

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

**Adopted and Filed**

**Rule making related to floodplain permitting for bridges**

The Environmental Protection Commission (Commission) hereby amends Chapter 72, “Criteria for Approval,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 455B.275(9), 455B.276(1) and 455B.278(1).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 455B.262, 455B.264(3) and 455B.275.

*Purpose and Summary*

Chapter 72 regulates, among other structures, bridges constructed in a floodplain. Prior to the adoption of this rule making, the permitting rules distinguished between new bridges and replacement bridges. Replacement bridges were not allowed to increase backwater at all, whereas new bridges could cause up to one foot of backwater. Backwater is upstream flooding caused by constricting the flow of water.

A replacement bridge may cause an increase in backwater for justifiable reasons. For instance, backwater may increase when the bridge is redesigned to lessen the likelihood of a road closure during high water events. Preventing high water from overtopping the roadway increases the amount of water flowing under the bridge. This can result in minor (up to several inches) of increased backwater.

Previously, the Department of Natural Resources (Department), on behalf of the Commission, had issued many design waivers permitting a replacement bridge under conditions that were approved by rule for a new bridge. This was burdensome and costly for permittees and time-consuming for staff. The amendment will subject new bridges and replacement bridges to the same standards. This change will prevent the need for waivers in the future.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 23, 2022, as **ARC 6262C**. A public hearing was held on April 12, 2022, at 2 p.m. via video/conference call. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Commission on May 17, 2022.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department upon request.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

*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.

*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).

*Effective Date*

This rule making will become effective on July 20, 2022.

The following rule-making action is adopted:

Amend paragraph **72.1(2)“a”** as follows:

*a. Backwater Q100.*

(1) The maximum allowable Q100 backwater for ~~new~~ bridges and road embankments is 1.0 foot.

~~(2) The maximum allowable Q100 backwater for replacement bridges and roadway embankments is the lesser of the following: Q100 backwater for the existing bridge and road embankment or 1.0 foot.~~

~~(3)~~ (2) For a ~~new~~ bridge and road embankment located within a stream reach for which the Federal Emergency Management Agency has published a detailed Flood Insurance Study which includes a floodway, the backwater for Q100 shall not exceed the surcharge associated with the delineation for the floodway at that location.

(4) (3) In no case shall the Q100 backwater effects of a bridge or road embankment reduce the existing level of protection provided by certain flood control works, unless equivalent remedial measures are provided.

[Filed 5/18/22, effective 7/20/22]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/15/22.