Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 571—Chapter 64
"Metal Detector Use in State Areas"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 461A.35
State or federal law(s) implemented by the rulemaking: Iowa Code section 461A.35

Public Hearing

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

September 25, 2024	6200 Park Avenue, Second Floor
12 noon to 1 p.m.	Des Moines, Iowa

Public Comment

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

Jessica Manken
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.571.4010
Email: jessica.manken@dnr.iowa.gov

Purpose and Summary

Proposed Chapter 64 regulates the use of metal detectors in state areas. This chapter allows members of the public to engage in metal detecting in areas that will be least disruptive to the natural environment and to other members of the public. This chapter has been reviewed and edited consistent with Executive Order 10.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

Members of the public who choose to use metal detectors on state land will bear the costs.

- Classes of persons that will benefit from the proposed rulemaking:

Members of the public who choose to use metal detectors on state land and citizens of Iowa will benefit.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

This rulemaking does not have an economic impact or cost.

- Qualitative description of impact:

This rulemaking does not impose burdens to the public other than restricting where people who wish to use metal detectors on state lands may use these devices. The restrictions on metal detector use protect the natural environment, which allows members of the public to appreciate state areas.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

The proposed rulemaking does not have costs to the agency or any other agency.

- Anticipated effect on state revenues:

The proposed rulemaking does not have any effect on state revenues.

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

The restrictions on where certain members of the public can use metal detectors are outweighed by the benefit to the public to enjoy Iowa's natural areas without excessive digging.

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

There are no less costly methods associated with this proposed rulemaking that can achieve the purpose of protecting state areas.

6. Alternative methods considered by the agency:

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

No alternative methods were seriously considered.

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

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

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

There is no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 64 and adopt the following **new** chapter in lieu thereof:

CHAPTER 64
METAL DETECTOR USE IN STATE AREAS

571—64.1(461A) Definitions.

"Beach" or *"beach area"* means that portion of state parks or recreation areas designated for swimming activity including the sand, a 200-foot buffer of land surrounding the sand or a designated area which is fenced in, and the water area contiguous to the beach as marked by swim buoys or swim lines.

"Metal detector" means a portable electronic device carried by an individual used only for detecting metal above or below the surface of the ground.

571—64.2(461A) Use areas. Metal detector use in state parks and recreation areas is prohibited except in the following areas:

64.2(1) *Designated beach areas.* From May 22 to September 7 each year, metal detectors may be used on designated beach areas from 4 a.m. to 11 a.m. each day. From September 8 to May 21 each year, metal detectors may be used on designated beach areas during the hours established in 571—subrule 61.10(10).

64.2(2) *Drained lakes.* When an artificial lake has been drained or the water level lowered for any reason, metal detector use may be allowed during the hours established in 571—subrule 61.10(10) only after the lake bed has been thoroughly surveyed for archaeological resources and a survey report has been completed and approved by the state historic preservation office.

571—64.3(461A) Archaeological/scientific studies. When the use of a metal detector may support an archaeological or scientific study, a sovereign lands construction permit may be issued. Review of all sovereign lands construction permit applications shall be coordinated with the state historic preservation office.

571—64.4(461A) Found items. All items found are subject to the provisions of Iowa Code chapter 556F.

571—64.5(461A) Lost item search by owner. An owner of lost property may use a metal detector to search for that item in an area where such use is prohibited under the following conditions:

64.5(1) Written approval has been granted by the director of the department of natural resources or designee.

64.5(2) The search is confined to a reasonable area within the park or recreation area.

64.5(3) The search is limited to 12 hours or less in length.

571—64.6(461A) Tools used. Tools used to recover items detected beneath the ground level shall be limited to the following:

64.6(1) Probes not over 12 inches long, 1-inch wide, and ¼-inch thick.

64.6(2) A sand scoop or sieve not over ten inches in diameter.

571—64.7(461A) Digging limitations and restoration.

64.7(1) In recovering items located below the ground, a person shall not unduly disturb the earth and shall limit all excavations to less than three inches square when using probes and ten inches in diameter when using sand scoops or sieves.

64.7(2) When digging is done to search for an object, the metal detector operator shall restore the disturbed area as nearly as possible to its original condition.

571—64.8(461A) Disposal of litter. All litter that is recovered shall be disposed of in approved trash receptacles.

These rules are intended to implement Iowa Code section 461A.35.