animals being used in education and interpretation programs.

e. Except for dogs being used in designated hunting areas during hunting season or in designated dog training areas outside of the nesting period closure from March 15 to July 15, pets such as dogs or cats shall not be allowed to run at large within state parks, recreation areas, or preserves. Such animals shall be on a leash or chain not to exceed six feet in length and shall be either led by or carried by the owner; attached to an anchor/tie-out or vehicle; or confined in a vehicle. Pets shall not be left unattended in campgrounds. Dogs shall be kenneled when left unattended in a cabin or yurt and shall not be left unattended if tied up outside of the cabin or yurt.

61.10(2) Beach use/swimming

a. All swimming shall take place between sunrise and sunset. Swimming is prohibited between sunset and sunrise.

b. Except as provided in paragraphs 61.10(2)“c” and “d”, all swimming and scuba diving shall take place in the beach area within the boundaries marked by ropes, buoys, or signs within state parks and recreation areas. Inner tubes, air mattresses and other beach-type items shall be used only in designated beach areas.

c. Persons may scuba dive in areas other than the designated beach area provided they display the diver’s flag as specified in rule 571—41.10(462A).

d. Swimming outside beach area.

(1) Persons may swim outside the beach area under the following conditions:

1. The swimmer must be accompanied by a person operating a vessel and must stay within 20 feet of the vessel at all times during the swim;

2. The vessel accompanying the swimmer must display a flag, which is at least 12-inches square, is bright orange, and is visible all around the horizon; and

3. The person swimming pursuant to this subparagraph must register with the park staff in charge of the area and sign a registration immediately prior to the swim.

(2) Unless swimming is otherwise posted as prohibited or limited to the designated beach area, a person may also swim outside the beach area provided that the person swims within ten feet of a vessel which is anchored not less than 100 yards from the shoreline or the marked boundary of a designated beach. Any vessel, except one being uprighted, must be attended at all times by at least one person remaining on board.

(3) A passenger on a sailboat or other vessel may enter the water to upright or repair the vessel and must remain within ten feet of that vessel.

e. The provisions of paragraph 61.10(2)“a” shall not be construed as prohibiting wading in areas other than the beach by persons actively engaged in shoreline fishing.

f. Alcoholic liquor, beer, and wine, as each is defined in Iowa Code section 123.3, are prohibited on the beaches located within Lake Macbride State Park and Pleasant Creek State Recreation Area. This ban does not apply to rental facilities located within the 200-foot buffer of land surrounding the sand or fenced-in area that have been officially reserved through the department.

61.10(3) Bottles. Possession or use of breakable containers, the fragmented parts of which can injure a person, is prohibited in beach areas of state parks and recreation areas.

61.10(4) Chainsaws. Except by written permission of the director of the department, chainsaw use is prohibited in state parks and recreation areas. This provision is not applicable to employees of the department in the performance of their official duties.

61.10(5) Firearms. The use of firearms in state parks and recreation areas as defined in rule 571—61.1(461A) is limited to the following:

a. Lawful hunting as traditionally allowed at Badger Creek Recreation Area, Brushy Creek Recreation

Area, Pleasant Creek Recreation Area, Mines of Spain Recreation Area (pursuant to rule 571—61.12(461A)), Volga River Recreation Area and Wilson Island Recreation Area.

- b. Target and practice shooting in areas designated by the department.
- c. Special events, festivals, and education programs sponsored or permitted by the department.
- d. Special hunts authorized by the commission to control animal populations.

61.10(6) Fishing off boat docks within state areas. Persons may fish off all state-owned docks within state parks and recreation areas. Persons fishing off these docks must yield to boats and not interfere with boaters.

61.10(7) Garbage. Using government refuse receptacles for dumping household, commercial, or industrial refuse brought as such from private property is prohibited.

61.10(8) Motor vehicle restrictions.

a. Except as provided in these rules, motor vehicles are prohibited on state parks, recreation areas and preserves except on constructed and designated roads, parking lots and campgrounds.

b. Use of motorized vehicles by persons with physical disabilities. Persons with a physical disability may use certain motorized vehicles to access specific areas in state parks, recreation areas and preserves, according to restrictions set out in this paragraph, or otherwise provided for by department other power-driven mobility device (OPDMD) processes, in order to enjoy the same recreational opportunities available to others.

(1) Reasonable Accommodations. Each person with a physical disability or mobility impairment may request a reasonable accommodation to park or recreation area staff in order to use an OPDMD within state parks, recreation areas, and preserves. Reasonable accommodation requests are considered on a case-by-case basis based on the facts and circumstances and considering need, protection of the permit holder, protection of other users, and protection of natural resources consistent with relevant state and federal law.

(2) Permits. Except where areas or trails are preapproved for OPDMD use, persons with a physical disability or mobility impairment must have a permit issued by park or recreation area staff in order to use a motorized vehicle in specific, approved areas within state parks, recreation areas, and preserves.

(3) One companion may accompany the OPDMD user on the same vehicle if that vehicle is designed for more than one rider; otherwise the companion must walk.

(4) Exclusive use. The issuance of a permit does not imply that the permittee has exclusive or indiscriminate use of an area. Permittees shall take reasonable care not to unduly interfere with the use of the area by others.

(5) Prohibited acts and restrictions.

1. Except as provided in paragraph 61.10(8) "b," the use of a motorized vehicle on any park, recreation area or preserve by a person without a valid permit or at any site not approved on a signed map is prohibited. Permits and maps shall be carried by the permittee at any time the permittee is using a motorized vehicle in a park, recreation area or preserve and shall be exhibited to any department employee or law enforcement official upon request.

2. The speed limit for an approved motorized vehicle off-road will be no more than 3 miles per hour, unless otherwise approved in writing. The permit of a person who is found exceeding the speed limit will be revoked.

3. The permit of any person who is found causing damage to cultural and natural features or abusing the privilege of riding off-road within the park will be revoked, and restitution for damages or other remedies available under the law may be sought.

61.10(9) Noise. Creating or sustaining any unreasonable noise in any portion of any state park or recreation area is prohibited at all times. The nature and purpose of a person's conduct, the impact on other area users, the time of day, location, and other factors that would govern the conduct of a reasonable, prudent person under the circumstances shall be used to determine whether the noise is unreasonable. Between the hours of 10:30 p.m. and 6 a.m., noise that can be heard at a distance of 120 feet or three campsites shall be considered unreasonable.

61.10(10) Opening and closing times. Except by arrangement or permission granted by the director or the director's authorized representative or as otherwise stated in this chapter, the following restrictions shall apply: All persons shall vacate all state parks and preserves before 10:30 p.m. each day, except authorized campers in accordance with Iowa Code section 461A.46, and no person shall enter into such parks and preserves until 4 a.m. the following day.

61.10(11) *Paintball guns.* The use of any item generally referred to as a paintball gun is prohibited in state parks, recreation areas and preserves.

61.10(12) *Rock climbing or rappelling.* The rock climbing practice known as free climbing and climbing or rappelling activities that utilize bolts, pitons, or similar permanent anchoring equipment or ropes, harnesses, or slings are prohibited in state parks and recreation areas, except by persons or groups registered with the park staff in charge of the area. Individual members of a group must each sign a registration. Climbing or rappelling will not be permitted at Elk Rock State Park, Marion County; Ledges State Park, Boone County; Dolliver Memorial State Park, Webster County; Stone State Park, Woodbury and Plymouth Counties; Maquoketa Caves State Park, Jackson County; Wildcat Den State Park, Muscatine County; or Mines of Spain Recreation Area, Dubuque County. Other sites may be closed to climbing or rappelling if environmental damage or safety problems occur or if an endangered or threatened species is present.

61.10(13) *Speech or conduct interfering with lawful use of an area by others.*

a. Speech commonly perceived as offensive or abusive is prohibited when such speech interferes with lawful use and enjoyment of the area by another member of the public.

b. Quarreling or fighting is prohibited when it interferes with the lawful use and enjoyment of the area by another member of the public.

61.10(14) *Animal population control hunts.* Animal hunting as allowed under Iowa Code section 461A.42(1)“c” shall be designated annually by the commission. During the dates of special hunts, only persons participating in special hunts shall use the area or portions thereof as designated by the department and signed as such.

571—61.11(461A) Certain conditions of public use applicable to specific parks and recreation areas. In addition to the general conditions of public use set forth in this chapter, special conditions shall apply to the specific areas listed as follows:

61.11(1) *Hattie Elston Access and Clair Wilson Park, Dickinson County.*

a. Parking of vehicles overnight on these areas is prohibited unless the vehicle operator and occupants are actively involved in boating or are fishing as allowed under rule 571—61.14(461A).

b. Overnight camping is prohibited.

61.11(2) *Mines of Spain Recreation Area, Dubuque County.* All persons shall vacate all portions of the Mines of Spain Recreation Area prior to 10:30 p.m. each day, and no person or persons shall enter into the area until 4 a.m. the following day.

61.11(3) *Pleasant Creek Recreation Area, Linn County.* Fishing access into and out of the north portion of the area between the east end of the dam to the campground shall be closed from 10:30 p.m. to 4 a.m., except that walk-in overnight fishing will be allowed along the dam. The area known as the dog trial area shall be closed from 10:30 p.m. to 4 a.m., except for those persons participating in a department-authorized field trial. From 10:30 p.m. to 4 a.m., only registered campers are permitted in the campground.

61.11(4) *Wapsipinicon State Park, Jones County.* The land adjacent to the park on the southeast corner and generally referred to as the “Ohler property” is closed to the public from 10:31 p.m. to 3:59 a.m.

571—61.12(461A) Mines of Spain hunting, trapping and firearms use.

61.12(1) The following described portions of the Mines of Spain Recreation Area are established and will be posted as wildlife refuges:

a. That portion within the city limits of the city of Dubuque located west of U.S. Highway 61 and north of Mar Jo Hills Road.

b. The tract leased by the department from the city of Dubuque upon which the E. B. Lyons Interpretive Center is located.

c. That portion located south of the north line of Section 8, Township 88 North, Range 3 East of the 5th P.M. between the west property boundary and the east line of said Section 8.

d. That portion located north of Catfish Creek, east of the Mines of Spain Road and south of the railroad tracks. This portion contains the Julien Dubuque Monument

61.12(2) Trapping and archery hunting for all legal species are permitted in compliance with all open-season, license and possession limits on the Mines of Spain Recreation Area except in those areas designated as refuges by subrule 61.12(1).

61.12(3) Firearms use is prohibited in the following described areas:

a. The areas described in subrule 61.12(1).

b. The area north and west of Catfish Creek and west of Granger Creek.

61.12(4) Deer hunting and hunting for all other species are permitted using shotguns only and are permitted only during the regular gun season as established by 571—Chapter 106. Areas not described in subrule 61.10(3) are open for hunting. Hunting shall be in compliance with all other regulations.

61.12(5) Turkey hunting with shotguns is allowed only in compliance with the following regulations:

a. Only during the first shotgun hunting season established in 571—Chapter 98, which is typically four days in mid-April.

b. Only in that area of the Mines of Spain Recreation Area located east of the established roadway and south of the Horseshoe Bluff Quarry.

61.12(6) The use of a handgun or any type of rifle is prohibited on the entire Mines of Spain Recreation Area except as provided in 61.12(4). Target and practice shooting with any type of firearm is prohibited.

61.12(7) All forms of hunting, trapping and firearms use not specifically permitted by 571—61.12(461A) are prohibited in the Mines of Spain Recreation Area.

571—61.13(461A) After-hours fishing—exception to closing time. Persons shall be allowed access to the areas designated in rule 571—61.14(461A) between the hours of 10:30 p.m. and 4 a.m. under the following conditions:

1. The person shall be actively engaged in fishing.
2. The person shall behave in a quiet, courteous manner so as not to disturb other users of the park.
3. Access to the fishing site from the parking area shall be by the shortest and most direct trail or access facility.
4. Vehicle parking shall be in the lots designated by signs posted in the area.
5. Activities other than fishing are allowed with permission of the director or an employee designated by the director.

571—61.14(461A) Designated areas for after-hours fishing. These areas are open from 10:30 p.m. to 4 a.m. for fishing only. The areas are described as follows:

61.14(1) *Black Hawk Lake, Sac County.* The area of the state park between the road and the lake running from the marina at Drillings Point on the northeast end of the lake approximately three-fourths of a mile in a southwesterly direction to a point where the park boundary decreases to include only the roadway.

61.14(2) *Clair Wilson Park, Dickinson County.* The entire area including the parking lot, shoreline and fishing trestle facility.

61.14(3) *Clear Lake State Park, Ritz Unit, Cerro Gordo County.* The boat ramp, courtesy dock, fishing dock and parking lots.

61.14(4) *Elinor Bedell State Park, Dickinson County.* The entire length of the shoreline within state park boundaries.

61.14(5) *Elk Rock State Park, Marion County.* The Teeter Creek boat ramp area just east of State Highway 14, access to which is the first road to the left after the entrance to the park.

61.14(6) *Green Valley State Park, Union County.* The shoreline adjacent to Green Valley Road commencing at the intersection of Green Valley Road and 130th Street and continuing south along the shoreline to the parking lot on the east side of the dam, and then west along the dam embankment to the shoreline adjacent to the parking lot on the west side of the spillway.

61.14(7) *Hattie Elston Access, Dickinson County.* The entire area including the parking lot shoreline and boat ramp facilities.

61.14(8) *Honey Creek State Park, Appanoose County.* The boat ramp area located north of the park office, access to which is the first road to the left after the entrance to the park.

61.14(9) *Geode State Park, Des Moines County portion.* The area of the dam embankment that is parallel to County Road J20 and lies between the two parking lots located on each end of the embankment.

61.14(10) *Lake Keomah State Park, Mahaska County.*

a. The embankment of the dam between the crest of the dam and the lake.

b. The shoreline between the road and the lake from the south boat launch area west and north to the junction with the road leading to the group camp shelter.

61.14(11) *Lake Macbride State Park, Johnson County.* The shoreline of the south arm of the lake adjacent to the county road commencing at the intersection of Cottage Reserve Road at the north end of the north-south causeway proceeding across the causeway thence southeasterly along a foot trail to the east-west causeway, across the causeway to the parking area on the east end of that causeway.

61.14(12) *Lake Manawa State Park, Pottawattamie County.* The west shoreline including both sides of the main park road, commencing at the north park entrance and continuing south one and one-half miles to the parking lot immediately north of the picnic area located on the west side of the southwest arm of the lake.

61.14(13) *Lower Pine Lake, Hardin County.* West shoreline along Hardin County Road S56 from the beach southerly to the boat ramp access.

61.14(14) *Mini-Wakan State Park, Dickinson County.* The entire area.

61.14(15) *North Twin Lake State Park, Calhoun County.* The shoreline of the large day-use area containing the swimming beach on the east shore of the lake.

61.14(16) *Pikes Point State Park, Dickinson County.* The shoreline areas of Pikes Point State Park on the east side of West Okoboji Lake.

61.14(17) *Prairie Rose State Park, Shelby County.* The west side of the embankment of the causeway across the southeast arm of the lake including the shoreline west of the parking area located off County Road M47 and just north of the entrance leading to the park office.

61.14(18) *Rock Creek Lake, Jasper County.* Both sides of the County Road F27 causeway across the main north portion of the lake.

61.14(19) *Union Grove State Park, Tama County.*

a. The dam embankment from the spillway to the west end of the parking lot adjacent to the dam.

b. The area of state park that parallels BB Avenue, from the causeway on the north end of the lake southerly to a point approximately one-tenth of a mile southwest of the boat ramp.

61.14(20) *Upper Pine Lake, Hardin County.* Southwest shoreline extending from the boat launch ramp to the dam.

61.14(21) *Viking Lake State Park, Montgomery County.* The embankment of the dam from the parking area located southeast of the dam area northwesterly across the dam structure to its intersection with the natural shoreline of the lake.

571—61.15(461A) Vessels prohibited. Rule 571—61.14(461A) does not permit the use of vessels on the artificial lakes within state parks after the 10:30 p.m. park closing time. All fishing is to be done from the bank or shoreline of the permitted area.

571—61.16(461A,463C) Honey Creek Resort State Park. This chapter shall not apply to Honey Creek Resort State Park. Where permission is required to be obtained from the department, an authorized representative of the department's management company may provide such permission in accordance with policies established by the department.

These rules are intended to implement Iowa Code sections 422.43, 455A.4, 461A.3, 461A.3A, 461A.35, 461A.38, 461A.39, 461A.42, 461A.43, 461A.45 to 461A.51, 461A.57, and 723.4 and Iowa Code chapters 463C and 724.

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

39. Chapter 91, "Waterfowl and Coot Hunting Seasons" – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action for Chapter 91. This Notice of Intended Action is the result of Wildlife Bureau's Executive Order 10 rule review.

This chapter contains the regulations for hunting waterfowl and coot and includes season dates, bag limits, possession limits, shooting hours, and areas open to hunting.

Todd Bishop, Wildlife Bureau Chief
Conservation and Recreation
Meeting Date: November 9, 2023

Attached: Chapter 91 - NOIA

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing to rescind and replace chapter

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 91, “Waterfowl and Coot Hunting Seasons,” Iowa Administrative Code and adopt a new Chapter 91 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 456A.24(14), 481A.134 and 135, 483A.1, 483A.9A, and 483A.10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 456A.24(14), 481A.134 and 135, 483A.1, 483A.9A, and 483A.10.

Purpose and Summary

Chapter 91 establishes and organizes waterfowl and coot hunting seasons as required by law. Waterfowl and coot hunting are an exciting recreational opportunity for licensed hunters. More importantly, though, Iowa relies upon hunters to help manage the state’s wildlife, including migratory waterfowl, which are held in trust for the people and required by law to be managed for posterity.

Consistent with Executive Order 10, Iowa Administrative Bulletin Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2)’s five-year rule review, this chapter was edited for length and clarity. Several long provisions identifying in narrative form areas that are either open or closed to hunting have been removed in lieu of a more user-friendly visual map available on the Department of Natural Resources’ (Department) website.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 571-Chapter 11.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 18, 2024. Comments should be directed to:

Orrin Jones
Iowa DNR
1203 North Shore Drive
Clear Lake, IA 50428
Email: orrin.jones@dnr.iowa.gov

Public Hearing

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

January 16, 2024 at 1-2PM, Wallace State Office Building, Conference room 4E

January 18, 2024 at 1-2PM, Wallace State Office Building, Conference room 4E

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific

needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action proposed:

ITEM 1. Rescind 571—Chapter 91 and adopt the following **new** chapter in lieu thereof:

CHAPTER 91
WATERFOWL AND COOT HUNTING SEASONS

571—91.1(481A) Duck hunting.

91.1(1) *Zone boundaries.* As specified in the November 2023 Waterfowl Hunting Map Book published on the department of natural resource's (department's) website (www.iowadnr.gov/Hunting/Migratory-Game-Birds), chapter 1 "Waterfowl Hunting Zones."

91.1(2) *Season dates - north zone.* Special September teal season: September 1 through September 16. For all ducks: The first segment of the season will begin on the Saturday nearest September 30 and run for seven days. The second segment of the season will open on the Saturday nearest October 13 and continue for 53 consecutive days.

91.1(3) *Season dates - central zone.* Special September teal season: September 1 through September 16. For all ducks: The first segment of the season will begin on the Saturday nearest October 6 and run for seven days. The second segment of the season will open on the Saturday nearest October 20 and continue for 53 consecutive days.

91.1(4) *Season dates - south zone.* Special September teal season: September 1 through September 16. For all ducks: The first segment of the season will begin on the Saturday nearest October 13 and run for seven days. The second segment of the season will open on the Saturday nearest October 27 and continue for 53 consecutive days.

91.1(5) *Bag limit.* Bag limits for all species are as adopted by the U.S. Fish and Wildlife Service. The daily bag limit for scaup will be one for the first 15 days of the duck hunting season and two for the remaining 45 days.

91.1(6) *Possession limit.* For the special September teal season and for all ducks: Possession limit is three times the daily bag limit.

91.1(7) *Shooting hours.* For the special September teal season: Shooting hours are sunrise to sunset each day. For all ducks: Shooting hours are one-half hour before sunrise to sunset each day.

571—91.2(481A) Coots (split season).

91.2(1) Same as duck season dates and shooting hours.

91.2(2) Bag and possession limits. Daily bag limit is 15 and possession limit is three times the daily bag limit.

571—91.3(481A) Goose hunting.

91.3(1) *Zone boundaries.* As specified in the November 2023 Waterfowl Hunting Map Book published on the department's website (www.iowadnr.gov/Hunting/Migratory-Game-Birds), chapter 1 "Waterfowl Hunting Zones."

91.3(2) *Season dates - north zone.* For all geese: The first segment of the regular goose season will begin on the Saturday nearest September 23 and run for a 16-day period. The second segment of the goose season will open on the Saturday nearest October 13 and continue for 53 consecutive days. The goose season will reopen on the Saturday nearest December 13 and remain continuously open until the total number of days used for goose hunting reaches 107.

91.3(3) *Season dates - central zone.* For all geese: The first segment of the regular goose season will begin on the Saturday nearest September 30 and run for a 16-day period. The second segment of the goose season will open on the Saturday nearest October 20 and continue for 53 consecutive days. The goose season will reopen on the Saturday nearest December 20 and remain continuously open until the total number of days used for goose hunting reaches 107.

91.3(4) *Season dates - south zone.* For all geese: The first segment of the regular goose season will begin on the Saturday nearest October 6 and run for a 16-day period. The second segment of the goose season will open on the Saturday nearest October 27 and continue for 53 consecutive days. The goose season will reopen on the Saturday nearest December 27 and remain continuously open until the total number of days used for goose hunting reaches 107.

91.3(5) *Bag limit.* The daily bag limit for dark geese (Canada geese, white-fronted geese, brant and any other geese that are not light geese) is five and may include no more than two Canada geese during the first segment of the statewide season and no more than three Canada geese during the remainder of the statewide season. The daily bag limit for light geese (white and blue-phase snow geese and Ross' geese) is 20.

91.3(6) *Possession limit.* The possession limit is three times the daily bag limit for Canada geese, brant and white-fronted geese. There is no possession limit for light geese.

91.3(7) *Shooting hours.* Shooting hours are one-half hour before sunrise until sunset each day.

91.3(8) *Light goose conservation order season.* Only light geese (white and blue-phase snow geese and Ross' geese) may be taken under a conservation order from the U.S. Fish and Wildlife Service beginning the day after the regular goose season closes and continuing until May 1.

a. *Zone boundaries.* Statewide.

b. *Shooting hours.* One-half hour before sunrise to one-half hour after sunset.

c. *Bag limit.* No bag limit.

d. *Possession limit.* No possession limit.

e. *Other regulations.* Methods of take approved by the U.S. Fish and Wildlife Service for hunting light geese during the conservation order season shall be permitted.

91.3(9) *Metropolitan goose hunting seasons and specified areas.*

a. *Season dates.* The second Saturday in September for nine consecutive days.

b. *Bag limit.* Daily bag limit is five Canada geese.

c. *Possession limit.* Three times the daily bag limit.

d. *Specified areas.*

(1) Cedar Rapids/Iowa City. As specified in the November 2023 Waterfowl Hunting Map Book published on the department's website (www.iowadnr.gov/Hunting/Migratory-Game-Birds), chapter 2 "Metropolitan Goose Hunting Areas."

(2) Des Moines. As specified in the November 2023 Waterfowl Hunting Map Book published on the department's website (www.iowadnr.gov/Hunting/Migratory-Game-Birds), chapter 2 "Metropolitan Goose Hunting Areas."

(3) Cedar Falls/Waterloo. As specified in the November 2023 Waterfowl Hunting Map Book published on the department's website (www.iowadnr.gov/Hunting/Migratory-Game-Birds), chapter 2 "Metropolitan Goose Hunting Areas."

571—91.4(481A) Closed areas. Waterfowl and coots may be hunted statewide except in specific areas.

91.4(1) *Waterfowl and coots.* There shall be no open season for ducks, coots and geese as specified in the November 2023 Waterfowl Hunting Map Book published on the department's website (www.iowadnr.gov/Hunting/Migratory-Game-Birds), chapter 3 "Areas Closed to Waterfowl Hunting."

91.4(2) *Canada geese.* There shall be no open season on Canada geese in certain areas described as specified in the November 2023 Waterfowl Hunting Map Book published on the department's website (www.iowadnr.gov/Hunting/Migratory-Game-Birds), chapter 4 "Areas Closed to Canada Goose Hunting."

571—91.5(481A) Canada goose hunting within closed areas. 91.5(1) *Closed areas.* All areas described in subrule 91.4(2).

a. Purpose. The hunting of Canada geese in closed areas is being undertaken to allow landowners or tenants who farm in these closed areas to hunt Canada geese on land they own or farm in the closed area.

b. Criteria.

(1) Landowners and tenants who own or farm land in the closed areas will be permitted to hunt Canada geese in the closed areas.

(2) Landowners and those individuals named on the permit according to the criteria specified in subparagraph 91.5(1) "b"(9) will be permitted to hunt in the closed area. Tenants may obtain a permit instead of the landowner if the landowner transfers this privilege to the tenant. Landowners may choose, at their discretion, to include the tenant and those individuals of the tenant's family specified in subparagraph 91.5(1) "b"(9) on their permit. Assigned permits must be signed by both the permittee and the landowner assigning the permit.

(3) Landowners must hold title to, or tenants must farm by a rent/share/lease arrangement, at least eight acres inside the closed area to qualify for a permit.

(4) No more than one permit will be issued to corporations, estates, or other legal associations that jointly own land in the closed area. No individual may obtain more than two permits nor may an individual be named as a participant on more than two permits.

(5) Persons holding a permit can hunt with those individuals named on their permit as specified in subparagraph 91.5(1) "b"(9) on any property they own (or rent/share/lease in the case of tenants) in the closed area provided their activity complies with all other regulations governing hunting. Nothing herein shall permit the hunting of Canada geese on public property within the closed area.

(6) Persons hunting under this permit must adhere to all municipal, county, state and federal regulations that are applicable to hunting and specifically applicable to Canada goose hunting. Hunting as authorized by this rule shall not be used to stir or rally waterfowl.

(7) Hunting within the closed area will be allowed through October 31.

(8) Permit holders will be allowed to take eight Canada geese per year in the closed area.

(9) Permits will be issued only to individual landowners or tenants; however, permit holders must specify, when requesting a permit, the names of all other individuals qualified to hunt on the permit. Individuals qualified to hunt on the permit shall include the landowners or tenants and their spouses, domestic partners, parents, grandparents, children, children's spouses, grandchildren, siblings and siblings' spouses only.

c. Procedures.

(1) Permits can be obtained from the local conservation officer or wildlife unit headquarters within the closed area no later than 48 hours before the first Canada goose season opens. The permit will be issued to an individual landowner or tenant and must list the names of all individuals that may hunt with the permittee. The permit will also contain a description of the property covered by the permit. The permit must be carried by a member of the hunting party whose name is listed on the permit. Conservation officers will keep a record of permittees and locations of properties that are covered by permits.

(2) Eight consecutively numbered tags will be issued with each permit. Geese will be tagged around the leg immediately upon being reduced to possession and will remain tagged until delivered to the person's abode.

(3) No one may attempt to take Canada geese under this permit unless the person possesses an unused tag for the current year.

(4) No landowner or tenant shall be responsible or liable for violations committed by other individuals

listed on the permit issued to the landowner or tenant.

571—91.6(481A,483A) Youth waterfowl hunt. A special youth waterfowl hunt will be held the weekend before the first segment of the regular duck season in each duck hunting zone. Youth hunters must be residents of Iowa as defined in Iowa Code section 483A.1A and less than 16 years old. Each youth hunter must be accompanied by an adult 18 years old or older. The youth hunter does not need to have a hunting license or stamps. The adult must have a valid hunting license and habitat stamp if normally required to have them to hunt and a state waterfowl stamp. Only the youth hunter may shoot ducks and coots. The adult may hunt for any game birds for which the season is open. The daily bag and possession limits are the same as for the regular waterfowl season, as defined in rule 571—91.1(481A). All other hunting regulations in effect for the regular waterfowl season apply to the youth hunt.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48(2), and 483A.2.

Iowa Department of Natural Resources
Natural Resource Commission

Decision Item

40. Chapters 94, “Nonresident Deer Hunting,” and Chapter 106, “Deer Hunting” – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Actions for Chapters 94 and 106. These Notices of Intended Action is the result of Wildlife Bureau’s Executive Order 10 rule review.

Existing Chapter 94 (non-resident deer hunting) and Chapter 106 (resident deer hunting; landowner/tenant; deer depredation) will be merged and strategically consolidated into new Chapter 106. The newly-revised deer hunting chapter has also been edited for overall length and clarity.

In detail, proposed new Chapter 106 governs deer hunting by residents and nonresidents in the state of Iowa. This chapter sets forth season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation and reporting requirements. Chapter 106 also addresses landowner/tenant eligibility and deer depredation.

Todd Bishop, Wildlife Bureau Chief
Conservation and Recreation
Meeting Date: November 9, 2023

Attached: Chapter 106 - NOIA

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action Proposing to rescind and reserve and rescind and replace chapters

The Natural Resource Commission (Commission) hereby proposes to rescind and reserve Chapter 94, “Nonresident Deer Hunting,” and to rescind Chapter 106, “Deer Hunting by Residents,” Iowa Administrative Code, and adopt a new Chapter 106 with the title, “Deer Hunting.”

Legal Authority for Rule Making

This rulemaking is proposed under the authority provided in Iowa Code sections 455A.5(6)(a), 481A.39, 481A.48, 481C.2(3), 483A.8, and 483A.24.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 481A.38, 481A.48, 483A.8, and 483A.24 and Iowa Code chapter 481C.

Purpose and Summary

Proposed Chapter 106 governs deer hunting by residents and nonresidents in the state of Iowa. This chapter sets forth season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation and reporting requirements. Chapter 106 also addresses landowner/tenant deer license application procedure, timing, and general eligibility as well as the state’s deer depredation program.

Consistent with Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2)’s five-year rule review, old Chapter 94 (non-resident deer hunting) and old Chapter 106 (resident deer hunting; landowner/tenant; deer depredation) will be merged and strategically consolidated into this proposed new chapter. The

newly-revised deer hunting chapter was also edited for overall length and clarity.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 571-Chapter 11.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking. Written comments in response to this rule making must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 18, 2024. Comments should be directed to:

Chris Ensminger
Wildlife Bureau
502 East Ninth Street
Des Moines, IA 50319
Chris.Ensminger@dnr.iowa.gov

Public Hearing

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

January 16, 2024 from 1-2PM, Wallace State Office Building, Conference room 4E

January 18, 2024 from 1-2PM, Wallace State Office Building, Conference room 4E

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action proposed:

ITEM 1. Rescind and reserve **571—Chapter 94**.

ITEM 2. Rescind 571—Chapter 106 and adopt the following **new** chapter in lieu thereof:

CHAPTER 106
DEER HUNTING

PART I
DEER HUNTING

571—106.1(481A) Licenses. When hunting deer, all hunters must have in their possession a valid deer hunting license and a valid resident or nonresident hunting license and must have paid the habitat fee (if normally required to have a hunting license and to pay the habitat fee to hunt).

106.1(1) Types of resident licenses.

a. General deer licenses. General deer licenses shall be valid for taking deer in one season selected at the time the license is purchased. General deer licenses shall be valid for taking deer of either sex except in counties designated by the natural resource commission (commission) during the first regular gun season when the general deer license will be valid for taking deer with at least one forked antler. Paid general deer licenses shall be valid statewide except where prohibited in deer population management zones established under 571—Chapter 105. Free general deer licenses shall be valid for taking deer of either sex only on the farm unit of an eligible landowner or tenant in the season or seasons selected at the time the license is obtained.

b. Antlerless-deer-only licenses. Antlerless-deer-only licenses shall be valid for taking deer that have no forked antler. Paid antlerless-deer-only licenses shall be valid in one county or in one deer population management zone and in one season as selected at the time the license is purchased. Free and reduced-fee antlerless-deer-only licenses shall be valid on the farm unit of an eligible landowner or tenant in the season or seasons selected at the time the license is obtained.

c. Bow season licenses. General deer and antlerless-deer-only licenses, paid or free, shall be valid in both segments of the bow season.

d. Regular gun season licenses. Paid general deer and antlerless-deer-only licenses shall be valid in either the first or the second regular gun season, as designated on the license. Free general deer licenses and antlerless-deer-only licenses shall be valid in both the first and second regular gun seasons.

e. Muzzleloader season licenses. General deer and antlerless-deer-only licenses, paid or free, shall be valid in either the early or the late muzzleloader season, as designated on the license.

106.1(2) January antlerless-deer-only resident licenses.

a. Population management season. Licenses for the population management January antlerless-deer-only season may be issued for counties designated by the commission following a 30-day public comment period. Population management January antlerless-deer-only licenses shall be issued for a county only when a minimum of 100 antlerless-deer-only licenses, as described in 106.10(5), remain unsold in that county as of the third Monday in December. If 100 or more antlerless-deer-only licenses remain unsold for a given county as of the third Monday in December, those remaining antlerless-deer-only licenses shall be made available for the population management January antlerless-deer-only season in that county until the relevant antlerless-deer-only quota as described in 106.10(5) is met.

b. Excess tag season. Licenses for the excess tag January antlerless-deer-only season may be issued in any county. Excess tag January antlerless-deer-only licenses shall be issued for a county only when a minimum of one antlerless-deer-only license, as described in 106.10(5), remains unsold for a given county through January 10. Remaining antlerless-deer-only licenses shall be made available starting on January 11 for the excess tag January antlerless-deer-only season in that county until the relevant antlerless-deer-only quota as described in 106.10(5) is met.

106.1(3) Types of nonresident licenses.

a. Any-deer licenses. Any-deer licenses shall be valid for taking deer of either sex in the zone and season designated by the hunter when the application is submitted as described in 571—106.8(483A).

b. Mandatory antlerless-deer-only licenses. Each hunter who is successful in drawing an any-deer license must also purchase an antlerless-deer-only license for the same zone and season as the any-deer license. If the hunter is unsuccessful in drawing an any-deer license, neither the any-deer nor antlerless-deer-only license will be issued. Antlerless-deer-only licenses shall be valid for taking deer that have no forked antler.

c. Optional antlerless-deer-only licenses. A hunter who is not successful in drawing an any-deer license may purchase an antlerless-deer-only license as described in 571—106.8(483A).

d. Bow season license. Bow and arrow deer licenses shall be valid for deer of either sex or antlerless deer during the bow season and in the zone designated by the hunter at the time the application is submitted.

e. Regular gun season license. Regular gun season licenses will be issued for deer of either sex or antlerless deer. Regular gun season licenses will be issued by zone and season and will be valid in the zone and season designated by the hunter when the application is submitted.

f. Muzzleloader season license. Muzzleloader season licenses will be issued for deer of either sex or antlerless deer and shall be valid only during the muzzleloader season and in the zone designated by the hunter when the application is submitted.

g. Excess tag January antlerless-deer-only license. Beginning on January 11, nonresident hunters may obtain antlerless-deer-only licenses for the excess tag January antlerless-deer-only season specified in 106.2(4). Licenses will be available only in those counties specified in 106.10(3) until the quota provided in 106.10(5) is filled. All regulations specified in Chapter 106 for the January antlerless deer season for resident hunters including limits, shooting hours, method of take, tagging and reporting requirements will also apply to nonresident hunters during this season.

h. Special licenses. The commission shall issue licenses in conformance with Iowa Code section 483A.24(12) to nonresidents 21 years of age or younger who have a severe physical disability or who have been diagnosed with a terminal illness. A person applying for this license must provide a completed form obtained from the department of natural resources. The application shall be certified by the applicant's attending physician with an original signature and declare that the applicant has a severe physical disability or a terminal illness using the criteria listed in 571—Chapter 15. A medical statement from the applicant's attending physician that specifies criteria met shall be on 8½" × 11" letterhead stationery. The attending physician shall be a currently practicing doctor of medicine, doctor of osteopathy, physician assistant or nurse

practitioner.

571—106.2(481A) Season dates. Deer may be taken only during the following seasons:

106.2(1) Bow season. Deer may be taken in accordance with the type of license issued from October 1 through the Friday before the first Saturday in December and from the Monday following the third Saturday in December through January 10 of the following year.

106.2(2) Regular gun seasons. Deer may be taken in accordance with the type, season and zone designated on the license from the first Saturday in December and continuing for five consecutive days (first regular gun season) or from the second Saturday in December and continuing for nine consecutive days (second regular gun season).

106.2(3) Muzzleloader seasons. Deer may be taken in accordance with the type, season and zone designated on the license from the Saturday closest to October 14 and continuing for nine consecutive days (early muzzleloader season) or from the Monday following the third Saturday in December through January 10 of the following year (late muzzleloader season).

106.2(4) Resident population management and excess tag January antlerless-deer-only seasons. Deer may be taken in accordance with the type, season, and zone designated on the license from January 11 through the second Sunday following that date.

571—106.3(481A) Shooting hours. Legal shooting hours shall be from one-half hour before sunrise to one-half hour after sunset in all seasons.

571—106.4(481A) Limits.

106.4(1) Bow season. The daily bag limit is one deer per license. The possession limit is one deer per license.

106.4(2) Muzzleloader seasons. The daily bag limit is one deer per license. The possession limit is one deer per license.

106.4(3) Regular gun seasons. The bag limit is one deer per license. The possession limit is one deer per license.

106.4(4) Resident population management and excess tag January antlerless-deer-only seasons. The bag limit is one deer per license. The possession limit is one deer per license.

106.4(5) Maximum annual possession limit. The maximum annual possession limit for a deer hunter is one deer for each legal license and transportation tag obtained.

571—106.5(481A) Areas closed to hunting. There shall be no open seasons for hunting deer on the county roads immediately adjacent to or through Union Slough National Wildlife Refuge, Kossuth County, where posted accordingly. There shall be no open seasons for hunting deer on all portions of rights-of-way on Interstate Highways 29, 35, 80 and 380.

571—106.6(483A) Nonresident zones open to hunting. Licenses will be valid only in designated areas as follows:

106.6(1) Nonresident zone boundaries. As specified in the nonresident deer hunting zones map published on the department’s website (www.iowadnr.gov/Hunting/Deer-Hunting) “Nonresident Deer Hunting Zones.”

106.6(2) Reserved.

571—106.7(483A) Nonresident license quotas. A limited number of nonresident deer licenses will be issued in zones as follows:

106.7(1) Zone license quotas. Nonresident license quotas are as follows:

	Any-sex licenses		Mandatory Antlerless-only	Optional Antlerless-only
	All Methods	Bow		
Zone 1	90	31	90	

	Any-sex licenses		Mandatory Antlerless-only	Optional Antlerless-only
	All Methods	Bow		
Zone 2	90	31	90	
Zone 3	560	196	560	
Zone 4	1280	448	1280	
Zone 5	1600	560	1600	
Zone 6	800	280	800	
Zone 7	360	126	360	
Zone 8	240	84	240	
Zone 9	880	308	880	
Zone 10	100	35	100	
Total	6000	2099	6000	3500

106.7(2) Quota applicability. The license quota issued for each zone will be the quota for all bow, regular gun and muzzleloader season licenses combined. No more than 6,000 any-deer licenses and 6,000 mandatory antlerless-deer-only licenses will be issued for all methods of take combined, for the entire state. Of the 6,000 any-deer and 6,000 mandatory antlerless-deer-only licenses, no more than 35 percent in any zone can be bow licenses. A maximum of 4,500 optional antlerless-deer-only licenses will be issued on a county-by-county basis. The licenses will be divided between the counties in the same proportion as resident antlerless-deer-only licenses. Hunters must designate a zone or county and season when purchasing the license and hunt only in that zone or county and season.

571—106.8(483A) Nonresident application procedure. Applications for nonresident deer hunting licenses must be made through the electronic licensing system for Iowa (ELSI) telephone order system or the ELSI Internet license sales website. **106.8(1) Any-deer licenses.** Applications for any-deer and mandatory antlerless-deer-only licenses will be accepted from the first Saturday in May through the first Sunday in June. No one may submit more than one application during the application period. Hunters may apply as individuals or as a group of up to 15 applicants. All members of a group will be accepted or rejected together in the drawing. If applications have been sold in excess of the license quota for any zone or season, a drawing will be held to determine which applicants receive licenses. Licenses or refunds of license fees will be mailed to applicants after the drawing is completed. License agent writing fees, department administrative fees and telephone order charges will not be refunded. If any zone's license quota for any-deer and mandatory antlerless-deer-only licenses has not been filled, the excess any-deer and mandatory antlerless-deer-only licenses will be sold on a first-come, first-served basis through the ELSI telephone ordering system or the ELSI Internet license sales website. Excess any-deer and mandatory antlerless-deer-only licenses will be sold beginning the last Saturday in July until the quota has been filled or the last day of the hunting period for which the license is valid, whichever occurs first. Members of a group that are rejected may purchase licenses individually if excess any-deer and mandatory antlerless-deer-only licenses or optional antlerless-deer-only licenses are available.

106.8(2) Optional antlerless-deer-only licenses. Optional antlerless-deer-only licenses must be purchased through the ELSI telephone ordering system or the ELSI Internet license sales website. Licenses for taking only antlerless deer will be available on the same date as excess any-deer licenses are sold as explained in 106.8(1). Optional antlerless-deer-only licenses will only be issued for one of the two regular gun seasons and for qualified disabled hunters (571—106.15(481A)). They will be sold first-come, first-served until the county quota is filled, or until the last day of the season for which a license is valid. If optional antlerless-deer-only

licenses are still available on December 15, they may be purchased by nonresidents to hunt during the period from December 24 through January 2. These licenses will be available to nonresidents who have not purchased a nonresident deer license during one of the current deer seasons. The hunter must have in possession a valid nonresident small game hunting license and proof of having paid the current year's wildlife habitat fee. Optional antlerless-deer-only licenses will be valid only in the season and county designated by the hunter at the time the license is purchased.

a. Nonresident landowners. Nonresidents who own land in Iowa will have preference in obtaining optional antlerless-deer-only licenses. Nonresidents must qualify as landowners following the criteria stated in 106.17(1) and 106.17(3) through 106.17(6), except that nonresident tenants and family members of nonresident landowners and tenants do not qualify and nonresident optional antlerless-deer-only licenses will not be free of charge. If a farm unit is owned jointly by more than one nonresident, only one owner may claim landowner preference in the same year. Nonresidents who own land jointly with a resident do not qualify for preference. Nonresidents who have provided proof to the department that they own land in Iowa and meet the qualifying criteria may purchase an optional antlerless-deer-only license for one of the two regular gun seasons when excess any-deer licenses go on sale or for the holiday season beginning December 15. Such proof must be provided before an optional antlerless-deer-only license can be purchased and must be resubmitted each year in which an optional antlerless-deer-only license is purchased. These licenses do not count against the county quota.

b. Nonresident proof of land ownership. Nonresidents who request preference for optional antlerless-deer-only licenses will be required to submit a copy of their state of Iowa property tax statement for the current year or sign an affidavit that lists the legal description of their land, date purchased, and book and page number, or instrument number, where the deed is recorded.

106.8(3) Preference points. Each individual applicant who is unsuccessful in the drawing for an any-deer license will be assigned one preference point for each year that the individual is unsuccessful. If a person who was unsuccessful in the drawing purchases a leftover license within four weeks, the person will receive a refund for the cost of the preference point. Preference points will not accrue in a year in which an applicant fails to apply, but the applicant will retain any preference points previously earned. Preference points will apply only to obtaining any-deer licenses. Once an applicant receives an any-deer nonresident deer hunting license, all preference points will be removed until the applicant is again unsuccessful in a drawing or purchases a preference point as described in 106.8(4). Preference points will apply to any zone or season for which a hunter applies. The first drawing for any-deer licenses each year will be made from the pool of applicants with the most preference points. If licenses are still available after the first drawing, subsequent drawings will be made from pools of applicants with successively fewer preference points and continue until the any-deer license quota is reached or all applicants have received licenses. Applicants who apply as a group will be included in a pool of applicants with the same number of preference points as that of the member of the group with the fewest preference points assigned.

106.8(4) Purchasing preference points. A nonresident who does not want to hunt in the current year may purchase one preference point per calendar year. The preference point will apply to the next year's drawing for any-deer licenses. The preference point will be treated in the same manner as preference points obtained by hunters who are unsuccessful in the any-deer license drawing. A nonresident may not purchase a preference point and apply for an any-deer license in the same calendar year. Preference points may be purchased only during the application period for any-deer licenses.

571—106.9(481A) Free and reduced-fee deer licenses for resident landowners and tenants. A maximum of one free general deer license, two free antlerless-deer-only licenses, and two reduced-fee antlerless-deer-only licenses may be issued to a qualifying landowner or eligible family member and a qualifying tenant or eligible family member. Eligibility for licenses is described in 571—106.17(481A). The free general deer license shall be available for one of the following seasons: the youth/disabled hunter season (if eligible), bow season, early muzzleloader season, late muzzleloader season, or first and second regular gun seasons. One free antlerless-deer-only license shall be available for one of the following seasons: youth/disabled hunter season (if eligible), bow season, early muzzleloader season, late muzzleloader season, or first and second regular gun seasons. The second free antlerless-deer-only license shall be valid only for the January antlerless-

deer-only season and will be available only if a portion of the farm unit lies within a county where paid antlerless-deer-only licenses are available during that season. Each reduced-fee antlerless-deer-only license shall be valid for one of the following seasons: youth/disabled hunter season (if eligible), bow season, early muzzleloader season, late muzzleloader season, first and second regular gun seasons, or January antlerless-deer-only seasons. January antlerless-deer-only licenses will be available only if a portion of the farm unit is located in a county where paid antlerless-deer-only licenses are available in that season.

571—106.10(481A) Resident paid deer license quotas and restrictions. Paid deer licenses, including antlerless-deer-only licenses, will be restricted in the type and number that may be purchased.

106.10(1) Paid general deer licenses. Residents may purchase no more than two paid general deer licenses, one for the bow season and one for one of the following seasons: early muzzleloader season, late muzzleloader season, first regular gun season, or second regular gun season. No more than 7,500 paid statewide general deer licenses will be sold for the early muzzleloader season. Fifty additional paid early muzzleloader season licenses will be sold through and will be valid only for the Iowa Army Ammunition Plant. There will be no quota on the number of paid general deer licenses issued in the bow season, late muzzleloader season, first regular gun season, or second regular gun season.

106.10(2) Paid antlerless-deer-only licenses. Paid antlerless-deer-only licenses have quotas for each county and will be sold for each county until quotas are reached.

a. Paid antlerless-deer-only licenses may be purchased for any season in counties where licenses are available, except as outlined in 106.10(2) “*b.*” A license must be used in the season, county or deer population management area selected at the time the license is purchased.

b. No one may obtain paid licenses for both the first regular gun season and second regular gun season regardless of whether the licenses are valid for any deer or antlerless deer only. Paid antlerless-deer-only licenses for the early muzzleloader season may only be purchased by hunters who have already purchased one of the 7,500 paid statewide general deer licenses. Hunters who purchase one of the 7,500 paid statewide general deer licenses for the early muzzleloader season may not obtain paid antlerless licenses for the first or second regular gun season.

c. Prior to September 15, a hunter may purchase one antlerless-deer-only license for any season for which the hunter is eligible. Beginning September 15, a hunter may purchase an unlimited number of antlerless-deer-only licenses for any season for which the hunter is eligible, as set forth in 106.10(2) “*b.*,” until the county or population management area quotas are filled. Licenses purchased for deer population management areas will not count in the county quota.

106.10(3) Population management and excess tag January antlerless-deer-only seasons. Only antlerless-deer-only licenses, paid or free, are available in counties pursuant to the conditions described in 106.1(2). A license must be used during the population management or excess tag January antlerless-deer-only season as described in 106.2(4) and in the county or deer population management area selected at the time the license is purchased. Free antlerless-deer-only licenses shall be available only in the portion of the farm unit located in a county where paid antlerless-deer-only licenses are available during the population management or excess tag January antlerless-deer-only season.

106.10(4) Free resident landowner/tenant licenses. A person obtaining a free landowner/tenant license may purchase any combination of paid bow and paid gun licenses available to persons who are not eligible for landowner/tenant licenses as described in 571—106.17(481A).

106.10(5) Antlerless-deer-only licenses. Paid antlerless-deer-only licenses shall be available by county as designated annually by the commission. Prior to the commission designating the quotas, the department shall publish on its website (<https://www.iowadnr.gov/Hunting/Deer-Hunting>) a proposed allocation and accept public comments for at least thirty days.

571—106.11(481A) Method of take. Permitted weapons and devices vary according to the type of season.

106.11(1) Bow season. Only longbow, compound, or recurve bows shooting broadhead arrows are permitted during the bow season. Arrows must be at least 18 inches long.

a. Crossbows, as described in 106.11(1) “*b.*,” may be used during the bow season in the following two situations:

(1) By persons with certain afflictions of the upper body as provided in 571—15.22(481A); and

(2) By persons over the age of 65 with an antlerless-deer-only license as provided in Iowa Code section 483A.8B.

b. Crossbow means a weapon consisting of a bow mounted transversely on a stock or frame and designed to fire a bolt, arrow, or quarrel by the release of the bow string, which is controlled by a mechanical trigger and a working safety. Crossbows equipped with pistol grips and designed to be fired with one hand are illegal for taking or attempting to take deer. All projectiles used in conjunction with a crossbow for deer hunting must be equipped with a broadhead.

c. No explosive or chemical device may be attached to any arrow, broadhead or bolt.

106.11(2) Regular gun seasons. Only the following shall be used in the regular gun season: 10-, 12-, 16-, and 20-gauge shotguns shooting single slugs; any handgun or rifle as described in Iowa Code section 481A.48; and any muzzleloaders as described in 106.11(3).

106.11(3) Muzzleloader seasons. Only muzzleloading rifles, muzzleloading muskets, muzzleloading pistols, and muzzleloading revolvers will be permitted for taking deer during the early muzzleloader season. During the late muzzleloader season, deer may be taken with a muzzleloading rifle, muzzleloading musket, muzzleloading pistol, muzzleloading revolver, any handgun as defined in 106.11(2), crossbow as described in 106.11(1)“*b*,” or bow as described in 106.11(1). All muzzleloaders as described in this subrule shall only shoot a single projectile between .44 and .775 of an inch.

106.11(4) January antlerless-deer-only seasons.

a. *Population management January antlerless-deer-only season.* Bows, crossbows, shotguns, muzzleloaders, and handguns, as each is described in this rule, and rifles as described in Iowa Code section 483A.8(9) may be used during the population management January antlerless-deer-only season.

b. *Excess tag January antlerless-deer-only season.* Only rifles as described in Iowa Code section 483A.8(9) shall be used during the excess tag January antlerless-deer-only season.

106.11(5) Prohibited weapons and devices. The use of dogs, domestic animals, bait, firearms except as provided for in this chapter, crossbows except as provided in 106.11(1), automobiles, aircraft, or any mechanical conveyance or device, including electronic calls, is prohibited, except that paraplegics and single or double amputees of the legs may hunt from any stationary motor-driven land conveyance. “Bait” means grain, fruit, vegetables, nuts, hay, salt, mineral blocks, or any other natural food materials; commercial products containing natural food materials; or by-products of such materials transported to or placed in an area for the intent of attracting wildlife. Bait does not include food placed during normal agricultural activities. “Paraplegic” means an individual with paralysis of the lower half of the body with involvement of both legs, usually due to disease of or injury to the spinal cord. It shall be unlawful for a person, while hunting deer, to carry or have in possession a rifle except as provided in 106.11(2) or 106.11(3). Only handguns as described in 106.11(2) may be used to hunt deer and only when a handgun is a lawful method of take.

106.11(6) Discharge of firearms from roadway. No person shall discharge a rifle, including a muzzleloading rifle or musket, or a handgun from a highway while deer hunting. In addition, no person shall discharge a shotgun shooting slugs from a highway north of U.S. Highway 30. A “highway” means the way between property lines open to the public for vehicle traffic, including the road ditch, as defined in Iowa Code section 321.1(78).

106.11(7) Hunting from blinds. No person shall use a blind for hunting deer during the regular gun deer seasons as defined in 106.2(2), unless such blind exhibits a solid blaze orange marking which is a minimum of 144 square inches in size and is visible in all directions. Such blaze orange shall be affixed directly on or directly on top of the blind. For the purposes of this subrule, the term “blind” is defined as an enclosure used for concealment while hunting, constructed either wholly or partially from man-made materials, and used by a person who is hunting for the purpose of hiding from sight. A blind is not a naturally occurring landscape feature or an arrangement of natural or agricultural plant material that a hunter uses for concealment. In addition to the requirements in this subrule, hunters using blinds must also satisfy the requirements of wearing blaze orange as prescribed in Iowa Code section 481A.122.

571—106.12(481A) Procedures to obtain licenses. All resident deer hunting licenses must be obtained using the ELSI. Licenses may be purchased from ELSI license agents, or online at www.iowadnr.com, or by calling the ELSI telephone ordering system.

106.12(1) Licenses with quotas. All paid deer hunting licenses for which a quota is established may be obtained from the ELSI system on a first-come, first-served basis beginning August 15 until the quota fills, or through the last day of the hunting period for which the license is valid.

106.12(2) Licenses without quotas. All deer hunting licenses that have no quota may be obtained from the ELSI system beginning August 15 through the last day of the hunting period for which a license is valid.

106.12(3) Providing false information.

a. Any person who provides false information about the person's identity or eligibility for any paid or free landowner/tenant deer license and tag and who attests that the information is correct by accepting and signing the license or tag shall have the person's hunting license revoked as a part of the sentencing for such criminal conviction, and the person shall not be issued a hunting license for one year pursuant to the authority of Iowa Code section 483A.24(2) "f" and 571—15.6(483A).

b. In addition to any legal penalties that may be imposed, the obtaining of a license in violation of this rule shall invalidate that deer license and transportation tag and any other deer hunting license and transportation tag obtained during the same year.

571—106.13(481A) Transportation tag.

106.13(1) Use of transportation tag. A transportation tag bearing the license number of the licensee, year of issuance, and date of kill properly shown shall be visibly attached to one leg of each antlerless deer or on the main beam between two points, if present, on one of the antlers of an antlered deer in such a manner that the tag cannot be removed without mutilating or destroying the tag. This tag shall be attached to the carcass of the deer within 15 minutes of the time the deer carcass is located after being taken or before the carcass is moved to be transported by any means from the place where the deer was taken, whichever occurs first. No person shall tag a deer with a transportation tag issued to another person or with a tag that was purchased after the deer was taken. This tag shall be proof of possession and shall remain affixed to the carcass until such time as the animal is processed for consumption. The head, and antlers if any, shall remain attached to the deer while being transported by any means whatsoever from the place where taken to the processor or commercial preservation facility or until the deer has been processed for consumption. The hunter who killed the deer must tag the deer using the transportation tag issued in that person's name unless lawfully party hunting.

106.13(2) Party hunting.

a. Resident party hunting. During the first and second regular gun seasons and the January antlerless-deer-only seasons, any resident hunter present in the hunting party may use their tag on a deer harvested by another resident.

b. Nonresident party hunting. Party hunting is not allowed by nonresidents.

571—106.14(481A) Resident youth deer and severely disabled hunts. 106.14(1) Licenses.

a. Youth deer hunt. A youth deer license may be issued to any Iowa resident who is not over 15 years old on the day the youth obtains the license. The youth license may be paid or free to persons eligible for free licenses. If the youth obtains a free landowner/tenant license, it will count as the one free general deer license for which the youth's family is eligible.

Each participating youth must be accompanied by an adult who possesses a regular hunting license and has paid the habitat fee (if the adult is normally required to have a hunting license and to pay the habitat fee to hunt). Only one adult may participate for each youth hunter. The accompanying adult must not possess a firearm or bow and must be in the direct company of the youth at all times.

A person may obtain only one youth general deer license but may also obtain any other paid or free general deer and antlerless-deer-only licenses that are available to other hunters. Antlerless-deer-only licenses must be obtained in the same manner with which other hunters obtain them, as described in 106.10(2).

b. Severely disabled hunt. Any severely disabled Iowa resident meeting the requirements of Iowa Code section 321L.1(8) may be issued one general deer license to hunt deer during the youth season. A person applying for this license must either possess a disability parking permit or provide a completed form from the department of natural resources. The form must be signed by a physician verifying that the person's disability meets the criteria defined in Iowa Code section 321L.1(8). The attending physician shall be currently

practicing medicine and shall be a medical doctor, a doctor of osteopathy, a physician assistant, or a nurse practitioner. Forms are available online at www.iowadnr.gov, by visiting the Department of Natural Resources office at the Wallace State Office Building, Des Moines, Iowa, or any district office, or by calling 515.725.8200. A person between 16 and 65 years of age must also possess a regular hunting license and have paid the habitat fee to obtain a license (if normally required to have a hunting license and to pay the habitat fee to hunt). A severely disabled person obtaining this license may obtain any other paid and free general deer and antlerless-deer-only licenses that are available to other hunters. Antlerless-deer-only licenses must be obtained in the same manner by which other hunters obtain them, as described in 106.10(2).

106.14(2) *Season dates.* Deer of either sex may be taken statewide for 16 consecutive days beginning on the third Saturday in September. A person who is issued a youth deer hunting license and does not take a deer during the youth deer hunting season may use the deer hunting license and unused tag during any subsequent deer seasons. The license will be valid for the type of deer and in the area specified on the original license. The youth must follow all other rules specified in this chapter for each season, including method of take. If the tag is filled during any of the seasons, the license will not be valid in subsequent seasons.

106.14(3) *Shooting hours.* Legal shooting hours will be one-half hour before sunrise to one-half hour after sunset each day regardless of weapon used.

106.14(4) *Limits and license quotas.* An unlimited number of licenses may be issued. The daily and season bag and possession limit is one deer per license. A person may shoot and tag a deer only by utilizing the license and tag issued in the person's name.

106.14(5) *Method of take and other regulations.* Deer may be taken with shotguns, bows, handguns, rifles, or muzzleloaders as permitted in 571—106.11(481A). Youth hunters using a handgun must be accompanied and under direct supervision throughout the hunt by a responsible person with a valid hunting license who is at least 21 years of age, with the consent of a parent or guardian. The responsible person with a valid hunting license who is at least 21 years of age shall be responsible for the conveyance of the pistol or revolver while the pistol or revolver is not actively being used for hunting. "Direct supervision" means the same as defined in Iowa Code section 483A.27A(4). All participants must meet the deer hunters' orange apparel requirement in Iowa Code section 481A.122. All other regulations for obtaining licenses or hunting deer shall apply.

106.14(6) *Procedures for obtaining licenses.* Paid and free youth season licenses and licenses for severely disabled hunters may be obtained through ELSI beginning August 15 through the last day of the youth season.

571—106.15(481A) Nonresident deer hunting season for severely disabled persons.

106.15(1) *Licenses.* A nonresident meeting the requirements of Iowa Code section 321L.1(8) may apply for or purchase a nonresident deer hunting license to participate in a special deer hunting season for severely disabled persons. Nonresidents applying for this license must have on file with the department of natural resources either a copy of a disabilities parking permit issued by a state department of transportation or an Iowa department of natural resources form signed by a physician that verifies their disability.

106.15(2) *Season dates.* Any deer or antlerless deer may be taken in the hunting zone indicated on the deer license during 16 consecutive days beginning the third Saturday in September.

106.15(3) *Shooting hours.* Legal shooting hours will be from one-half hour before sunrise until one-half hour after sunset each day regardless of the type of weapon used.

106.15(4) *Limits.* Daily bag and possession limit is one deer. A person may shoot and tag only one deer by utilizing the license and tag issued in the person's name.

106.15(5) *License quotas.* Licenses for the special hunting season for severely disabled persons shall be issued from the quotas established in 571—106.7(483A). A special quota will not be set aside for severely disabled persons.

106.15(6) *Method of take and other regulations.* Deer may be taken with shotgun, bow, muzzleloading rifle or pistol as defined in 571—106.11(483A). All participants must meet the hunters' orange apparel requirement in Iowa Code section 481A.122. All other regulations for taking deer with a gun or bow shall apply.

106.15(7) *Application procedures.* Persons meeting the requirements for this season must apply following the procedures described in 571—106.12(483A). A person who does not have a form on file to verify a disability will not be entered into the drawing or be allowed to purchase a license and will have the license fee refunded,

less a \$10 administrative fee to cover the cost of handling the application as provided in 571—subrule 15.8(1). License agent writing fees, department administrative fees, Internet sales charges and telephone order charges will not be refunded.

These rules are intended to implement Iowa Code sections 481A.38, 481A.48, 483A.8, and 483A.24.

PART II
DEER DEPREDATION

571—106.16(481A) Deer depredation management. The deer depredation management program provides assistance to producers through technical advice and additional deer licenses and permits where the localized reduction of female deer is needed to reduce damage. Upon signing a depredation management agreement with the department, producers of agricultural or high-value horticultural crops may be issued deer depredation permits to shoot deer causing excessive crop damage. If immediate action is necessary to forestall serious damage, depredation permits may be issued before an agreement is signed. Further permits will not be authorized until an agreement is signed.

106.16(1) Method of take and other regulations. Legal weapons and restrictions will be governed by 571—106.11(481A). For deer shooting permits only, there are no shooting hour restrictions; however, taking deer with an artificial light is prohibited by Iowa Code section 481A.93. The producer or designee must meet the deer hunters' orange apparel requirement in Iowa Code section 481A.122.

106.16(2) Eligibility. Producers growing typical agricultural crops (such as corn, soybeans, hay and oats and tree farms and other forestlands under a timber management program) and producers of high-value horticultural crops (such as Christmas trees, fruit or vegetable crops, nursery stock, and commercially grown nuts) shall be eligible to enter into depredation management agreements if these crops sustain excessive damage.

a. The producer may be the landowner or a tenant, whoever has cropping rights to the land.

b. Excessive damage is defined as crop losses exceeding \$1,000 in a single growing season, or the likelihood that damage will exceed \$1,000 if preventive action is not taken, or a documented history of at least \$1,000 of damage annually in previous years.

c. Producers who lease their deer hunting rights are not eligible for the deer depredation management program.

106.16(3) Depredation management plans. Upon request from a producer, field employees of the wildlife bureau will inspect and identify the type and amount of crop damage. If deer damage is not excessive, technical advice will be given to the producer on methods to reduce or prevent future damage. If damage is excessive and the producer agrees to participate, a depredation management plan will be developed by depredation biologists in consultation with the producer.

a. The goal of the management plan will be to reduce damage to below excessive levels within a specified time period through a combination of producer-initiated preventive measures and the issuance of deer depredation permits.

(1) Depredation plans may require preventive measures such as harassment of deer with pyrotechnics and cannons, guard dogs, temporary fencing, permanent fencing costing less than \$1,000, allowing more hunters, increasing the take of antlerless deer, and other measures.

(2) Depredation permits to shoot deer may be issued to Iowa residents to reduce deer numbers until long-term preventive measures become effective. Depredation permits will not be used as a long-term solution to deer damage problems.

b. Depredation management plans will normally be written for a three-year period with progress reviewed annually by the department and the producer.

(1) The plan will become effective when signed by the depredation biologist and the producer.

(2) Plans may be modified or extended if mutually agreed upon by the department and the producer.

(3) Depredation permits will not be issued after the initial term of the management plan if the producer fails to implement preventive measures outlined in the plan.

106.16(4) Depredation permits. Two types of permits may be issued under a depredation management plan.

a. Deer depredation licenses. Deer depredation licenses may be sold to resident hunters only for a fee of

\$5 for use during one or more legal hunting seasons. Depredation licenses will be available to producers of agricultural and horticultural crops.

(1) Depredation licenses will be issued up to the number specified in the management plan.

(2) The landowner or an eligible family member, which shall include the landowner's spouse or domestic partner and juvenile children, may obtain one depredation license for each season established by the commission.

(3) Depredation licenses will be valid only for hunting antlerless deer, regardless of restrictions that may be imposed on regular deer hunting licenses in that county.

(4) All other regulations for the hunting season specified on the license apply.

(5) Depredation licenses are valid only on the land where damage is occurring and the immediately adjacent property unless the land is within a designated block hunt area as described in 106.16(4) "a"(6). Other parcels of land in the farm unit not adjacent to the parcels receiving damage will not qualify.

(6) Block hunt areas are areas designated and delineated by wildlife biologists of the wildlife bureau to facilitate herd reduction in a given area where all producers may not qualify for the depredation program or in areas of persistent deer depredation. Depredation licenses issued to producers within the block hunt area are valid on all properties within the delineated boundaries. Individual landowner permission is required for hunters utilizing depredation licenses within the block hunt area boundaries. Creation of a given block hunt area does not authorize trespass.

b. Deer shooting permits. Permits for shooting deer outside an established hunting season may be issued to producers of high-value horticultural crops when damage cannot be controlled in a timely manner during the hunting seasons (such as late summer buck rubs in an orchard and winter browsing in a Christmas tree plantation) and to other agricultural producers who have an approved department deer depredation plan, and on areas such as airports where public safety may be an issue.

(1) Deer shooting permits will be issued for a fee of \$5 to the applicant.

(2) The applicant or one or more designees approved by the department may take all the deer specified on the permit.

(3) Permits available to producers of high-value horticultural crops or agricultural crops may be valid for taking deer outside of a hunting season depending on the nature of the damage. The number and type of deer to be killed will be determined by a department depredation biologist and will be part of the deer depredation management plan.

(4) Permits issued due to public safety concerns may be used for taking any deer, as necessary, to address unpredictable intrusion which could jeopardize public safety. Permits may be issued for an entire year (January 1 through December 31) if the facility involved signs an agreement with the department.

(5) All deer killed must be recovered and processed for human consumption.

(6) The times, dates, place and other restrictions on the shooting of deer will be specified on the permit.

(7) Antlers from all deer recovered must be turned over to the conservation officer within 48 hours. Antlers will be disposed of according to department rules.

(8) For out-of-season shooting permits, there are no shooting hour restrictions; however, taking deer with an artificial light is prohibited by Iowa Code section 481A.93.

c. Depredation licenses and shooting permits will be issued in addition to any other licenses for which the hunters may be eligible.

d. Depredation licenses and shooting permits will not be issued if the producer restricts the legal take of deer from the property sustaining damage by limiting hunter numbers below levels required to control the deer herd. This restriction does not apply in situations where shooting permits are issued for public safety concerns.

e. A person who receives a depredation permit pursuant to this paragraph shall pay a \$1 fee for each license that shall be used and is appropriated for the purpose of deer herd population management, including assisting with the cost of processing deer donated to the help us stop hunger (HUSH) program administered by the commission and a \$1 writing fee for each license to the license agent.

571—106.17(481A) Eligibility for free landowner/tenant deer licenses. 106.17(1) *Who qualifies for free deer hunting licenses.*

a. Owners and tenants of a farm unit and the spouse and juvenile child of an owner or tenant who reside with the owner or tenant are eligible for free deer licenses. The owner or tenant does not have to reside on the farm unit but must be actively engaged in farming it. Nonresident landowners do not qualify.

b. Juvenile child defined. “Juvenile child” means a person less than 18 years of age or a person who is 18 or 19 years of age and is in full-time attendance at an accredited school pursuing a course of study leading to a high school diploma or a high school equivalency diploma. A person 18 years of age or older who has received a high school diploma or high school equivalency diploma does not qualify.

106.17(2) *Who qualifies as a tenant.* A “tenant” is a person other than the landowner who is actively engaged in the operation of the farm. The tenant may be a member of the landowner’s family, including in some circumstances the landowner’s spouse or child, or a third party who is not a family member. The tenant does not have to reside on the farm unit.

106.17(3) *What “actively engaged in farming” means.* Landowners and tenants are “actively engaged in farming” if they personally participate in decisions about farm operations and those decisions, along with external factors such as weather and market prices, determine their profit or loss for the products they produce. Tenants qualify if they farm land owned by another and pay rent in cash or in kind. A farm manager or other third party who operates a farm for a fee or a laborer who works on the farm for a wage and is not a family member does not qualify as a tenant.

106.17(4) *Landowners who qualify as active farmers.* These landowners:

- a. Are the sole operator of a farm unit (along with immediate family members), or
- b. Make all decisions about farm operations, but contract for custom farming or hire labor to do some or all of the work,

or

- c. Participate annually in decisions about farm operations such as negotiations with federal farm agencies or negotiations about cropping practices on specific fields that are rented to a tenant, or
- d. Raise specialty crops from operations such as orchards, nurseries, or tree farms that do not necessarily produce annual income but require annual operating decisions about maintenance or improvements, or
- e. May have portions of the farm enrolled in a long-term land retirement program such as the Conservation Reserve Program (CRP) as long as other farm operations occur annually, or
- f. Place their entire cropland in the CRP or other long-term land retirement program with no other active farming operation occurring on the farm.

106.17(5) *Landowners who do not qualify.* These landowners:

- a. Use a farm manager or other third party to operate the farm, or
- b. Cash rent the entire farm to a tenant who is responsible for all farm operations including following preapproved operations plans.

106.17(6) *Where free licenses are valid.* A free license is valid only on that portion of the farm unit that is in a zone open to deer hunting. “Farm unit” means all parcels of land in tracts of two or more contiguous acres that are operated as a unit for agricultural purposes and are under lawful control of the landowner or tenant regardless of how that land is subdivided for business purposes. Individual parcels of land do not need to be adjacent to one another to be included in the farm unit. “Agricultural purposes” includes but is not limited to field crops, livestock, horticultural crops (e.g., from nurseries, orchards, truck farms, or Christmas tree plantations), and land managed for timber production.

106.17(7) *Registration of landowners and tenants.* Landowners and tenants and their eligible family members who want to obtain free deer hunting licenses must register with the department before the free licenses will be issued. Procedures for registering are described in 571—95.2(481A).

571—106.18(481A) Harvest reporting. Each hunter who bags a deer must report that kill according to procedures described in 571—95.1(481A).

These rules are intended to implement Iowa Code chapter 481C.

**Iowa Department of Natural Resources
Natural Resource Commission**

Decision Item (*indicates proposed consent agenda item)

***41. 2024 NRC Meeting Recommendations**

Month	Meeting Date / Day / Time			Meeting Location (County)
January	01/10/24	Wed	7:30am- 9:30am DNR Legislative Meet/Greet 10:00am NRC Business Meeting	Polk
February	02/08/24	Thu	9:30am Business Meeting	Polk
March	03/14/24	Thu	9:30am Business Meeting	Polk
April	04/11/24	Thu	9:30am Business Meeting	Polk
May	05/09/24	Thu	9:30am Business Meeting	Polk
June	06/12/24	Wed	12:00pm Business Meeting, Field Tour	Scott
	06/13/24	Thu	9:00am Field Tour	Scott
July	07/11/24	Thu	9:30am Business Meeting	Polk
August	08/08/24	Thu	9:30am Business Meeting	Polk
September	09/11/24	Wed	12:00pm Business Meeting, Field Tour	Fremont
	09/12/24	Thu	9:00am Field Tour	Fremont
October	10/10/24	Thu	9:30am Business Meeting	Polk
November	11/14/24	Thu	9:30am Business Meeting	Polk
December	12/12/24	Thu	9:30am Business Meeting	Polk

Pete Hildreth, Division Administrator
Conservation and Recreation Division
NRC Meeting Date: 11/9/23

**Iowa Department of Natural Resources
Natural Resource Commission**

Decision Item (* indicates proposed consent item)

***42. Public Land Management Projects**

42.1 Chapter 18 Lease - Scott County – Mississippi River

The Natural Resource Commission is requested to approve the renewal of Chapter 18 lease 124-R with Cargill.

Location: A portion of the bed of the Mississippi River approximately 595 feet in frontage and 40 feet in depth, and two portions of the bed of the Mississippi River each approximately 16 feet in frontage and 16 feet in depth, at Mississippi River Mile 486.5, located in the NE ¼ of Section 33, Township 78 North, Range 4 East of the 5th P.M., Scott County, Iowa.

Site Purpose: The site will be used to load grain, oil seeds, feed and food products onto barges using an enclosed conveyor system and three anchored dock barges.

Lease History: The location has been under a lease since 1984.

Lease Fee and Term: The annual fee is \$8,100.00 with a condition that the fee may be adjusted to comply with adopted administrative rule changes that affect lease fees. The term of the lease will be five years.

42.2 Chapter 18 Lease – Dickinson County – West Okoboji Lake – West-O Beer, LLC

The Natural Resource Commission is requested to approve a Chapter 18 lease (134-N) with West-O Beer, LLC.

Location: A portion of the bed of West Okoboji approximately 10 feet in frontage and 10 feet in depth located in Section 36, Township 99 North, Range 37 West of the 5th P.M., Dickinson County, Iowa

Site Purpose: The site will be used to age beer in crab-cages that will be sunk to a depth of 60 feet. The bottles of beer will be capped and the capped end dipped in wax. The beer will be sunk in the fall before ice over and will be removed once ice goes out in the spring. Divers will be utilized to locate the cages and bring them to the boat.

Lease History: This is a new application for a Chapter 18 Lease.

Lease Fee and Term: The annual fee is \$300.00 with a condition that the fee may be adjusted to comply with adopted administrative rule changes that affect lease fees. The term of the lease will be five years.

42.3 Chapter 18 Lease - Scott County – Mississippi River

The Natural Resource Commission is requested to approve a Chapter 18 lease (135-N) with Legacy Marine.

Location: A portion of the bed of the Mississippi River approximately 230 feet in frontage and 286 feet in depth at Mississippi River Mile 486.7, located in Section 33, Township 78 North, Range 4 East of the 5th P.M., Scott County, Iowa.

Site Purpose: The site will be used to provide a dock to support marine access equipment and maintenance which provides assistance to maintain channel dredging equipment.

Lease History: This is a new application for a Chapter 18 Lease.

Lease Fee and Term: The annual fee is \$4,186.00 with a condition that the fee may be adjusted to comply with adopted administrative rule changes that affect lease fees. The term of the lease will be five years.

42.4 Management Agreement, Kauten Area – Fayette County Conservation Board - Fayette County

The Natural Resource Commission is requested to approve a Management Agreement with Fayette County Conservation Board for Kauten Area located in Fayette County.

Location: This parcel is located in the SE ¼ of the NE ¼ of Section 16, Township 92 North, Range 8 West of the Fifth P.M. Fayette County, Iowa.

Site Purpose: This 11.48-acre area has a permanent conservation easement on it due to the presence of a Fen, an unusual wetland containing rare plant species.

Management History: This site had a Permanent Conservation Easement placed on it in 1995 by the Iowa DNR. The Fayette County Conservation Board has managed the area since 1995. This parcel is not open to the public.

Management Agreement Term: The term of this Agreement with the Fayette County Conservation Board is for 25 years.

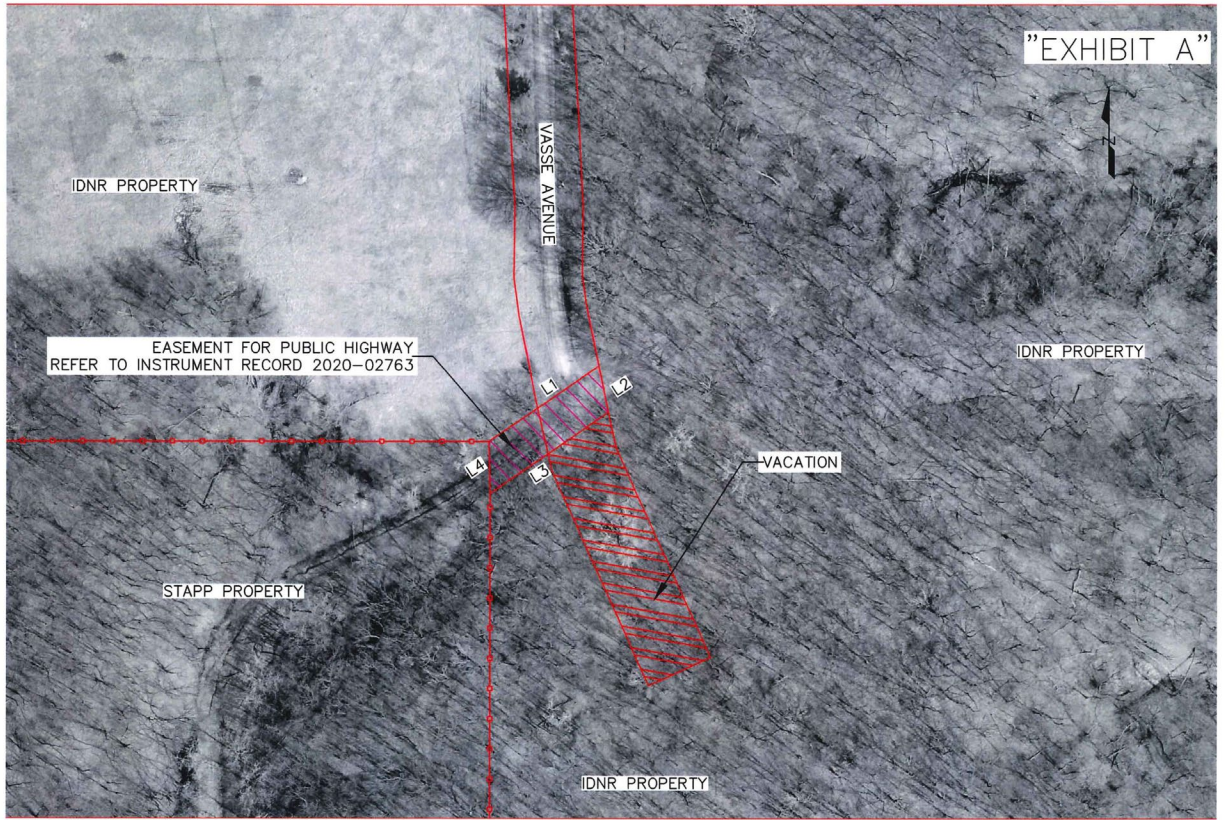
42.5 28E Agreement, Boone Forks WMA – Webster County

The Natural Resource Commission is requested to approve a 28E Agreement between Webster County and the Department of Natural Resources for vacation of a section of Vasse Ave by the county and an easement for public highway being granted by the Iowa DNR.

Project Description: The 28E agreement is needed to correct an access issue to the Stapp Property as shown below. The County will vacate a public highway easement (0.30 Acres) that is located on State of Iowa property (Boone Forks WMA) and the State will grant a public highway easement of 0.14 acres to Webster County to maintain access to the Stapp Property. The agreement will allow for legal access to the Stapp Property and remove an encumbrance on a portion of State of Iowa land.

Local wildlife staff have reviewed the request and given their approval.

Compensation: \$0.00 (Mutual Benefit)



Travis Baker, Land & Waters Bureau Chief
Conservation and Recreation Division
NRC Meeting Date: November 9, 2023