# NATURAL RESOURCE COMMISSION[571]

[Prior to 12/31/86, see Conservation Commission [290], renamed Natural Resource Commission[571] under the "umbrella" of Department of Natural Resources by 1986 Iowa Acts, chapter 1245]

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TITLE I
*GENERAL*

# 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. Rule-making proceedings held as part of commission meetings and contested case proceedings involving the commission are governed by other rules of the department.

**571—1.2(17A,455A) Time of meetings.** The commission meets at least quarterly, generally in January, April, July, and October. The chairperson or a majority of the commission may establish meetings at more frequent intervals. Normally, the time of the next meeting will be established at the current meeting.

**571—1.3(17A,455A) Place of meetings.** Meetings are held in the Henry A. Wallace Building, 900 East Grand Avenue, Des Moines, Iowa, or at other locations as appropriate. The meeting place will be specified in the agenda.

**571—1.4(17A,455A) Notification of meetings.** The director of the department shall provide public notice of all meeting dates, locations, and tentative agenda.

**1.4(1)** *Form of notice.* Notice of meetings is given by posting the tentative agenda and by distribution upon request. The agenda lists the time, date, place, and topics to be discussed at the meeting. The agenda shall 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.

**1.4(2)** *Posting of agenda.* The tentative agenda for each meeting will be posted at the department's offices on the fourth and fifth floors, Henry A. Wallace Building, normally at least seven days prior to the meeting. 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.

**1.4(3)** *Distribution of agenda.* Agenda will be mailed to anyone who files a request with the director. The request should state whether the agenda for a particular meeting is desired, or whether the requester desires to be on the department's mailing list to receive the agenda for all meetings of the natural resource commission.

**1.4(4)** *Amendment to agenda.* Any amendments to the agenda after posting and distribution under subrules 1.4(2) and 1.4(3) will be posted, but will not be mailed. The amended 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. The commission may adopt amendments to the agenda at the meeting only if good cause exists requiring expeditious discussion or action on such matters. The reasons and circumstances necessitating such agenda amendments, or those given less than 24 hours' notice by posting, shall be stated in the minutes of the meeting.

**1.4(5)** *Supporting material.* Written materials provided to the commission with the agenda may be examined and copied as provided in the public information rules of the department. Copies of the materials may be distributed at the discretion of the director to persons requesting the materials. 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—1.5(17A,455A) Attendance and participation by the public.**

**1.5(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.

**1.5(2)** *Participation.*

*a. Items on agenda.* Presentations to the commission may be made at the discretion of the chairperson.

*b. Items not on agenda.* Because Iowa Code section 21.4 requires the commission to give notice of its agenda, the commission discourages persons from raising matters not on the agenda. The commission will not take action on a matter not on the agenda, except in accordance with subrule 1.4(4). 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 a subsequent meeting.

*c.* *Meeting decorum.* The chairperson may limit participation as necessary for the orderly conduct of agency business.

**1.5(3)** *Use of cameras and recording devices.* 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 be discontinued if they cause interference, and may exclude those persons who fail to comply with that order.

**571—1.6(17A,455A) Quorum and voting requirements.**

**1.6(1)** *Quorum.* Two-thirds of the members of the commission constitutes a quorum.

**1.6(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 close a meeting which requires the concurrence of two-thirds of the members of the commission.

**571—1.7(17A,455A) Conduct of meeting.**

**1.7(1)** *General.* Meetings will be conducted in accordance with Robert's Rules of Order unless otherwise provided in these rules. Voting shall be by voice or by roll call. Voting shall 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 shall announce the result of the vote.

**1.7(2)** *Voice votes.* All commission members present should respond when a voice vote is taken. The response shall be aye, nay, or abstain.

*a.* All members present shall be recorded as voting aye on any motion when there are no nay votes or abstentions heard.

*b.* Any member who abstains shall state at the time of the vote the reason for abstaining. The abstention and the reason for it shall be recorded in the minutes.

**1.7(3)** *Provision of information.* The chairperson may recognize any agency staff member for the provision of information relative to an agenda item.

**571—1.8(17A,455A) Minutes, transcripts, and recordings of meetings.**

**1.8(1)** *Recordings.* The director shall record by mechanized means each meeting, and shall retain the recording for at least one year. Recordings of closed sessions shall be sealed and retained at least one year.

**1.8(2)** *Transcripts.* The department does not routinely prepare transcripts of meetings. The department will have transcripts of meetings, except for closed sessions, prepared upon receipt of a request for a transcript and payment of a fee to cover the cost to the department of preparing the transcript.

**1.8(3)** *Minutes.* The director shall keep minutes of each meeting. Minutes shall be reviewed and approved by the commission, and retained permanently by the director. The approved minutes shall be signed by the director.

**571—1.9(17A,455A) Officers and duties.**

**1.9(1)** *Officers.* The officers of the commission are the chairperson, the vice chairperson, and the secretary.

**1.9(2)** *Duties.* The chairperson shall preside at meetings, and shall exercise the powers conferred upon the chairperson. The vice chairperson shall perform the duties of the chairperson when the chairperson is absent or when directed by the chairperson. The secretary shall make recommendations to the commission on approval or revision of the minutes and act as parliamentarian.

**571—1.10(17A,455A) Election and succession of officers.**

**1.10(1)** *Elections.* Officers shall be elected annually during May.

**1.10(2)** *Succession.*

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

**571—1.11(68B) Sales of goods and services.**

**1.11(1)** *Prohibition.* An official shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations subject to the regulatory authority of the department unless the department consents as provided in this rule.

**1.11(2)** *Definitions.*

*"Association"* means any profit or nonprofit entity that is not a "corporation" or an "individual" as defined in this rule, but does not include any "unit of government" as defined in this rule.

*"Commission"* means the natural resource commission.

*"Corporation"* means "corporation" and "foreign corporation" as defined in Iowa Code sections 490.140 and 504A.2, but does not include any "unit of government" as defined in this rule.

*"Department"* means the department of natural resources.

*"Goods"* means personal property, tangible and intangible.

*"Individual"* means a human being and includes any individual doing business as a sole proprietorship.

*"Official"* means a member of the natural resource commission.

*"Sale"* or *"sell"* means the process in which goods or services are provided in exchange for money or other valuable consideration. The term does not include purchases of goods or services, nor outside employment activities that constitute an employer-employee relationship.

*"Services"* means action, conduct or performance which furthers some end or purpose or which assists or benefits someone or something.

*"Unit of government"* means "United States," "state" and "governmental subdivision" as defined in Iowa Code section 490.140.

**1.11(3)** *Application for consent.* An application for consent must be signed by the official requesting consent and submitted as specified in subrule 1.11(4). The application must provide a clear statement of all relevant facts concerning the sale, specify the amount of compensation and how compensation is to be determined, and indicate the time period or number of transactions for which consent is requested. The application must also explain why the sale would not create a conflict of interest or provide financial gain by virtue of the applicant's position within the department.

**1.11(4)** *Consent procedure.* Applications for consent must be submitted to the director who will schedule the matter as an informational item at a meeting of the commission. When the informational item is considered, the applicant may explain the application and entertain questions. The director shall schedule the matter to be decided at the second meeting following its consideration as an informational item, at which time the commission shall consider written comments which have been filed with the director and entertain any oral comments. The commission shall approve or deny the application by voting in the same manner as it determines other matters, except that the applicant shall not vote.

**1.11(5)** *General conditions of consent.* Consent shall not be given to an official unless all of the following conditions are met:

*a.* This condition is satisfied if either of the following paragraphs is met:

(1) The duties or functions performed by the official are not related to the regulatory authority of the department over the individual, association or corporation; or

(2) The duties or functions performed by the official are not affected by the selling of goods or services to the individual, association or corporation.

*b.* The selling of the goods or services by the official does not include acting as an advocate to the department on behalf of the individual, association or corporation receiving the goods or services.

*c.* The selling of goods or services does not result in the official selling a good or service to the department on behalf of the individual, association or corporation.

**1.11(6)** *Class prohibitions and consent.*

*a.* The commission concludes that the sales of goods and services described in this paragraph, as a class, constitute the sale of a good or service which affects an official's functions. The department will not consent to sales which fall within the following categories unless there are unique facts surrounding a particular sale which clearly satisfy the conditions listed in subrule 1.11(5).

Sales which are prohibited by rule:

(1) Sales of department information or the sale of services necessary to gather department information, including but not limited to solicitation lists.

(2) Services utilized in the preparation of applications, reports, or other documents which may be approved or reviewed by the commission.

*b.* The commission concludes that sales of goods or services described in this paragraph do not, as a class, constitute the sale of a good or service which affects an official's functions. Application and department approval are not required for these sales unless there are unique facts surrounding a particular sale which would cause that sale 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 for which consent is granted by rule:

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

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

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

(4) Sale 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 pursuant to subrules 1.11(3) and 1.11(4).

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

(6) Sale 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, directly or indirectly involving that good, before the commission, the official shall not participate in the discussion and voting on that matter unless consent has been obtained pursuant to subrules 1.11(3) and 1.11(4).

**1.11(7)** *Effect of consent.* The consent must be in writing. The consent is valid only for the activities and period described in it and only to the extent that material facts have been disclosed and the actual facts are consistent with those described in the application. Consent can be revoked at any time by written notice to the official.

**1.11(8)** *Public information.* The application and consent are public records, open for public examination, except to the extent that disclosure of details would constitute a clearly unwarranted invasion of personal privacy or trade secrets and the record is exempt from disclosure under Iowa law.

**1.11(9)** *Effect of other laws.* Neither this rule nor any consent provided under it constitutes consent for any activity which would constitute a conflict of interest at common law or which violates any applicable statute or rule. Despite department consent under these rules, a sale of goods or services to someone subject to the jurisdiction of the agency may violate the gift law, bribery and corruption laws, etc. It is the responsibility of the official to ensure compliance with all applicable laws and to avoid both impropriety and the appearance of impropriety.

These rules are intended to implement Iowa Code sections 17A.3(1)*"a,"* 68B.4 and 455A.5.

[Filed 1/9/87, Notice 11/5/86—published 1/28/87, effective 3/4/87]

[Filed 6/4/93, Notice 3/31/93—published 6/23/93, effective 7/28/93]

# CHAPTER 2
# PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

**571—2.1(22) Adoption by reference.** The commission adopts by reference 561—Chapter 2, Iowa Administrative Code.

This rule is intended to implement Iowa Code chapter 22.

[Filed 1/9/87, Notice 11/5/86—published 1/28/87, effective 3/4/87]

[Filed emergency 9/2/88, after Notice of 7/27/88—published 9/21/88, effective 9/2/88]

# CHAPTER 3
# SUBMISSION OF INFORMATION AND COMPLAINTS—INVESTIGATIONS

**571—3.1(17A) Adoption by reference.** The commission adopts by reference 561—Chapter 3, Iowa Administrative Code.

This rule is intended to implement Iowa Code section 17A.3(1).

[Filed 1/9/87, Notice 11/5/86—published 1/28/87, effective 3/4/87]

# CHAPTER 4
# AGENCY PROCEDURE FOR RULE MAKING

**571—4.1(17A) Adoption by reference.** The commission adopts by reference 561—Chapter 4, Iowa Administrative Code.

[Filed 5/13/88, Notice 3/23/88—published 6/1/88, effective 7/6/88]

# CHAPTER 5
# PETITIONS FOR RULE MAKING

**571—5.1(17A) Adoption by reference.** The commission adopts by reference 561—Chapter 5, Iowa Administrative Code.

[Filed 5/13/88, Notice 3/23/88—published 6/1/88, effective 7/6/88]

# CHAPTER 6
# DECLARATORY RULINGS
[Prior to 8/5/87, see Conservation[290] Ch 6]

**571—6.1(17A) Adoption by reference.** The commission adopts by reference 561—Chapter 6, Iowa Administrative Code.

This rule is intended to implement Iowa Code section 17A.9.

[Filed 4/19/76, Notice 2/23/76—published 5/3/76, effective 6/7/76]
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[Filed 6/11/87, Notice 1/28/87—published 7/1/87, effective 8/5/87]

# CHAPTER 7
# RULES OF PRACTICE IN CONTESTED CASES

[Prior to 9/7/88, see Conservation Commission[290] Ch 64]

**571—7.1(17A) Adoption by reference.** The commission adopts by reference 561—Chapter 7, Iowa Administrative Code.

This rule is intended to implement Iowa Code sections 17A.3 and 17A.12 to 17A.18.

[Filed 12/12/79, Notice 10/3/79—published 1/9/80, effective 2/13/80]
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[Filed 11/14/07, Notice 7/4/07—published 12/5/07, effective 1/9/08]

# CHAPTER 8
# CONTRACTS FOR PUBLIC IMPROVEMENTS AND PROFESSIONAL SERVICES

**571—8.1(17A) Adoption by reference.** The commission adopts by reference 561—Chapter 8, Iowa Administrative Code, as amended through March 20, 2009.

[**ARC 7682B**, IAB 4/8/09, effective 3/20/09]

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[Filed 4/26/91, Notice 2/20/91—published 5/15/91, effective 6/19/91]
[Filed Emergency After Notice ARC 7682B (Notice ARC 7535B, IAB 1/28/09), IAB 4/8/09, effective 3/20/09]

# CHAPTER 9
# STATE MIGRATORY WATERFOWL, TROUT AND HABITAT STAMP DESIGN CONTESTS

**571—9.1(483A,484A) Design contests.** The department will accept proposals from nonprofit, Iowa-based organizations wishing to take over the manner in which the designs for the waterfowl, habitat, and trout stamps are developed, and the marketing and sales of those designs in any medium to generate funds for department projects in Iowa.

**571—9.2(483A,484A) Selection of promoter.** The director will recommend the proposal(s) determined to have the best impact on Iowa conservation projects, the quality of wildlife art, and the functioning ability of the organization which submits the proposal. The commission will select the organization to provide each stamp design. Multiyear contracts are desired.

**571—9.3(483A,484A) Stamp design—related proceeds.** The selected organization is required to spend the proceeds from the sale of stamp design materials, less the cost of production and advertising, on department projects, approved by the director in consultation with the selected organization. The profits may be used to match department grant funds available to these organizations.

**571—9.4(483A,484A) Design.** The design for the stamps shall be provided to the department by September 1 of each year for use on the production of the stamps. The organization also will provide artist proofs, numbers one through five, of the design to the department when the print edition becomes available.

**571—9.5(483A,484A) Commissioned design.** In the event that no responsible organization provides an acceptable proposal for the design and marketing of one or more of the stamps, the director shall seek proposals from artists for a commissioned stamp design. The director shall evaluate the proposals and select one, with the approval of the commission, to design one or more stamps.

**571—9.6(483A,484A) Financial records.** Organizations selected to design and market a stamp shall maintain adequate financial records to determine the amount of proceeds to be allocated to department projects. These records shall be open to inspection and audit by representatives of the department and state auditor.

**571—9.7(483A,484A) Title to property.** The title to any property acquired with stamp design-related profits shall be vested with the state, or with another governmental entity if approved by the natural resource commission.

These rules are intended to implement Iowa Code sections 483A.3 and 483A.6 and chapter 484B.

[Filed 2/9/82, Notice 12/23/81—published 3/3/82, effective 4/7/82]
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[Filed 1/5/90, Notice 11/29/89—published 1/24/90, effective 3/1/90]

# CHAPTER 10
# FORFEITED PROPERTY

[Prior to 12/31/86, Conservation Commission[290] Ch 116]
[Prior to 9/21/88, Natural Resource Commission[571] Ch 8]

**571—10.1(809) Purpose.** The purpose of this chapter is to set forth the policy and procedures to be followed and the criteria to be utilized by the Iowa department of natural resources officers when they are determining the disposition of seized or forfeitable property.

**571—10.2(809) Definitions.**

*"Department"* means the Iowa department of natural resources.

*"Director"* means the director of the department.

*"District supervisor"* means a supervisor of the law enforcement bureau of the fish and wildlife division or of the parks bureau of the parks, recreation and preserves division of the department.

*"Forfeitable property"* means any of the following:

1. Property which is illegally possessed;
2. Property which has been used or is intended to be used to facilitate the commission of a criminal offense or to avoid detection or apprehension of a person committing a criminal offense;
3. Property which is acquired as or from the proceeds of a criminal offense;
4. Property offered or given to another as an inducement for the commission of a criminal offense.

*"Officer"* means any full-time conservation officer appointed by the director.

**571—10.3(809) Jurisdiction.** Forfeitable property may be seized by a conservation officer whenever and wherever the property is found within this state.

**571—10.4(809) Supervisor approval.** Conservation officers taking custody of forfeitable property or serving upon the person in possession of the property a notice of forfeiture shall contact a district supervisor if the conservation officer estimates the value of the property exceeds $50.

**571—10.5(809) Disposition of general property.** Forfeited property may be sold at a department-administered annual public sale. Forfeited property may be used by the department. The director may give, sell or trade property to any other state agency or to any other agency within the state.

**571—10.6(809) Disposition of weapons.** All legal weapons will be sold at the department's annual sale or the director may transfer illegal or legal weapons to the department of public safety for disposal in accordance with Iowa Code sections 809.13 and 809.21.

**571—10.7(809) Property destroyed.** Forfeitable property of no value to the department, the possession of which is illegal, that poses an imminent danger to a person's health, safety, or welfare, or that poses a significant hazard to the state's natural resources may be destroyed.

**571—10.8(809) Disposition of furs.** Forfeitable furs not needed by the department will be offered to the licensed fur dealers in the form of direct sale, an auction or sealed bid process whenever the director determines the number and value of forfeited furs warrants such a process.

These rules are intended to implement Iowa Code chapter 809.

[Filed emergency 7/10/86—published 7/30/86, effective 7/10/86]
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[Filed 2/11/94, Notice 12/22/93—published 3/2/94, effective 4/6/94]

# CHAPTER 11
# WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

**571—11.1(17A) Adoption by reference.** The commission adopts by reference 561—Chapter 10, Iowa Administrative Code, provided that the word "commission" is substituted for the word "department" throughout.

**571—11.2(17A) Report to commission.** The director shall submit reports of decisions regarding requests for waivers or variances to the commission at its regular meetings.

These rules are intended to implement Iowa Code section 17A.9A and Executive Order Number 11.

[Filed 10/12/01, Notice 5/30/01—published 10/31/01, effective 12/5/01]

# CHAPTER 12
# CONSERVATION EDUCATION

## DIVISION I
## RESOURCE ENHANCEMENT AND PROTECTION CONSERVATION EDUCATION PROGRAM (REAP)

**571—12.1(455A) Purpose.** The purpose of these rules is to define procedures for the administration of funds within the conservation education program board account for production and revision of conservation education materials, and to specify stipends to Iowa educators who participate in innovative conservation education programs approved by the board. The conservation education program shall serve Iowa citizens by providing effective curricula, program materials and educator stipends to increase environmental awareness and understanding of stewardship, and shall enhance natural resources. Expenditure of funds from the conservation education program board account shall be in accordance with this policy.

**571—12.2(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.

**571—12.3(455A) Conservation education program board.** A conservation education program board is created in the department. The board shall have five members appointed as follows:

1. One member appointed by the director of the department of education.
2. One member appointed by the director of the department of natural resources.
3. One member appointed by the president of the Iowa association of county conservation boards.
4. One member appointed by the Iowa association of naturalists.
5. One member appointed by the Iowa conservation education council.

**571—12.4(455A) Definitions.**

*"Board"* means the resource enhancement and protection (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.

*"Department"* means the department of natural resources.

*"Director"* means the director of the department of natural resources.

*"Educator"* means any person who teaches environmental/conservation education. This may apply to certified teachers, governmental or private naturalists or 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 cost, 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—12.5(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—12.6(455A) Grant applications, general procedures.**

**12.6(1)** Applications for all grant programs shall be made on forms provided by the department. The original and five copies shall be submitted by the deadlines specified in subsequent rules of this chapter or as otherwise published by the department.

**12.6(2)** Applications shall be made in sufficient detail as to clearly describe the scope of the project including the following:

*a.* Applicant identification (applicant's name and address).

*b.* Project summary and demonstration of need.

*c.* Program goals, objectives, time lines, and transferability, and who is responsible.

*d.* Documentation of assurances and letters of community support, including cooperating agencies.

*e.* Project budget (administrative/indirect costs not to exceed 10 percent of total award).

*f.* Project management.

*g.* A plan for evaluation.

Any application which is not complete at the time of the specified submittal deadline shall not be considered for funding. The proposals shall be submitted to the department.

**12.6(3)** Applications shall be postmarked on or before May 15 for the first application period and on or before November 1 for the second application period. Upon receipt, the proposals will be reviewed to determine whether all required materials have been included and whether the proposal falls within the department's guidelines. Failure to meet these criteria will result in disqualification of the proposal.

**12.6(4)** Joint applications are permitted. One entity must serve as the primary applicant. Joint projects sponsored by entities, e.g., an organization or institution, area education agency, competing for funds from different resource enhancement and protection (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.

**12.6(5)** 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—12.7(455A) Conflict of interest.** If a project is submitted to the board by an agency, institution, conservation board, or private conservation interest, one of whose members or employees are on the board or the review and selection committee, that member or employee shall not participate in discussion on or ranking of that particular project.

**571—12.8(455A) Criteria.** Preference will be given, in formal and informal education programs, to materials capable of being infused in multiple curricular areas. Also, preference will be given to projects that encourage conservation stewardship. Proposals shall include, but not be limited to, the following types of information that can be found in the REAP/conservation education program (CEP) applications and procedures manual.

**12.8(1)** *Statement of need.* This part of the proposal identifies the target audience and describes how this audience will be served. The statement of need contains evidence or research that a need for such a project exists, explains how stated need relates to REAP/CEP priorities and guidelines, and shows interdisciplinary components.

**12.8(2)** *Goals, objectives, activities.* This part of the proposal describes how the project will address the environmental education goals identified by the writer, how workable or appropriate the project is to the audience, and activity time lines. This part also describes how the project incorporates collaboration and networking, the potential of the project to be implemented elsewhere, and how the project demonstrates innovative and creative ideas and strategies.

**12.8(3)** *Funding and budget considerations.* This part of the proposal describes a realistic and cost-effective budget, shows ratio of total budget to number of people directly served, and shows that the project budget meets expense eligibility stated in subrule 12.9(6).

**12.8(4)** *Evaluation.* This part of the proposal describes evaluation tools that the applicant will use to show how well the project's goals and objectives have been met and how well the audience meets objectives. This part identifies strategies, milestones, and tools that will be used to monitor the project and describes how monitoring will be used to strengthen the project and how information will be disseminated.

**571—12.9(455A) Grantee responsibilities.**

**12.9(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.

**12.9(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.

**12.9(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 Web site. No new awards shall be made for continuation programs when there are delinquent reports from prior grants.

**12.9(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.

**12.9(5)** *Nonapplication of copyright.* Program materials developed from resource enhancement and protection 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.

**12.9(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—12.10(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.

**12.10(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.

**12.10(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—12.11(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—12.12(455A) Penalties.** Whenever any property, real or personal, acquired or developed with resource enhancement and protection 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 by following the provisions of subrule 12.9(4). The board shall notify the grantee of any apparent violation.

**571—12.13(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—12.14(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—12.15(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.

**12.15(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.

**12.15(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—12.16(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 money for other than specified budget items approved by the board, the grantee shall return moneys for unapproved expenditures.

**571—12.17(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; 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.

**571—12.18** and **12.19** Reserved.

The rules in this division are intended to implement Iowa Code sections 455A.19 and 455A.21.

DIVISION II
RECREATION EDUCATION COURSES

PART I
VOLUNTEER INSTRUCTOR CERTIFICATION AND
DECERTIFICATION PROCEDURES

**571—12.20(321G,321I,462A,483A) Purpose.** Pursuant to Iowa Code sections 321G.23, 321I.25, 462A.1 and 483A.27(4), these rules set forth curriculum and course standards for the department's recreation education courses and provisions for certification of volunteer instructors to teach the courses.
[**ARC 8816B**, IAB 6/2/10, effective 7/7/10]

**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.

*"Department"* means the department of natural resources.

*"DNR online training registration and tracking system"* means the 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 PDF files.

*"Education course"* means the department's bow hunter, fur harvester, snowmobile, all-terrain vehicle (ATV), boating, snow groomer operator, and hunter safety and ethics courses.

*"Instructor applicant"* means a person who has applied to become a certified volunteer instructor for one of the department's education courses.

*"Managed Internet course"* means a course offered via the Internet which contains a protocol that ensures that the person registering for the course is the person taking the test and includes a progressive sequence for the presentation of course material.

*"Program coordinator"* means the person assigned from the snowmobile, all-terrain vehicle, and boating programs to coordinate instructor certification and development activities, develop curriculum standards for the programs, conduct outreach for the programs, train volunteer instructors and evaluate their skills, and serve as the primary contact for information about the programs.

*"Recreational safety programs supervisor"* means the person charged by the department with the coordination and management of the recreation education programs, including personnel employed by the department to work with these programs.

*"Recreation safety officer"* means a peace officer employed by the department who has received specialized training in managing and overseeing the recreation education programs of the department, including training volunteer instructors and evaluating their skills.

*"Student"* means a person who wishes to enroll or has enrolled in an education course.
[**ARC 8816B**, IAB 6/2/10, effective 7/7/10]

**571—12.22(321G,321I,462A,483A) Certified instructor application process.**

**12.22(1)** *Application procedures.*

*a.* The instructor applicant must request an application by contacting a program coordinator, a recreation safety officer, or the recreational safety programs supervisor.

*b.* The instructor 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 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, recreation safety officer, or recreational safety programs supervisor shall document that all certification requirements have been met and shall issue a certified instructor identification card to the instructor.

**12.22(2)** *Acceptance of certified instructor applications.* If the number of existing certified instructors in one or more of the education courses meets the demand for those courses, based on student enrollment, the department may choose not to accept new applications for the specified education program.

[**ARC 8816B**, IAB 6/2/10, effective 7/7/10]

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

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

*a.* Submit an application as provided by the department.

*b.* Be at least 18 years of age.

*c.* Attend and pass an instructor training and certification course administered by the department and described as follows:

(1) ATV education program. The instructor training and certification course for the ATV education program reviews policies and procedures of the department as contained in these rules and the specifics of the program, paperwork required by the department, education course material, teaching techniques, and criteria for evaluating the performance of student skills and requires completion of the education course and an apprenticeship.

(2) Boating education program. The instructor training and certification course for the boating education program reviews policies and procedures of the department as contained in these rules and the specifics of the program, paperwork required by the department, course material, criteria for evaluating the performance of student skills, and teaching techniques and requires completion of the student course and instruction of the course under the direction of department representatives.

(3) Hunter safety and ethics education program. The instructor training and certification course for the hunter safety and ethics program reviews policies and procedures of the department as contained in these rules and the specifics of the program, paperwork required by the department, education course material, teaching techniques, and criteria for evaluating the performance of student skills and requires completion of the education course and an apprenticeship.

(4) Bow hunter education program. The instructor training and certification course for the bow hunter education program reviews policies and procedures of the department as contained in these rules and the specifics of the program, paperwork required by the department, education course material, teaching techniques, and criteria for evaluating the performance of student skills and requires completion of the education course and an apprenticeship.

(5) Fur harvester education program. The instructor training and certification course for the fur harvester education program reviews policies and procedures of the department as contained in these rules and the specifics of the program, paperwork required by the department, education program material, teaching techniques, and criteria for evaluating the performance of student skills and requires completion of the education program and an apprenticeship.

(6) Snowmobile education program. The instructor training and certification course for the snowmobile education program reviews policies and procedures of the department as contained in these rules and the specifics of the program, paperwork required by the department, education course materials, skills that pertain to administering the student examination, and teaching techniques and requires completion of an apprenticeship.

(7) Snow groomer operator education program. The training for the snow groomer operator program teaches the basics of snow science, best practices of equipment operation, documentation requirements, liability issues, insurance coverage, and the requirements of the equipment agreement that is in place between the individual club and the department and requires completion of an apprenticeship.

**12.23(2)** *Apprenticeship.* The instructor applicant must complete an apprenticeship for the specific education program.

*a.* *ATV education program.* The apprenticeship requirement for the ATV education program consists of either teaching a simulated class to other instructor applicants or assisting a certified instructor to prepare and present an education course to students.

*b.* *Boating education program.* The apprenticeship requirement for the boating education program consists of either teaching a simulated class to other instructor applicants or assisting a certified instructor to prepare and present an education course to students.

*c.* *Hunter safety and ethics education program.* The apprenticeship requirement for the hunter safety and ethics education program consists 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 apprenticeship may be completed during the instructor training and certification course or within one year of attending the course.

*d.* *Bow hunter education program.* The apprenticeship requirement for the bow hunter education program consists of either teaching a simulated class to other instructor applicants or assisting a certified instructor to prepare and present an education course to students.

*e.* *Fur harvester education program.* The apprenticeship requirement for the fur harvester education program consists of either teaching a simulated class to other instructor applicants or assisting a certified instructor to prepare and present an education course to students.

*f.* *Snowmobile education program.* The apprenticeship requirement for the snowmobile education program consists of assisting a certified instructor to prepare and present an education course to students.

*g.* *Snow groomer operator education program.* The apprenticeship requirement for the snow groomer operator education program consists of assisting a certified instructor to prepare and present an education course to operator applicants.

**12.23(3)** *Background check.* The instructor 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 instructor applicant. A record of a serious or aggravated misdemeanor within the last three years will disqualify the instructor applicant.

**12.23(4)** *Fish and wildlife violation check (hunting, fishing, and trapping).* The instructor applicant must authorize a fish and wildlife violation check. The instructor applicant may be disqualified if the instructor 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.

[**ARC 8816B**, IAB 6/2/10, effective 7/7/10]

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

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

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

*b.* To sign an acknowledgment form confirming receipt of the department's policies and procedures. The certified instructor is ineligible to begin teaching an education course until the acknowledgment form is signed and filed with the department. Any updates to the policies and procedures shall be provided in writing to the certified instructor, and an additional acknowledgment form must be signed and filed with the department. Failure to file a subsequent acknowledgment form with the department invalidates the instructor's certification.

*c.* To assist in the recruitment and training of additional certified instructors.

*d.* To recruit students for and train students in the education course.

*e.* To actively promote the education program in the instructor's county and to publicize each new education course. A course must be posted at least 30 days prior to the start date of the course.

*f.* To maintain order and discipline in the classroom and outdoor classroom at all times.

*g.* To accurately fill out forms and reports required by the department for the accurate input and upkeep of the DNR online training registration and tracking system's records, or paper forms if applicable.

*h.* To teach the education course 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 to become a certified instructor 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 recreational safety programs supervisor.

**12.24(3)** A certified instructor must attend one continuing education instructor workshop every two years.

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

**12.24(5)** A certified instructor must teach the education course with another adult present unless the certified instructor obtains prior approval from the department. It is the department's preference that the certified instructor is assisted by another department-certified instructor, but a noncertified assistant over 18 years of age may assist so long as the noncertified assistant does not directly teach the students substantive issues of the course. The person assisting the certified instructor must meet the same standards and expectations for character and behavior as the department has for its instructors. 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.

If the course is taught without another adult present, notification to the program coordinator, recreation safety officer, or recreational safety programs supervisor must be made and authorization of the course must be given by the department in writing prior to holding the class. 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 in writing by the program coordinator, recreation safety officer, or recreational safety programs supervisor.

**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.

[**ARC 8816B**, IAB 6/2/10, effective 7/7/10]

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

1. Fails to meet the instructor 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 sexist or racial references or generalities.

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.

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

10. Fails to meet the requirements in subrule 12.24(2) or 12.24(3).

11. 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 an aggravated or serious misdemeanor as defined in the statutes of this state or another state. Every certified instructor is subject to a criminal history check and conservation violation check at any time during the instructor's tenure as an instructor.

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

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

[**ARC 8816B**, IAB 6/2/10, effective 7/7/10]

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

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

**12.26(2)** At the conclusion of the department's investigation, any certified instructor 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," "11," or "12," shall immediately have the instructor's certification revoked. In the event that an instructor's certification is revoked, rule 571—12.29(321G,321I,462A,483A) shall apply.

**12.26(3)** At the conclusion of the department's investigation, if a certified instructor is found to have exercised bad judgment while teaching a class, failed to complete paperwork in a timely and proper manner, or engaged in risky or unsafe behavior or in an activity listed in rule 571—12.25(321G,321I,462A,483A), numbered paragraph "4," "6," "9," or "13," 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 safety and ethics 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.

[**ARC 8816B**, IAB 6/2/10, effective 7/7/10]

**571—12.27(321G,321I,462A,483A) Termination of certification.** Any certified instructor has the right, at any time, to voluntarily terminate the instructor's certification. 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.
[**ARC 8816B**, IAB 6/2/10, effective 7/7/10]

**571—12.28(321G,321I,462A,483A) Compensation for instructors.** Instructor applicants and certified instructors shall not receive any compensation for their time either directly or indirectly from students while preparing for or participating in a course. However, instructor applicants and certified instructors may require students to pay for actual, course-related expenses involving facilities, meals, or materials other than those provided by the department. All certified instructors shall keep all records, bills, receipts, etc., relating to student payments for at least one year after the course and shall submit such documents to the department upon request.
[**ARC 8816B**, IAB 6/2/10, effective 7/7/10]

**571—12.29(321G,321I,462A,483A) Hearing rights.** If the department seeks to revoke an instructor certification pursuant to rule 571—12.26(321G,321I,462A,483A), the department shall provide to the certified instructor written notice of the intent to revoke the certification as provided in Iowa Code chapters 17A and 455A, and Iowa Administrative Code 561—Chapter 7. If the certified instructor requests a hearing, it shall be conducted in accordance with Iowa Administrative Code 561—Chapter 7.
[**ARC 8816B**, IAB 6/2/10, effective 7/7/10]

**571—12.30** Reserved.

PART II
RECREATION EDUCATION PROGRAMS

**571—12.31(321I) ATV education program.**

**12.31(1)** For the ATV education program, the department has developed a rider-based course designed to meet the statutory requirement to provide rider education and instructor development as provided in Iowa Code section 321I.25.

**12.31(2)** Reciprocity. The department also recognizes safety courses taught by ATV Safety Institute (ASI)-certified instructors. Students who successfully complete this 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 successful completion of the course from the ASI-certified instructor and the payment of the $5 certification fee.

**12.31(3)** The department's ATV Education Program Skills Course is approximately four to six hours in length and is designed to be completed in one day. The education course is designed to teach ATV riders the principles and behaviors of safe and responsible ATV riding. The education course consists of both lecture and riding lessons.

**12.31(4)** 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.* A student successfully completes the education course by demonstrating proficiency in the riding skills taught in the course. Students who are not able to demonstrate safe riding skills will not earn an education certificate.

*c.* The cost of the education course is $25 per student. Payment may be made when the student registers for the course or to the instructor at the time of class. Payment shall be made by check or money order made payable to the DNR. Course fees are nonrefundable.

*d.* Students must use the DNR online training registration and tracking system to register for classes unless Internet access is unavailable. Students who do not have access to the Internet, which includes access through a public option such as a school or library, may contact the program coordinator, a department district office, the system administrator, or an instructor to set up a student account and register for the class. Assistance may be found by calling (515)281-5918. Students under the age of 11 must have a parent or guardian establish a user account and register on their behalf.

*e.* Students must provide their own protective riding gear and an ATV properly sized for the student. "Properly sized" means the student can comfortably reach all of the controls on the machine and can operate them. Students must also be of sufficient body weight to be able to maintain safety on the machine by shifting their weight during the training. The student must wear a helmet and protective eyewear at all times when the student is operating an ATV. The ATV must be in good working order, equipped with a proper muffler, and have current registration if the class is taught on public land as required by Iowa Code section 321I.3. If the class is held on private land, the registration requirement is not applicable. If the machine being used by the student is not required to have a recreation-use registration by statute, the registration requirement is not applicable and the lead instructor will put a placard on the machine to be used during the class indicating the exception. Students whose ATVs do not meet the requirements of this paragraph or whose ATVs are not properly sized will not be allowed to participate in the education course.

**12.31(5)** The department will establish requirements and standards for curriculum, security protocol, and managed 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 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.

[**ARC 8816B**, IAB 6/2/10, effective 7/7/10]

**571—12.32(321G) Snowmobile education program.**

**12.32(1)** For the snowmobile education program, the department has developed an education course designed to meet the statutory requirement in Iowa Code section 321G.23 to provide rider education and instructor development.

**12.32(2)** The education course is approximately eight hours in length, consists solely of lecture, and is designed to be completed in one day.

**12.32(3)** 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 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 a parent or guardian stating that the student completed the work. A student completing a home study course must pass a written examination with 80 percent accuracy in order to earn the education certificate.

*d.* The cost of the education course, for both the instructor-led class and the home study option, is $10 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 DNR. Course fees are nonrefundable.

*e.* Students must use the DNR online training registration and tracking system to register for classes unless Internet access is unavailable. Students who do not have access to the Internet, which includes access through a public option such as a school or library, may contact the program coordinator, a department district office, the system administrator, or an instructor to set up a student account and register for the class. Assistance may be found by calling (515)281-5918. Students under the age of 11 must have a parent or guardian establish a user account and register on their behalf.

**12.32(4)** The department will establish requirements and standards for curriculum, security protocol, and managed delivery. Only vendors that have entered into a memorandum of understanding with the department will be allowed to offer an online course which results in the issuance of a department

education certificate. Vendors will be allowed to 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.
[**ARC 8816B**, IAB 6/2/10, effective 7/7/10]

**571—12.33(462A) Boating education program.**

**12.33(1)** In accordance with Iowa Code section 462A.1, 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 United States Coast Guard Auxiliary- and United States Power Squadron-certified instructors. Students who successfully complete this 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 successful completion of the course from the United States Coast Guard Auxiliary- or United States Power Squadron-certified instructor and the payment of the $5 certification fee.

**12.33(3)** The education course for the boating education program is taught by certified instructors in a classroom setting and shall be a minimum of 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 DNR. Course fees are nonrefundable.

*e.* Students must use the DNR online training registration and tracking system to register for classes unless Internet access is unavailable. Students who do not have access to the Internet, which includes access through a public option such as a school or library, may contact the program coordinator, a department district office, the system administrator, or an instructor to set up a student account and register for the class. Assistance may be found by calling (515)281-5918. Students under the age of 11 must have a parent or guardian establish a user account and register on their behalf.

**12.33(5)** The department will establish requirements and standards for curriculum, security protocol, and managed 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 which 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.
[**ARC 8816B**, IAB 6/2/10, effective 7/7/10]

**571—12.34(483A) Hunter safety and ethics education program.**

**12.34(1)** The education course for the hunter safety and ethics 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. Satisfactory completion of the education course is mandatory pursuant to Iowa Code section 483A.27 for anyone born after January 1, 1972, who wishes to purchase an Iowa hunting license.

**12.34(2)** The education course is taught by certified instructors and is a minimum of ten hours in length. The education course shall have both classroom and hands-on components. Where permitted, live fire exercises may be taught.

**12.34(3)** The hunter safety and ethics education program also offers an online course/field day. The online course is approximately six hours in length and covers the same subject taught in the lecture portion of the department's course. A field day voucher may be purchased from the online vendor for a fee determined in the memorandum of understanding between the vendor and the department 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 portion is approximately four hours in length and is designed to meet the additional required elements of the hunter safety and ethics education program required in Iowa Code section 483A.27. Students must preregister for the field day course by using the DNR online training registration and tracking system unless Internet access is unavailable, in which case the student shall preregister by contacting the department.

*a.* The department recommends that the student be 16 years of age or older to take the online/field day course.

*b.* Only vendors that have been approved by the International Hunter Education Association and have entered into a memorandum of understanding with the department shall be allowed to offer an online course that results in the issuance of a field day voucher.

**12.34(4)** The following criteria apply to the hunter safety and ethics 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 from any electronic license system for Iowa (ELSI) vendor during regular business hours for $3.50.

*b.* A student successfully completes the course by completing a minimum of ten hours of training, six of which may be completed online if a student chooses to attend an online/field day course. Upon completion of the ten-hour curriculum, each student must take an individual oral or written test provided by the department. The student must pass the test with a score of 75 percent or higher. Based on the results of the test and the student's demonstration of safe handling of a firearm, the instructor shall determine if the student shall be issued a certificate of completion.

*c.* Students must use the DNR online training registration and tracking system to register for classes unless Internet access is unavailable. Students who do not have access to the Internet, which includes access through a public option such as a school or library, may contact a recreation safety officer, a department district office, the system administrator, or an instructor to set up a student account and register for the class. Assistance may be found by calling (515)281-5918. Students under the age of 11 must have a parent or guardian establish a user account and register on their behalf.

*d.* There is no fee for the education course.

[**ARC 8816B**, IAB 6/2/10, effective 7/7/10]

**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 as detailed in subrule 12.23(2).

**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 Iowa driver's license in order to be certified to operate a piece of snow grooming equipment.

*b.* The cost of the course is $10 per student. Payment may be made when the student registers for the course or to the instructor at the time of class. Payment shall be made by check or money order made payable to the DNR. Course fees are nonrefundable.

*c.* Students must use the DNR online training registration and tracking system to register for classes unless Internet access is unavailable. Students who do not have access to the Internet, which includes access through a public option such as a school or library, may contact the program coordinator, a department district office, the system administrator, or an instructor to set up a student account and register for the class. Assistance may be found by calling (515)281-5918.

*d.* Operators shall agree to follow all policies and procedures as set forth by the department and sign an acknowledgment form for these policies and procedures and file it with the department. The operator is ineligible to begin operating equipment, including during the apprenticeship training, until the acknowledgment form is signed and on file with the department.

**12.35(4)** A student who wishes to become a certified operator must complete an apprenticeship to receive the student's certification card. 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 independent of assistance. Upon successful completion of the apprenticeship, the certified instructor will notify the program coordinator that the certification card can be issued. Operation of snow grooming equipment is allowed only by someone with a department-issued certification card or by an apprentice under direct supervision of a certified snow groomer operator. The certification card must be in the certified 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 in place for the equipment, that there are founded cases of misuse of the equipment, or that an operator does not possess a valid driver's license issued by the Iowa department of transportation.

[**ARC 8816B**, IAB 6/2/10, effective 7/7/10]

**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 department-certified instructors and is approximately six hours in length. The course 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 an education certificate.

*b.* The online course is a combination of an online class and a field day and is recommended for students 16 years of age or older. A student must complete both the online class and field day to gain certification. Only vendors that have been approved by the International Hunter Education Association 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 field day voucher. The field day voucher is valid for one year and authorizes entrance into a field day course.

(1) The online class is completed by the student on the student's own time. This portion of the course is in conjunction with the National Bowhunter Education Foundation, which charges a fee to students for the foundation's service.

(2) The field day is offered free of charge by a certified bow hunter instructor. A student successfully completes the online course/field day by presenting to the field day instructor a copy of the Field Day Qualifier Certificate from the National Bowhunter Education Foundation online course to show that the student has successfully completed the online portion. Students then must successfully participate in practical testing at the field day and demonstrate bow and arrow safety and hunting skills under the supervision of a certified instructor. Students may be required to bring their own bow hunting

equipment to be used during the field day. Students must also preregister for the field day course by using the DNR online training registration and tracking system unless Internet access is unavailable, in which case the student shall preregister by contacting the department.

**12.36(3)** The following criteria apply to the bow 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 certification shall not become valid until the student's twelfth birthday.

*b.* Students must use the DNR online training registration and tracking system to register for classes unless Internet access is unavailable. Students who do not have access to the Internet, which includes access through a public option such as a school or library, may contact a recreation safety officer, a department district office, the system administrator, or an instructor to set up a student account and register for the class. Assistance may be found by calling (515)281-5918. Students under the age of 11 must have a parent or guardian establish a user account and register on their behalf.

*c.* There is no charge for the department's course.

[**ARC 8816B**, IAB 6/2/10, effective 7/7/10]

**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 fur harvester education program is between six to eight hours in length, 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.

**12.37(3)** The following criteria apply to the fur harvester 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 must use the DNR online training registration and tracking system to register for classes unless Internet access is unavailable. Students who do not have access to the Internet, which includes access through a public option such as a school or library, may contact a recreation safety officer, a department district office, the system administrator, or an instructor to set up a student account and register for the class. Assistance may be found by calling (515)281-5918. Students under the age of 11 must have a parent or guardian establish a user account and register on their behalf.

*c.* There is no fee for the education program.

[**ARC 8816B**, IAB 6/2/10, effective 7/7/10]

The rules in this division are intended to implement Iowa Code sections 321G.2, 321G.23, 321I.25, 462A.1, and 483A.27.

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# CHAPTER 13
# PERMITS AND EASEMENTS FOR CONSTRUCTION AND RELATED 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.

1. These rules establish procedures and regulate the evaluation and issuance of permits for construction or other related 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 shall 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.

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.

[**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 line, 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. The state of Iowa holds sovereign title in trust for the benefit of the public to the beds of the following lakes:

| County | Lake |
|---|---|
| Allamakee | Kains |
| | Lansing Big Lake |
| | Mud Hen |
| | New Albin Big Lake |
| Buena Vista | Pickeral |
| | Storm |
| Calhoun | North Twin |
| | South Twin |
| | Tow Head |
| Cerro Gordo | Clear |
| Clay | Dan Green Slough |
| | Elk |
| | Mud |
| | Pickeral |
| | Round |
| | Trumbull |
| Delaware | Silver |
| Dickinson | Center |
| | Diamond |
| | East Okoboji |
| | Hottes |
| | Jemmerson Slough |
| | Little Spirit |
| | Lower Gar |
| | Marble |
| | Minnewashta |
| | Pleasant |
| | Prairie |
| | Silver |
| | Spirit |
| | Swan |
| | Upper Gar |
| | Welch |
| | West Okoboji |
| Emmet | Birge |
| | Cheerers |
| | East Swan |
| | Four Mile |
| | Grass |
| | High |
| | Ingham |
| | Iowa |
| | Ryan |
| | Tuttle |

| | |
|---|---|
| | Twelve Mile |
| | West Swan |
| Greene | Goose |
| Hamilton | Little Wall |
| Hancock | Crystal |
| | Eagle |
| | East Twin |
| | West Twin |
| Harrison | Nobles |
| Johnson | Swan |
| Kossuth | Burt |
| | Goose |
| Monona | Blue |
| Osceola | Iowa |
| | Rush |
| Palo Alto | Five Island |
| | Lost Island |
| | Rush |
| | Silver |
| | Virgin |
| Pocahontas | Clear |
| | Lizard |
| Pottawattamie | Carter |
| | Manawa |
| Sac | Black Hawk |
| Winnebago | Harmon |
| | Rice |
| Woodbury | Browns |
| Worth | Silver |
| Wright | Big Wall |
| | Cornelia |
| | Elm |
| | Morse |

*"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. The state of Iowa holds sovereign title in trust for the benefit of the public to the beds of the following rivers:

**River and description**

The Mississippi River from the south boundary of the state of Minnesota to the north boundary of the state of Missouri.

The Missouri River from the south boundary of the state of South Dakota to the north boundary of the state of Missouri.

The Big Sioux River from the south boundary of the state of Minnesota to the south boundary of the state of South Dakota.

The Des Moines River from the Mississippi River to the west line of Section 7, Township 89 North, Range 32 West, Palo Alto County (west branch) and to the north line of Section 2, Township 95 North, Range 29 North, Kossuth County (east branch).

The Cedar River from the Iowa River to the west line of Section 7, Township 89 North, Range 13 West, Black Hawk County.

The Iowa River from the Mississippi River to the west line of Section 7, Township 81 North, Range 11 West, Iowa County.

The Little Maquoketa River from the Mississippi River to the west line of Section 35, Township 90 North, Range 2 East, Dubuque County.

The Maquoketa River from the Mississippi River to the west line of Section 18, Township 84 North, Range 3 East, Jackson County.

The Nishnabotna River from the north boundary of the state of Missouri to the north line of Section 1, Township 67 North, Range 42 West, Fremont County.

The Raccoon River from the Des Moines River to the west line of Section 30, Township 78 North, Range 25 West, Polk County.

The Skunk River from the Mississippi River to the north line of Section 1, Township 73 North, Range 8 West, Jefferson County.

The Turkey River from the Mississippi River to the west line of Section 30, Township 95 North, Range 7 West, Fayette County.

The Upper Iowa River from the Mississippi River to the west line of Section 28, Township 100 North, Range 4 West, Allamakee County.

The Wapsipinicon River from the Mississippi River to the west line of Section 19, Township 86 North, Range 6 West, Linn County.

*"Native stone riprap"* means broken stone, dolomite, quartzite or fieldstone meeting Iowa department of transportation specification 4130, Class D.

*"Ordinary high water line"* means the boundary between meandered sovereign lakes and rivers, except the Mississippi River, and littoral or riparian property. "Ordinary high water line" 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. "Ordinary high water line" is the boundary between upland and wetland as defined by the U.S. Army Corps of Engineers Wetlands Delineation Manual dated January 1987. For Storm Lake in Buena Vista County and Clear Lake in Cerro Gordo County, the elevation has been established by adjudication. A list of elevations for the ordinary high water lines of meandered sovereign lakes, as determined by this definition and applicable court cases, is available on the department's Web site.

*"Ordinary high water line 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. 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 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.

**13.4(3)** *Impoundments.* These rules do not apply to river impoundments regulated by Iowa Code chapter 462A.

**13.4(4)** *Docks*. These rules do not apply to docks regulated by 571—Chapter 16, except as specifically described herein.
[**ARC 7616B**, IAB 3/11/09, effective 4/15/09]

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

**571—13.6(455A,461A,462A) Evaluation.**

**13.6(1)** In considering complete applications, the department shall 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 ordinary high water line 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.
[**ARC 7616B**, IAB 3/11/09, effective 4/15/09]

**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.* Utilize the smallest amount of public lands and public waters.

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

*d.* Are 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 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 ordinary high water line. Placement of earth fill within the ordinary high water line shall not be allowed. Retaining walls, sheet piling, gabions or other retaining structures shall be placed at or above the ordinary high water line. When such retaining structures are placed at the ordinary high water line, 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 ordinary high water line at a slope of 2 feet horizontal to 1 foot vertical (2:1). Placement of earth fill within the ordinary high water line shall not be allowed. Retaining walls, sheet piling, gabions or other retaining structures shall not be placed within the ordinary high water line. When such retaining structures are placed at the ordinary high water line, 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 ordinary high water line at a slope of 2 feet horizontal to 1 foot vertical (2:1). Placement of earth fill within the ordinary high water line shall not be allowed. Retaining walls, sheet piling, gabions or other retaining structures shall not be placed within the ordinary high water line. When such retaining structures are placed at the ordinary high water line, 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 exist and are 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 are not lawfully installed prior to April 15, 2009, or are installed after April 15, 2009, shall be regulated as docks by 571—Chapter 16.

**13.7(5)** *Beaches, canals, 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, or artificial channels or expansion of existing beaches, canals, or artificial channels, except that the department may permit new beaches, canals, and artificial channels and expansions of existing beaches, canals, 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.

**13.7(6)** *Stationary blinds.* All stationary blinds installed on lands and waters described in rule 571—13.2(455A,461A,462A) are subject to regulation by rule 571—51.6(481A) and are not subject to the requirements of these rules.

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

**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. 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 ordinary high water line, 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.

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

**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 contact person identified in the permit of such completion through regular mail or E-mail. The permittee shall include with such notice a ground-level photograph(s) of the completed project. 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 an application to the department for an extension of the permit on a form provided by the department. 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 18 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]

TITLE II
*LICENSES, PERMITS AND CONCESSION CONTRACTS*

# CHAPTER 14
# CONCESSIONS

**571—14.1(461A) Definitions.**

*"Concessionaire"* means 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, sale of fishing bait and tackle, firewood sales, etc.

*"Department"* means department of natural resources.

*"Director"* means the director of the department of natural resources.

*"Friends group or organization"* means an organization incorporated under Iowa Code chapter 504A as a not-for-profit group which has been formed solely for the purpose of promoting and enhancing a particular state park or recreation area.

*"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 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"* is as defined 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 new concession services in an area, the department shall advertise for concession operation bids in one newspaper of statewide circulation and one newspaper of general circulation in the county in which the state park or recreation area is located.

*b.* The newspaper ad shall state the following:

(1) The names and location of area(s) in which concession contracts are available.

(2) The general types of service which the department would expect a concessionaire to furnish.

(3) Information regarding how to obtain a bid information package.

(4) A general description of what the information package will contain.

(5) The deadline for submission of proposals to the department.

*c.* The department shall allow a minimum of 35 days between publication of bid advertisements and the deadline for submission of proposals.

*d.* The information package sent to potential bidders shall contain:

(1) A brochure which depicts the particular park in which the concession operation is proposed.

(2) An invitation to bid which will contain detailed information regarding the types of services expected to be offered by the concessionaire; bid terms acceptable to the department; history of gross receipts reported the previous five operating years by the prior concessionaire (if applicable); names, addresses and telephone numbers of persons to be contacted for further information; and the date and time by which proposals must be received by the department.

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

(4) The application/qualifications statement to be submitted to the department as a bid for concession operation.

(5) Samples of report forms which the concessionaire must submit to the department while in operation.

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

*a.* The department may, at its option, mutually agree with the concessionaire to renewal of a contract during or at the end of its term. A concessionaire may request renewal during the term of a contract after a minimum three years of concession operation. 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 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 which has been negotiated in accordance with paragraph *"a"* of this subrule. The notice shall be published in the same manner as provided in 571—14.2(1)*"a"* and shall solicit 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. The existing concessionaire may request a contested case proceeding prior to the department solicitation of bids.

**571—14.3(461A) Bidding process.**

**14.3(1)** Persons interested in operating a concession in a state park or recreation area shall submit a bid on forms furnished by the department. 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. Concession facilities shall be bid on an "as is" basis unless the department agrees in writing to undertake certain improvements.

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

If no bids are received for 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 and firewood sales.

*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.* Such machines may be placed in state parks and recreation areas only by the publisher or distributor of the newspaper and the distributor of the soft drink which will be sold in those machines or by private vending machine companies.

*c.* Companies placing machines in these areas must first obtain a letter/permit from the director of the department stating where and under what conditions the machines may be placed.

*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.

*f.* Persons selling only firewood may do so with a letter/permit from the director provided the park or recreation area has no other concessionaire or provided the concessionaire has declined the opportunity to sell firewood.

**14.3(3)** Friends groups may offer souvenirs, books, photos and other memorabilia for sale in a state park by requesting that a letter/permit be issued by the director. These groups shall not be subject to the bidding procedures of this chapter. All proceeds from the sale of merchandise by the friends group must be spent on repair, replacement or enhancement of facilities within the park.

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

1. Services proposed in the concession operation.
2. Managerial competence and experience.
3. Apparent financial capability to carry out the concession operation proposed.
4. Annual lease payment bid.

5. Length of contract proposed (five-year maximum).
6. A check of all business and personal references given in the application/qualification statement.
7. A check of driver's license records and any other information which would assist in assessing the person's suitability for concession operation.

**571—14.5(461A) Concession contract—general.** The term of the concession contract shall be for no more than a five-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 concession operation on a particular state 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 noncompetitive type vendors in an area during a department-sponsored special event such as the forest craft festival.

**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. 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 initial step of resolving the dispute will be an informal meeting and discussion between the park ranger and the district parks supervisor or other department personnel in charge of the area and the concessionaire. If the matter cannot be resolved, the concessionaire or area personnel may request a meeting with parks bureau staff in the central office of the department. The bureau chief shall, if possible, resolve the dispute to the satisfaction of all parties. 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 paragraph. The provisions of this paragraph 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 571—Chapter 7.

**571—14.8(461A) Severability.** Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

These rules are intended to implement Iowa Code sections 461A.3 and 461A.4.

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[Filed 6/14/96, Notice 2/28/96—published 7/3/96, effective 8/7/96]

# CHAPTER 15
# GENERAL LICENSE REGULATIONS

[Prior to 12/31/86, see Conservation Commission[290] Chs 17, 66, 67, and 75]

**571—15.1(483A) Scope.** The purposes of this chapter are to provide rules for license sales, refunds and administration; implement the wildlife violator compact and penalties for multiple offenses; administer special licenses available for hunting and fishing; and describe and implement certification and education programs of the department of natural resources.
[**ARC 7852B**, IAB 6/17/09, effective 7/22/09]

## DIVISION I
## LICENSE SALES, REFUNDS AND ADMINISTRATION

**571—15.2(483A) Definitions.** For the purposes of this division, the following definitions shall apply:

*"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.

*"Department"* means the department of natural resources.

*"Director"* means the director of the department of natural resources.

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

*"License"* means any license or privilege issued by the department to an individual for hunting or fishing in the state of Iowa. Multiple types of licenses are described in these rules.

*"License agent"* means an individual, business, or governmental agency authorized to sell a license.

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

*"Nonresident"* means a person who is not a resident as that term is defined in this rule.

*"Principal and primary residence or domicile"* means the one and only place where a person has a true, fixed, and permanent home, and to where, whenever the person is briefly and temporarily absent, the person intends to return. Relevant factors used to determine a person's principal and primary residence or domicile include the following:

1. Proof of place of employment, which must include the address of the person's place of employment or business, including the area or region where a majority of the person's work is performed.
2. Physical address, which shall be the person's 911 address(es) or the address of an immediate family member. A post office box or a forwarded address shall not be accepted by the department to verify the person's principal and primary residence or domicile.
3. Utility records, which must include the person's name and be associated with the physical address provided for as the person's principal and primary residence or domicile. The types of records that may be submitted include rental and lease documents and telephone, cellular phone, electricity, water, sewer, cable or satellite television, and any other utility records.
4. Real estate records, which include legal documents showing ownership or leasehold interests of any and all real estate related to the physical address used by the department to verify the person's principal and primary residence or domicile. These records should also provide the time period of such ownership or rental.
5. Vehicle registration(s) for any vehicles owned or leased by the person and immediate family members.
6. Portion of federal, state or local income tax returns filed during the relevant time period showing the address provided on those forms by the person.
7. Documentation of homestead tax exemption allowed to the person or immediate family member(s) for all states in which such exemption is allowed.
8. Documentation of any coinhabitants, other than the person's immediate family members, who use the same principal and primary residence or domicile.

*"Resident"* means a natural person who meets any of the following criteria during each year in which the person claims status as a resident:

1. Has physically resided in this state at the person's principal and primary residence or domicile for a period of not less than 90 consecutive days immediately before applying for or purchasing a resident license, tag, or permit under this chapter and has been issued an Iowa driver's license or an Iowa nonoperator's identification card. A person is not considered a resident under this rule if the person is residing in the state only for a special or temporary purpose including but not limited to engaging in hunting, fishing, or trapping.

2. Is a full-time student at either of the following:

- An accredited educational institution located in this state if the person resides in this state while attending the educational institution.
- An accredited educational institution located outside of this state, if the person is under the age of 25 and normally resides with at least one parent or legal guardian who maintains a principal and primary residence or domicile in this state.

3. Is a student who qualifies as a resident pursuant to paragraph "2," second bulleted paragraph, only for the purpose of purchasing any resident license specified in Iowa Code section 483A.1 or 484A.2.

4. Is a resident under 18 years of age whose parent is a resident of this state.

5. Is a member of the armed forces of the United States who is serving on active duty, claims residency in this state, and has filed a state individual income tax return as a resident pursuant to Iowa Code chapter 422, division II, for the preceding tax year, or is stationed in this state.

*"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.

[**ARC 7852B**, IAB 6/17/09, effective 7/22/09; **ARC 9004B**, IAB 8/11/10, effective 9/15/10]

**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.

[**ARC 7852B**, IAB 6/17/09, effective 7/22/09]

**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.

[**ARC 7852B**, IAB 6/17/09, effective 7/22/09; **ARC 8104B**, IAB 9/9/09, effective 10/14/09; **ARC 8465B**, IAB 1/13/10, effective 2/17/10]

**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. The provisions of 571—15.6(483A) shall not apply to a license agent engaging in, or applying to engage in, the electronic sale and issuance of licenses.

**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 director 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)** 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.

[**ARC 7852B**, IAB 6/17/09, effective 7/22/09]

**571—15.6(483A) Paper license sales.** Paper licenses shall be sold only in the event that the electronic licensing system is no longer available.

**15.6(1)** *Depositary designation.* The director may designate a retail business establishment, an office of a governmental entity, or a nonprofit corporation as a depositary for the sale of hunting and fishing licenses in accordance with the provisions of this rule.

**15.6(2)** *Application.*

*a.* An application form to act as a depositary 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. Requests for an application form may be made through department field staff or field officers. The applicant must provide the following information on the form:

(1) The name of the retail business establishment, governmental entity, or nonprofit corporation, and location(s) and telephone numbers.

(2) A general description of the type of retail business establishment, governmental entity, or nonprofit corporation.

(3) The form of ownership if a retail business establishment. If a partnership, the full names and addresses of all partners must be provided. If a corporation, the date and state of incorporation must be provided.

(4) If a governmental entity, the name and title of the responsible official.

(5) If a nonprofit corporation, the date and state of incorporation.

(6) The hours and days open to the public.

(7) The contact information of the person signing the application.

(8) The name, address, and telephone number of three credit references, including the bank used by the retail business establishment, governmental entity, or nonprofit corporation.

*b.* The application form contains a statement by which the applicant agrees to the terms and conditions as set forth in this rule. The application form must be signed by the owner if a sole proprietorship; by a partner if a partnership; by an authorized corporate official if a corporation; or by the elected or appointed official administratively in charge of the governmental entity. The signature must be attested to by a notary public.

**15.6(3)** *Security.* The applicant under this rule must provide security, either a surety bond from an association or corporation whose business is assuring the fidelity of others and which has the authority by law to do business in this state, a collateral assignment of a certificate of deposit, or a letter of credit.

*a. Condition of security.* A surety bond required by this rule shall generally provide that the applicant render a true account of and turn over all moneys, license blanks, and duplicates when requested to do so by the director or an authorized representative and that the applicant comply with all applicable provisions of the application, the Iowa Administrative Code, and the Iowa Code.

*b. Amount of security.* All forms of security required by this rule shall be in the amount of $5,000 each or a larger amount as jointly agreed to by the department and the depositary.

*c. Term of bond.* The bond required by this rule shall run continuously from the date the application is approved.

*d. Termination of bond.* The surety or principal may terminate the bond at any time by sending written notice by certified mail, return receipt requested, to the Director, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034. The termination shall become effective 30 days after the receipt of the notice by the director.

*e. Collateral assignment of a certificate of deposit and letters of credit.* Collateral assignments of certificates of deposit and letters of credit shall be subject to the following terms and conditions:

(1) Certificates of deposit shall be assigned, in writing, to the department, and the assignment shall be recorded on the books of the bank issuing the certificate.

(2) Banks issuing these certificates shall waive all rights of setoff or liens which they have or might have against these certificates.

(3) Certificates of deposit shall be automatically renewed unless the director approves, in writing, release of the funds. Letters of credit shall be without reservation and shall remain in effect continuously, or as otherwise agreed to by the director.

(4) The director will release the certificates of deposit or approve the cancellation of a letter of credit upon termination of a license agent agreement if all licenses and moneys have been accounted for satisfactorily or if the depositary provides a satisfactory surety bond in lieu thereof.

**15.6(4)** *Multiple establishment locations.* An application and security may be submitted for retail business establishments with multiple locations. For purposes of reporting and for determining the amount of the security, each application will be considered on a case-by-case basis and as mutually agreed upon by the depositary and the director.

**15.6(5)** *Approval of application and security.* The director will approve the application upon the receipt of a satisfactory bond, collateral assignment of deposit, or letter of credit and a determination that the credit references are satisfactory. However, the director reserves the right not to approve any application received from a party whose depositary agreement has previously been terminated by the department for cause. Upon approval by the director, the department will provide the depositary with license blanks, reporting forms, and instructions.

**15.6(6)** *Depositary reporting standards.* All depositaries shall comply with the following reporting standards:

*a. Monthly reports.* A full and complete monthly sales report, including duplicate copies of the licenses sold and a check or other monetary instrument in the amount due, shall be remitted to the department the following month on a prescheduled due date. A depositary that does not provide the monthly report to the department within 10 days after the due date shall be considered seriously delinquent. However, if the depositary's office or business is operated on a seasonal basis, a monthly report is not required for any month that the office or business is not open to the public.

*b. Annual report.* An annual report for all sales for the calendar year and all unused license blanks for the year shall be remitted to the department by January 31 of each year. A depositary will be considered seriously delinquent if the annual report is not received by February 15. An annual report shall also be submitted at the time a depositary agreement is terminated for any reason during the calendar year. This report must be received within 15 days after the director issues or, in the case of a voluntary termination, receives the notice of termination.

**15.6(7)** *Accountability.* The depositary shall be fully accountable to the state for all proceeds collected from the sale of licenses. This accountability shall not be diminished by reason of bankruptcy, fire loss, theft loss, or other similar reason.

**15.6(8)** *Probation.*

*a.* A depositary shall be placed on probation under any of the following circumstances:

(1) The depositary is seriously delinquent for the second time during any consecutive six-month period.

(2) The depositary fails to correct a serious delinquency within ten days.

(3) A check is returned by the bank due to insufficient funds.

*b.* Notice of probation shall be sent to the depositary by certified mail, return receipt requested.

*c.* The probation will be automatically canceled after six months of satisfactory performance by the depositary.

**15.6(9)** *Termination of depositary agreement.* A depositary may terminate the agreement at any time by notifying the director by certified mail, return receipt requested. The termination shall be effective 30 days after the receipt of the notice by the director and after the depositary has fully accounted for all moneys and unused license blanks. The director may terminate the depositary agreement and require an immediate and full accounting of all moneys and unused license blanks under any of the following circumstances:

*a.* The occurrence of a third serious delinquency during any consecutive six-month period.

*b.* When an insufficient funds check is received by the department, not correcting the deficiency within 10 days after proper notice by the director.

*c.* Failing to correct a serious delinquency within 15 calendar days.

*d.* Knowingly placing a date, other than the correct date, on any license.

*e.* Knowingly selling a resident license to a nonresident or selling a license to a person not qualified for such license.

*f.* Charging more than the statutory writing fee.

*g.* Refusing to sell a license to any individual by reason of creed, sexual orientation, gender identity, religion, pregnancy or public accommodation.

*h.* Canceling a bond, certificate of deposit, or letter of credit or allowing one to expire.

*i.* Failing to make a full and complete monthly sales report and monthly remittance.

*j.* Knowingly making a false entry on any license being sold or knowingly issuing any license to a person to whom issuance of that license is improper.

**15.6(10)** *Forms available from the department.* Copies of the forms required for application, bond, monthly reports, and collateral as assignment may be obtained by 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.

[**ARC 7852B**, IAB 6/17/09, effective 7/22/09]

**571—15.7(483A) Lost or destroyed license blanks.**

**15.7(1)** *Accountability for license blanks.* Whenever a depositary or county recorder requests to be relieved from accountability for license blanks that have been lost or destroyed, the depositary or county recorder (recorder) shall file a bond for the face value of such lost or destroyed license blanks and provide an explanation to the director.

**15.7(2)** *Explanation.*

*a.* The depositary or recorder shall submit a written statement in the form of an affidavit regarding the facts and circumstances surrounding the alleged loss or destruction. Pictures, drawings, or other pertinent information may be attached and referenced in the statement. The loss or destruction must relate to one or a combination of the following reasons:

(1) Loss or destruction by fire.

(2) Loss from theft.

(3) Loss while in transit.

(4) Loss from natural causes, including but not limited to floods, tornadoes, and severe storms.

(5) Loss or accidental destruction during the course of normal business operations or facility maintenance and repair.

*b.* The statement must also include a specific description of the precautions and procedures normally utilized by the recorder or depositary to prevent or to guard against the loss or destruction described, and a further statement as to why the precautions or procedures failed in this particular instance.

*c.* The director shall consider the written explanation as provided. The director shall also consider the past record of the depositary or recorder regarding losses and destructions and the past record of the depositary or recorder regarding prompt and accurate reporting. The director may direct department staff to further investigate the circumstances and facts.

(1) If the director determines that the depositary or recorder exercised reasonable and prudent care, the director shall relieve the depositary or recorder of accountability upon the filing of a bond.

(2) If the director determines that there was gross negligence by the depositary or recorder and holds the depositary or recorder accountable, the depositary or recorder may file a request for a contested case proceeding as provided in 571—Chapter 7 of the Iowa Administrative Code.

**15.7(3)** *Bond.* The depositary or recorder shall provide a bond in the amount of the face value of the lost or destroyed licenses. The bond shall be on a bond form provided by the department. The bond shall be conditioned to the effect that the depositary or recorder agrees to surrender the subject licenses to the department in the event that they are located at any future time; or in the event of proof showing that any or all of the subject licenses have been issued, the depositary, recorder, or sureties jointly and severally agree to pay the state the face value of all licenses covered by the bond.

*a.* For a face amount of $500 or less, the personal bond of the depositary or recorder is sufficient. One additional personal surety is required for a face amount up to $1,000; and two personal sureties, in addition to the depositary or recorder, are required if the face amount is more than $1,000.

*b.* A corporate surety authorized to do business in Iowa may be provided in lieu of the personal sureties required, in addition to the depositary or recorder.

*c.* The value assigned to a lost or destroyed blank license form shall be $25. This amount will be paid by the depositary to the department, except as relief from such payment is provided according to this rule.

[**ARC 7852B**, IAB 6/17/09, effective 7/22/09]

**571—15.8(483A) Refund or change requests for special deer and turkey hunting licenses and general licenses.**

**15.8(1)** *Invalid applications.* Deer and turkey hunting license applications that are received after the closing date for acceptance of applications and applications that are invalid on their face will be returned unopened to the applicant. Any license fee related to an application determined invalid by a computer analysis or other analysis after the application has been processed will be refunded to the applicant, less a $10 invalid application fee to compensate for the additional processing cost related to an invalid application.

**15.8(2)** *Death of licensee.* The fee for a deer or turkey hunting license will be refunded to the licensee's estate when the 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.

**15.8(3)** *National or state emergency.* The fee for a deer or turkey hunting license will be refunded if the licensee is a member of the National Guard or a reserve unit and is activated for a national or state emergency which occurs 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.

**15.8(4)** *License changes.* The department will attempt to change an applicant's choice of season or type of license if a written or telephonic request is received by the licensing section in sufficient time (usually 20 days) before the license is printed and if the requested change does not result in disadvantage to another applicant. A change request made by telephone must be verified in writing by the requester

before the change request will be honored. The department's ability to accommodate requests to change the season or license type is dependent on workload and processing considerations. If the department cannot accommodate a request to change a season or license type, the license will be issued as originally requested by the applicant. No refund will be allowed. The department will not change the name on the license from that submitted on the application.

**15.8(5)** *Duplicate purchases of general hunting and fishing licenses.* Upon a showing of sufficient documentation (usually a photocopy of the licenses) that more than one hunting or fishing license was purchased by or for a single person, the department will refund the amount related to the duplicate purchase. A written request for refund, with supporting documentation, must be received by the licensing section within 90 days of the date on the face of the duplicate licenses.

**15.8(6)** *Other refund requests.* Except as previously described in this rule, the department will not issue refunds for any licenses as defined in 571—15.2(483A).
[**ARC 7852B**, IAB 6/17/09, effective 7/22/09]

**571—15.9(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.
[**ARC 9004B**, IAB 8/11/10, effective 9/15/10]

**571—15.10(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.
[**ARC 9004B**, IAB 8/11/10, effective 9/15/10]

**571—15.11(483A) Suspension or revocation of licenses when nonresidents obtain resident licenses.**

**15.11(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. If the department finds that a nonresident has obtained a resident license fraudulently or through intentional misrepresentation, the person shall be guilty of a simple misdemeanor, punishable as a scheduled violation under Iowa Code section 805.8B.

**15.11(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 rule 571—15.10(483A) 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.

**15.11(3)** *Magistrate authority.* Nothing in this chapter shall limit the magistrate's authority as described in Iowa Code section 483A.21 to suspend or revoke licenses.
[**ARC 9004B**, IAB 8/11/10, effective 9/15/10]

**571—15.12** 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.

*"License"* means any paid or free license, permit, or certificate to hunt, fish, or trap listed in Iowa Code chapters 481A, 481B, 482, 483A, 484A, 484B, and 716, including the authorization to hunt, fish, or trap pursuant to any reciprocity agreements with neighboring states.

*"Licensee"* means the holder of any license.

*"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 15.16(3).

*"Revocation"* means the taking or cancellation of an existing license.

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

**15.16(2)** *Record-keeping 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 weekly basis, disposition reports of each charge filed under Iowa Code chapters 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 computerized system that is directly accessible by the department of public safety communications system for use by the department's licensing section, and all state and local law enforcement officers. Direct access through the department of public safety communications system will be available as soon as practical and is dependent on the development of appropriate computer linkage by the department of public safety.

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

County of violation, name of defendant, address of defendant, social security or driver's license number, date of birth, race, sex, height, weight, date and time of violation, charge and Iowa Code section, officer name/C-number who filed charge, and date of conviction.

**15.16(3)** *Point values assigned to convictions.* For the purposes of defining a multiple offender, the person shall be classified as a multiple offender when the person equals or exceeds a total of five points during a consecutive three-year period using the values attached to the following offenses. 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 attached to them:

(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 taking of any fish, game, or fur-bearing animal by illegal methods.
(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) For a repeat offense of acquiring a hunting license without hunter safety certification.

(20) Taking game from the wild—see Iowa Code section 481A.61.

(21) Violation of Iowa Code section 483A.27(7).

(22) Any violation of Iowa Code Supplement section 716.8 as amended by 2008 Iowa Acts, House File 2612, section 21, while hunting deer.

*b.* Convictions of the following offenses shall have a point value of two attached to them:

(1) Hunting, fishing, or trapping on a refuge.

(2) Illegal possession of fur, fish, 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) Snagging of game fish.

(7) Shooting within 200 yards of occupied building or feedlot.

(8) No valid resident license relating to deer or turkey.

(9) Illegal importation of fur, fish, or game.

(10) Failure to exhibit catch to an officer.

(11) Trapping or poisoning game birds, or poisoning game animals.

(12) Violations pertaining to private fish hatcheries and aquaculture.

(13) Violations of the fur dealers reporting requirements.

(14) Violation of Iowa Code section 481A.126 pertaining to taxidermy.

(15) Loaded gun in a vehicle.

(16) Attempting to take any fish, game, or fur-bearing animals by illegal methods.

(17) Attempting to take game before or after legal shooting hours.

(18) Wanton waste of fish, game or fur-bearing animals.

(19) Illegal discharge of a firearm pursuant to Iowa Code section 481A.54.

(20) Any violation of Iowa Code section 482.14 pertaining to commercial fishing.

(21) Failure to tag deer or turkey.

(22) Applying for or obtaining more than the legal number of licenses allowed for deer or turkey.

(23) Illegal transportation of game, fish or furbearers.

(24) Violation of Iowa Code section 483A.27, except subsection (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 attached to them.

**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 subsection 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 subsection 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 subsection 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 subsections 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 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.

**15.16(8)** *Magistrate authority.* This chapter does not limit the magistrate authority as described in Iowa Code section 483A.21.

**15.16(9)** *Suspension for failure to comply with a child support order.* The department is required to suspend or deny all licenses of an individual upon receipt of a certificate of noncompliance with child support obligation from the Iowa child support recovery unit pursuant to Iowa Code section 252J.8(4).

*a.* The receipt by the department of the certificate of noncompliance shall be conclusive evidence. Pursuant to Iowa Code section 252J.8(4), the person does not have a right to a hearing before the department to contest the denial or suspension action taken due to the department's receipt of a certificate of noncompliance with a child support obligation but may seek a hearing in district court in accordance with Iowa Code section 252J.9.

*b.* Suspensions for noncompliance with a child support obligation shall continue until the department receives a withdrawal of the certificate of noncompliance from the Iowa child support recovery unit.

*c.* After the department receives a withdrawal of the certificate of noncompliance, an individual may obtain a new license upon application and the payment of all applicable fees.

[**ARC 7852B**, IAB 6/17/09, effective 7/22/09]

**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.

*"Home state"* means the state of primary residence of a person.

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

*"License"* means any license, permit, or other public document which conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any fish or wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a participating state.

*"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.

[**ARC 7852B**, IAB 6/17/09, effective 7/22/09]

**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 subsection 125.2(9).

**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.

[**ARC 7852B**, IAB 6/17/09, effective 7/22/09]

**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 authorization card.* An individual requesting use of a crossbow for hunting deer or turkey must submit an application for an authorization card 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. A first-time applicant must submit the authorization card 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)** *Authorization card—issuance and use.* Approved applicants will be issued a card authorizing the individual to hunt deer and turkey with a crossbow. The authorization card 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 authorization card.* A card 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.

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 authorization card 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 with at least three blades.

[**ARC 7852B**, IAB 6/17/09, effective 7/22/09]

**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 subsection 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 human services to verify the applicant's household income if proof of income is provided through the department of 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 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 (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.

[**ARC 7852B**, IAB 6/17/09, effective 7/22/09; **ARC 8465B**, IAB 1/13/10, effective 2/17/10]

**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 subsection 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 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 dependant 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 doctor of medicine, doctor of osteopathy, physician's assistant or nurse practitioner.

**15.24(4)** *Revocation.* Any license issued pursuant to 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.

[**ARC 7852B**, IAB 6/17/09, effective 7/22/09; **ARC 8465B**, IAB 1/13/10, effective 2/17/10]

**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 person; 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(6), all hunting and fishing regulations shall apply to active duty military personnel.

[**ARC 7852B**, IAB 6/17/09, effective 7/22/09]

**571—15.26** to **15.40** Reserved.

DIVISION IV
EDUCATION AND CERTIFICATION PROGRAMS

**571—15.41(483A) Hunter safety and ethics education program.** This division clarifies the term "hunting license" as used in Iowa Code section 483A.27 in relation to the hunter safety and ethics education course requirement, clarifies the need for exhibiting a hunter safety and ethics education course certificate when applying for a deer or wild turkey license, and explains the requirements for individuals who wish to demonstrate their knowledge of hunter safety and ethics to qualify for purchase of 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. (Iowa Code section 483A.1(1))
2. Hunting licenses for nonresidents. (Iowa Code section 483A.1(2))
3. Hunting preserve license.
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 defined in Iowa Code section 483A.24.
5. Veteran's lifetime hunting and fishing license as defined in Iowa Code section 483A.24.

[**ARC 7852B**, IAB 6/17/09, effective 7/22/09]

**571—15.42(483A) Testing procedures.**

**15.42(1)** *General testing procedures.* Upon completion of the required curriculum, each person shall score a minimum of 75 percent on the written or oral test provided by the department and demonstrate safe handling of a firearm. Based on the results of the written or oral test and demonstrated firearm safe handling techniques as prescribed by the department, the volunteer instructor shall determine the persons who shall be issued a certificate of completion.

**15.42(2)** *Special testing out provisions.* Any person born after January 1, 1972, who does not complete the required ten-hour hunter safety and ethics course (as described in Iowa Code section 483A.27, subsection (1)), must meet the following requirements to be eligible to purchase an Iowa hunting license:

*a.* To comply with Iowa Code section 483A.27, subsection (5), an individual must pass a written examination compiled by the department of natural resources under the direct supervision of a state conservation officer or certified hunter safety instructor.

*b.* If the applicant does not pass the examination by a score of 95 percent or more, the applicant must then wait seven days to take the examination again.

*c.* If the applicant does not pass the second examination with a score of 95 percent or more, the applicant must successfully complete the ten-hour safety and ethics course to obtain a certificate of completion (as described in Iowa Code section 483A.27, subsection (2)).

**15.42(3)** *Exemptions.* The following groups of individuals do not need hunting licenses and therefore do not need to satisfactorily complete a hunter safety and ethics education course:

*a.* *Landowners and tenants.* Owners or tenants of land and their children when hunting on the land which they own or on which they are tenants.

*b.* *Residents under 16.* Residents of the state under 16 years of age accompanied by their parent or guardian or in the company of any other competent adult if the adult accompanying said minor possesses a valid hunting license, providing, however, there is one licensed adult accompanying each person under 16 years of age.

**15.42(4)** *Deer and wild turkey license applications.* Individuals are not required to exhibit a certificate showing satisfactory completion of a hunter safety and ethics education course only when applying for a deer or wild turkey license.

[**ARC 7852B**, IAB 6/17/09, effective 7/22/09]

**571—15.43(321G,462A,483A) Volunteer bow and fur harvester education instructors, snowmobile and all-terrain vehicle (ATV) safety instructors, boating safety instructors and hunter education instructors.**

**15.43(1)** *Purpose.* Pursuant to Iowa Code sections 321G.23(2), 462A.3 and 483A.27(4), the department will certify volunteer instructors to teach bow, fur harvester, snowmobile, ATV, boating and hunter education courses.

**15.43(2)** *Definitions.* For the purpose of this rule:

*"Certified instructor"* means a person who has met all criteria in this rule for one or more of the above-named courses.

*"Course"* means the department's bow, fur harvester, snowmobile, ATV, boating and hunter education and ethics courses.

*"Department"* means the department of natural resources.

*"Instructor applicant"* means a person who has applied to become a certified volunteer instructor for one of the above-named courses.

**15.43(3)** *Minimum qualifications.* The following conditions must be satisfied before any person can become a certified instructor. Failure to meet these conditions will result in the denial of the application. An applicant may be disqualified if the applicant has accumulated any habitual offender points pursuant to rule 571—15.16(481A,481B,482,483A,484A,484B), or other license suspension by the court or department. The instructor applicant will be notified of the denial by the recreational safety coordinator. An instructor applicant shall:

*a.* Submit an application as provided by the department to the local conservation officer or recreational safety officer.

*b.* Be at least 18 years of age.

*c.* Have experience in handling equipment, such as firearms, bows and arrows, furbearer traps, snowmobiles, ATVs and various navigational vessels, that is necessary for the various prescribed courses.

*d.* Have completed the course as defined in subrule 15.43(2).

*e.* Attend and pass an instructor's training and certification course administered by the department.

*f.* Submit to a background check. This check will include, but not be limited to, a criminal history check as provided by the department of public safety. A record of a felony conviction will disqualify the applicant. A record of serious or aggravated misdemeanors may disqualify the applicant based on type of offense and year committed.

*g.* Successfully complete the apprenticeship as required in subrule 15.43(4).

**15.43(4)** *Instructor applicant apprenticeship.* In addition to subrule 15.43(3), the following conditions must be satisfied to complete the instructor applicant apprenticeship:

*a.* Participate in one course.

*b.* Apprentice with a certified instructor.

The recreational safety officer may make the determination as to which certified instructor will be supervising the instructor applicant during the apprenticeship.

**15.43(5)** *Certified education instructor responsibilities.* A certified instructor has the following responsibilities:

*a.* To complete all prerequisites to becoming an instructor as provided in subrules 15.43(3) and 15.43(4).

*b.* To follow all policies and procedures as set forth in the current "Instructor Procedures Manual."

*c.* To assist in the recruitment and training of additional volunteer instructors.

*d.* To recruit and train students in the applied-for prescribed course program.

*e.* To actively promote the program in the instructor's county and to arrange for publicity for each new class.

*f.* To maintain order and discipline in the classroom and outdoor classroom at all times.

*g.* To accurately fill out required forms and reports for each class and mail that material to the recreational safety coordinator within 15 days after completion of the course.

*h.* To teach the course as prescribed by the department.

*i.* To maintain a file on all students that the instructor teaches.

*j.* To actively participate in one course every two years. If this requirement is not met, the instructor's certification may be terminated after notification by letter by the recreational safety coordinator. The person may reapply to become a volunteer safety education instructor pursuant to subrule 15.43(3).

*k.* To attend a minimum of one continuing education instructor workshop every three years for hunter education as provided by the department.

**15.43(6)** *Grounds for revocation of instructor certification.* The department may, at any time, seek to revoke the instructor certification of any person who:

*a.* Fails to meet the instructor responsibilities as outlined in subrules 15.43(4) and 15.43(5).

*b.* Fails to follow the policies and procedures as set forth in the current "Instructor Procedures Manual."

*c.* Falsifies any information as may be required by the department.

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

*e.* Is convicted of or forfeits bond for any fish and game, snowmobile, ATV or navigation violation of this state or any other state.

*f.* Uses abusive or foul language while conducting a course.

*g.* Participates in a course while under the influence of alcohol or any illegal drug.

*h.* Has substantiated complaints filed against the instructor by the public, department personnel or other certified instructor(s).

*i.* Fails to meet the requirements in subrule 15.43(5), paragraphs *"j"* and *"k."*

*j.* Is convicted of a felony or an aggravated or serious misdemeanor as defined in the statutes of this state. This would also include any felonies or comparable misdemeanors of any other state.

*k.* Receives compensation directly or indirectly from students for time spent preparing for or participating in a course.

**15.43(7)** *Termination of certification.* Any certified instructor has the right, at any time, to voluntarily terminate certification. If an instructor voluntarily terminates certification or certification is terminated by the department, the instructor must return to the department the certification card and all materials that were provided.

**15.43(8)** *Compensation for instructors.* Instructor applicants and certified instructors shall not receive any compensation for their time either directly or indirectly from students while preparing for or participating in a course. However, instructor applicants and certified instructors may require students to pay for actual course-related expenses involving facilities, meals or materials other than those provided by the department.

**15.43(9)** *Hearing rights.* If the department seeks to revoke an instructor certification pursuant to subrule 15.43(6), the department shall provide written notice of intent to revoke the certification as provided in 571—Chapter 7. If the certified instructor requests a hearing, it shall be conducted in accordance with 571—Chapter 7.

[**ARC 7852B**, IAB 6/17/09, effective 7/22/09]

**571—15.44** to **15.50** Reserved.

DIVISION V
LICENSE REVOCATION, SUSPENSION, AND MODIFICATION DUE TO LIABILITIES OWED TO THE STATE

**571—15.51(272D) Purpose and use.** This rule is intended to help collect liabilities of the state or a state agency. This rule shall apply to all licenses issued, renewed or otherwise authorized by the department.

[**ARC 8465B**, IAB 1/13/10, effective 2/17/10]

**571—15.52(272D) Definitions.** For purposes of this chapter, the following definitions shall apply:

*"Certificate of noncompliance"* means a document provided by the unit certifying the named person has outstanding liability placed with the unit and has not entered into an approved payment plan to pay the liability.

*"Department"* means the department of natural resources.

*"Liability"* means a debt or obligation placed with the unit for collection that is greater than $1,000. For purposes of this chapter, "liability" does not include child support payments collected pursuant to Iowa Code chapter 252J.

*"License"* means a license, certification, registration, permit, approval, renewal or other similar authorization issued to a person by the department which evidences the admission to, or granting of authority to engage in, a profession, occupation, business, industry, or recreation, including those authorizations set out in Iowa Code chapters 321G, 321I, 455B, 455C, 455D, 456A, 459, 459A, 461A, 462A, 481A, 481B, 481C, 482, 483A, 484B and 484C.

*"Licensee"* means a person to whom a license has been issued by the department or who is seeking the issuance of a license from the department.

*"Notice of intent"* means a notice sent to a licensee indicating the department's intent to suspend, revoke, or deny renewal or issuance of a license.

*"Obligor"* means a person with a liability placed with the unit.

*"Unit"* means the centralized collection unit of the department of revenue or the college student aid commission.

*"Withdrawal of a certificate of noncompliance"* means a document provided by the unit certifying that the certificate of noncompliance is withdrawn and that the department may proceed with issuance, reinstatement, or renewal of a person's license.

[**ARC 8465B**, IAB 1/13/10, effective 2/17/10; **ARC 9005B**, IAB 8/11/10, effective 9/15/10]

**571—15.53(272D) Requirements of the department.**

**15.53(1)** *Records.* The department shall collect and maintain records of its licensees that must include, at a minimum, the following:

*a.* The licensee's first and last names.

*b.* The licensee's current known address.

*c.* The licensee's social security number.

The records shall be made available to the unit so that the unit may match to the records the names of persons with any liabilities placed with the unit for collections. The records must be submitted in an electronic format and updated on a quarterly basis.

**15.53(2)** *Certificate of noncompliance.* Upon receipt of a certificate of noncompliance from the unit, the department shall initiate its existing rules and procedures for the suspension, revocation, or denial of issuance or renewal of a person's license.

**15.53(3)** *Notice of intent.* The department shall provide a notice of intent to a person of its intent to suspend, revoke or deny issuance or renewal of a license in accordance with Iowa Code chapter 272D or section 261.126, whichever is appropriate. The suspension, revocation, or denial shall be effective no sooner than 30 days following the issuance of the notice of intent to the person. The notice shall include all of the following:

*a.* That the department has received a certificate of noncompliance from the unit and intends to suspend, revoke or deny issuance or renewal of a person's license;

*b.* That the person must contact the unit to schedule a conference or to otherwise obtain a withdrawal of a certificate of noncompliance;

*c.* That the department will revoke, suspend or deny the person's license unless a withdrawal of a certificate of noncompliance is received from the unit within 30 days from the date of the notice;

*d.* That, in the event the department's rules and procedures conflict with the additional rules and procedures under this action, the rules and procedures of this action shall apply;

*e.* That mistakes of fact in the amount of the liability owed and the person's identity may not be contested to the department; and

*f.* That the person may request a district court hearing as outlined in rule 701—153.14(272D).

**15.53(4)** *Withdrawal.* Upon receipt of a withdrawal of a certificate of noncompliance from the unit, the department shall immediately reinstate, renew, or issue a license if the person is otherwise in compliance with the department's requirements.
[**ARC 8465B**, IAB 1/13/10, effective 2/17/10; **ARC 9005B**, IAB 8/11/10, effective 9/15/10]

**571—15.54(272D) No administrative appeal of the department's action.** Pursuant to Iowa Code sections 261.126 and 272D.8, a person does not have a right to a hearing before the department to contest the department's action under this rule, but may request a court hearing pursuant to rule 571—15.55(272D).
[**ARC 8465B**, IAB 1/13/10, effective 2/17/10; **ARC 9005B**, IAB 8/11/10, effective 9/15/10]

**571—15.55(272D) District court hearing.** A person may seek review of the actions listed in rule 701—153.14(272D) and request a hearing before the district court by filing an application with the district court in the county in which the majority of the liability was incurred. The person must send a copy of the application to the unit by regular mail. The application must be filed no later than 30 days after the department issues its notice of intent.

**15.55(1)** *Scheduling.* The clerk of the district court shall schedule a hearing and mail a copy of the scheduling order to the person, the unit, and the department.

**15.55(2)** *Certification.* The unit shall certify a copy of its written decision and certificate of noncompliance, indicating the date of issuance, and the department shall certify a copy of the notice issued pursuant to subrule 15.53(3) to the court prior to the hearing.

**15.55(3)** *Stay.* Upon receipt from the clerk of court of a copy of a scheduling order and prior to the hearing, the department shall stay any action contemplated on the person's license pursuant to the notice of intent.

**15.55(4)** *Hearing.* The hearing on the person's application shall be scheduled and held within 30 days of the application being filed. However, if the person fails to appear at the scheduled hearing, the stay shall be lifted and the department shall continue its procedures pursuant to the notice of intent.

**15.55(5)** *Scope of review.* The district court's review shall be limited to demonstration of the amount of the liability owed or the identity of the person.

**15.55(6)** *Findings.* If the court finds the unit was in error either in issuing a certificate of noncompliance or in its failure to issue a withdrawal of a certificate of noncompliance, the unit shall issue a withdrawal of a certificate of noncompliance to the department. If the court finds the unit was justified in issuing a certificate of noncompliance or in not issuing a withdrawal of a certificate of noncompliance, a stay imposed under subrule 15.55(3) shall be lifted and the department shall proceed with the action as outlined in its notice of intent.
[**ARC 8465B**, IAB 1/13/10, effective 2/17/10]

These rules are intended to implement Iowa Code chapters 272D, 321G, 456A, 462A, 481A, 481B, 482, 483A, 484A, and 484B and Iowa Code section 261.126.

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# CHAPTER 16
# DOCKS AND OTHER STRUCTURES ON PUBLIC WATERS

[Prior to 12/31/86, Conservation Commission[290] Ch 33]

**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(41).

*"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 multiple small vessels such as personal watercraft or one-person sailboats shall be treated as a single 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, second unnumbered paragraph. 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.

*"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 DNR. 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 a city or county and extend from shoreline property owned by the city or county; Class III permits authorize nonstandard private docks; 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.

**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 shoreline to maximize offsets from neighboring properties. Each dock, hoist, moored vessel and other permitted structure shall be offset a minimum of 5 feet from an adjoining property line and 5 feet from the projection of a line perpendicular from the shoreline at the common boundary with adjoining shoreline property. A minimum gap of 10 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 shoreline is impractical, it is the intent of this rule that a 10-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 3 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 1 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 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 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 shall be included in measuring the length of the dock.

*b.* *Width and configuration of docks on natural lakes.* A dock on a natural lake 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. No other part of the dock may be more than 6 feet wide. Catwalks shall be at least 2 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 shall 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 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 10-foot gap requirement in 16.3(3) but that meet other standard dock requirements in 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 16.4(1) or a dock in an area specified in 16.4(2) shall have until July 1, 2008, to apply for a Class I dock permit on an application form supplied by the department. 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 shall be 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 16.3(5). Class I dock permits authorized by this rule may be issued for terms up to five years and shall be issued without administrative fee. 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 I permits for docks permitted by Corps of Engineers.** This rule authorizes issuance of Class I permits for docks authorized by permits issued by the U.S. Army Corps of Engineers on waters under joint jurisdiction of the department and the U.S. Army Corps of Engineers. By agreement between the Corps of Engineers and the department, a dock permit issued by the Corps of Engineers pursuant to a joint boat dock application review process shall serve in place of a Class I permit issued by the department.

**571—16.6(461A,462A) Class II permits for docks authorized by cities and counties that own or otherwise control shoreline property.** This rule authorizes issuance of a Class II dock permit to a city or county for docks authorized by a city or county to extend from public land owned or controlled by the city or county. A Class II permit may include all docks and hoists authorized by the city or county on one water body. The Class II dock permit shall require that all docks comply with the standard requirements in 16.3(461A,462A). Class II 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. 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 city or county 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 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 city or county 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 city or county 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 city or county 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 shall be issued without fee and may be issued for a term up to five years.

**571—16.7(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:

**16.7(1)** A Class III private dock permit shall require docks or hoists to be in compliance with requirements in 16.3(461A,462A), except as provided in 16.9(461A,462A) and 16.10(461A,462A).

**16.7(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. 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 shall be included in measuring the length of the dock.

**16.7(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.

**16.7(4)** A Class III permit for an individual private dock on a natural lake shall 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.

**16.7(5)** An individual private dock may be exempted by permit condition from the winter removal requirement in appropriate circumstances under criteria in 16.18(461A,462A).

**571—16.8(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:

**16.8(1)** A Class IV permit shall require docks or hoists to be in compliance with requirements in 16.3(461A,462A), except as provided in 16.9(461A,462A) and 16.10(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.

**16.8(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.

**16.8(3)** The maximum number of hoists or slips authorized by a permit for a commercial dock is one hoist or slip for every 10 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.

**16.8(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.

**16.8(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.

**16.8(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—16.9(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 16.9(2).

**16.9(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 16.7(2) and 16.8(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 16.7(3) and 16.8(3), and to the platform size limit in 16.7(4) for docks and hoists that were lawfully installed and maintained before the effective date of the limits.

**16.9(2)** An exception to the offset requirements in 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 16.3(3); and

*c.* The applicant demonstrates that no other dock or hoist configuration is physically practical.

**571—16.10(461A,462A) Exceptions to Class III and Class IV permits for new structures.** An application for a permit for a new dock, hoist or slip may include a request for an exception under this rule from certain limits or requirements imposed by these rules.

**16.10(1)** *Exceptions to length limits, hoist limits or platform size limits.* For proposed new docks, slips or hoists, Class III and Class IV permits may include exceptions to the length limit in 16.7(2), the hoist limit in 16.7(3) and 16.8(3), and the platform size limit in 16.7(4) if the applicant justifies the need for an exception and proposes a configuration of dock(s) and hoists that minimizes adverse impacts on the water body and other users.

**16.10(2)** *Factors for considering requests for exceptions.* In determining whether to allow a requested exception to a length limit, hoist limit or platform size limit, in whole or in part, the department shall consider each of the following factors:

*a.* The extent to which the request exceeds the applicable limit;

*b.* The extent to which the requested exception or a lesser exception would cause adverse impacts on the aquatic ecosystem or use of adjoining public or private property;

*c.* The extent to which the requested use would provide some type of access by members of the public;

*d.* Whether living units to be benefited by an exception were constructed before July 1, 2006;

*e.* Whether denial of an exception would result in loss of property value that was based on a reasonable expectation of water access including storage of boats on the water body;

*f.* Whether the exception was authorized by a previous permit;

*g.* Whether the exception includes space for vessels without motors including paddle-only vessels and single-hulled sailboats less than 12 feet long.

**16.10(3)** *Exceptions from offset requirements.* An exception to the offset requirements in 16.3(3) may be granted under the circumstances listed in 16.9(461A,462A).

**571—16.11** Reserved.

**571—16.12(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 made by the department's district law enforcement supervisor or designee except that the district law enforcement supervisor shall issue an initial decision in the form of a permit or a permit denial on a request for an exception under 16.10(461A,462A). If the district law enforcement supervisor decides 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. If a request for an exception under 16.10(461A,462A) is disapproved by the district law enforcement supervisor, the 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.

**571—16.13(461A,462A) Application forms and administrative fees.**

**16.13(1)** The applicant for a Class II, Class III or Class IV permit shall submit to the department a completed application on the applicable DNR dock permit application form. 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 form shall be accompanied by accurate plans and drawings as specified on the form. The drawings shall 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 completed application form and payment shall be submitted to the department's district law enforcement office in the district where the proposed dock is located. The application will be assigned to a conservation officer to investigate.

**16.13(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 shall be 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—16.14** to **16.16** Reserved.

**571—16.17(461A,462A) Duration and transferability of permits; refund of application fees; suspension, modification, or revocation of permits; complaint investigation; property line location.**

**16.17(1)** *Duration and transferability of dock permits; administrative fee refunds.* 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 automatically transferable to a new owner of the shoreline property upon request of the new owner.

**16.17(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 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 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.

**16.17(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.

**16.17(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—16.18(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—16.19(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:

**16.19(1)** The permit creates no interests, personal or real, in the real estate below the ordinary high water line 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 16.3(2).

**16.19(2)** A permit is valid only while the permittee has the necessary permissions to use the adjoining shoreline property from which the dock projects.

**16.19(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—16.20(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.

**571—16.21** to **16.24** Reserved.

DIVISION II
DOCK MANAGEMENT AREAS

**571—16.25(461A) Designation or modification of dock management areas.**

**16.25(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. The department intends to authorize continuation of all dock management areas existing on June 1, 2006, unless changed circumstances require changes in the size of an existing dock management area.

**16.25(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—16.26(461A) Procedures and policies for dock site permits and hoist or slip assignments in dock management areas.** 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. Dock site permits and hoist or slip assignments shall be available to all members of the public through a selection process. Selection shall be based on the following order of priorities, and 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. 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—16.27(461A) Standard requirements for dock management area docks.** Docks in dock management areas shall conform to the following requirements:

**16.27(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 16.26(461A). A maximum of six residences shall share a dock.

**16.27(2)** *Spacing and alignment.* Dock sites where feasible shall be at least 50 feet apart.

**16.27(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 4 feet wide and no more than 6 feet wide.

**16.27(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 2 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 6 feet wide. The hoist shall not exceed 10 feet in width at locations specified by the department as having limited available space.

**16.27(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 Shorewood Hills, and Lake Odessa, a maximum of two residences, each in accordance with 16.26(461A), shall share a single dock site.

**16.27(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).

**16.27(7)** *Other requirements.* Standard requirements found in 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—16.28(461A) Dock management area permit restrictions and conditions.** The following conditions and restrictions shall apply to docks in a dock management area.

**16.28(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.

**16.28(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.

**16.28(3)** *Number of assignments allowed.* Only one dock assignment may be allocated to a residence.

**16.28(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 16.26(461A).

**16.28(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.

**16.28(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.

**16.28(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.

**16.28(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.

**16.28(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.

**16.28(10)** *Cancellation for nonuse.* A dock site permit or hoist/slip assignment may be canceled for nonuse in order to provide space for applicants on a waiting list.

**16.28(11)** *Other permit restrictions and conditions.* All restrictions and conditions in 16.19(461A,462A), except subrule 16.19(2), shall apply to all docks in a dock management area.

**571—16.29(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 Shorewood Hills | $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—16.30(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—16.31(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, 461A.18, 462A.27 and 462A.32.

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# CHAPTER 17
# BARGE FLEETING REGULATIONS
[Prior to 12/31/86, Conservation Commission[290] Ch 54]

**571—17.1(461A) Purpose.** The purpose of these rules 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; to protect public health, safety and welfare; and to protect fish and wildlife habitat.

**571—17.2(461A) Policy.** The policy of the natural resource commission is to recommend that the executive council of Iowa lease strategically located barge fleeting facilities on the public waters of the state of Iowa under the jurisdiction of the commission in a manner consistent with the state's role as trustee of its waters.

**571—17.3(461A) Applicability.** This chapter is applicable to all public waters under the jurisdiction of the commission except that portion of the Mississippi River conveyed to certain cities by chapter 249, Acts of the Fifty-first General Assembly; chapter 299, Acts of the Fifty-ninth General Assembly; or Special Charters enacted by the legislature in 1856 and 1857. This chapter 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.

**571—17.4(461A) Definitions.** For the purposes of this chapter, the following definitions shall 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 for the purpose of authorizing a fleeting area.

*"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, and used to hold barges or other vessels in place.

*"Operator"* means any person who operates a barge fleeting area.

*"Person"* means any individual, firm, partnership, joint venture, joint stock company, association, public or private corporation, municipality, cooperative, estate, trust, receiver, executor, administrator, 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.

**571—17.5(461A) 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 offloading 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.

**571—17.6(461A) Restricted areas.** Leases shall not be issued for a fleeting area in the following locations unless the department determines there is a compelling reason for fleeting in such an area.

**17.6(1)** 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.

**17.6(2)** 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.

**17.6(3)** 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.

**17.6(4)** 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.

**17.6(5)** A site immediately adjacent to or over a dam, sill, lock, breakwater, revetment, navigation aid, or wing dam.

**17.6(6)** A site within established navigation channels for commercial or recreational vessels.

**17.6(7)** A site within the approach area for a lock portion of a dam structure.

**17.6(8)** A site adjacent to bridges or vessel approach areas to bridges.

**571—17.7(461A) Prohibited areas.** Leases shall not be issued for a fleeting area in the following locations:

**17.7(1)** A site that will have a substantial adverse affect on fish or wildlife (mussels, fish spawning, waterfowl, or furbearer) habitat due to dredging, propeller wash or other activity related to fleeting.

**17.7(2)** A site that would have an adverse impact on documented threatened and endangered species.

**17.7(3)** A site adjacent to national monuments or registered landmarks.

**571—17.8(461A) 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 or lack of response to the notice provided for in 17.10(2)*"f."*

**571—17.9(461A) Standards.** The following standards shall apply to operation of fleeting areas:

**17.9(1)** 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 line except as provided in the lease.

**17.9(2)** 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.

**17.9(3)** 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.

**17.9(4)** 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.

**17.9(5)** Barge fleeting shall be conducted in a manner that minimizes bank erosion attributable to the fleeting operation.

**17.9(6)** 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.

**17.9(7)** The right of entry of barges into a fleeting area may be refused by:

*a.* The operator.

*b.* The department, after conferring with the operator, when there is an imminent hazard to the pubic interest, or to public health, safety or welfare.

**17.9(8)** 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.

**17.9(9)** Lights or other warning devices as required by state and federal navigation regulations shall mark moored or fleeted barges.

**17.9(10)** 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.

**17.9(11)** 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.

**17.9(12)** All structures and devices shall be removed by the operator upon the expiration of a lease unless the department determines some structures and devices must remain in place to correct existing problems or to prevent future problems that could cause environmental damage.

**571—17.10(461A) Application.** An applicant for a lease, or a renewal of a lease, shall submit an application to the department on forms provided by the department.

**17.10(1)** *Applicant.* An applicant for a lease must be a person and an operator as defined in these rules.

**17.10(2)** *Content of application.* The following shall be included in the application:

*a.* A fee of $500 for the cost of review of the lease application for a previously unleased site. Prior to issuance of a lease, the applicant shall pay the department an additional $500 fee for administration of the lease.

*b.* A fee of $1,000 for the cost of, and issuance and administration of a renewal lease.

*c.* Applicant name, address, telephone number, state of incorporation (if applicable) and whether the application is for a new lease or renewal.

*d.* A map extending at least one-half mile upstream and downstream from the proposed fleeting area showing the location of the proposed fleeting area by section, township, range, county and river mile and by major identifiable features in the immediate area such as locks and dams, incorporated areas, roads, bridges, and county lines. The map shall indicate designated fish and wildlife areas and refuges; existing recreational areas; historical, archeological and cultural sites, if known; residential housing locations; and existing adjacent water or shoreland uses which, together with fleeting operations, would present an unusual risk of fire, explosion, collision, contamination or other serious safety hazards. The map shall also show the following navigation-related features:

(1) Docks.
(2) Landings.
(3) Harbors.
(4) Marinas.
(5) Dikes.
(6) Revetments.
(7) Islands.
(8) Navigation or warning lights.
(9) Wing dams.
(10) Submerged cable and pipeline crossings.
(11) Overhead power and utility lines.

*e.* Name, address, and telephone number of each riparian property owner adjacent to the fleeting area.

*f.* Proof that the applicant has riparian property rights on the navigable waterway adjacent to the entire area of the proposed fleeting area. Proof may include fee simple title, a lease of riparian or mooring rights from the riparian property owner, or written permission from the riparian property owner. In lieu of written permission, the applicant shall certify that the applicant has notified the riparian property owners of the proposed establishment of a fleeting area. Notification to riparian property owners shall be on forms furnished by the department and sent by certified mail. The riparian property owner shall respond

to the department in writing within 30 days of receipt of notice if the riparian property owner objects to the issuance of a lease. The riparian property owner shall state the basis for objection in the response. The department shall consider the effects of lease issuance on the riparian property owner's rights. The department shall be notified by the operator of any action to terminate a lease or written permission.

*g.* A drawing of the proposed fleeting area which contains the following: plan view and cross sections to show existing pertinent topographic and hydrographic features; referenced government datum plane; scale, both vertical and horizontal (not smaller than 1″ = 400′ horizontal); north arrow; river current directions; property lines and adjacent property owners by name; proposed features including dolphins, anchors, deadmen, mooring barges, mooring cells and buoys, and other devices; mooring facility size and configuration; the maximum number and size of barges to be moored; and routes used by any tow entering or leaving the fleeting area.

*h.* Documentation of the need for the size, capacity, and location of the fleeting area for which a lease is requested.

*i.* A list of alternate sites considered and a statement of the reasons the requested site is preferred.

*j.* Signature of applicant or authorized agent.

**571—17.11(461A) Application review and approval.**

**17.11(1)** *Review of application.* Upon receipt of an application that complies with the requirements of 17.10(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.

**17.11(2)** *Notice of application.* Upon determination that an application complies with applicable criteria in these rules, the department staff shall give notice of receipt of the application as follows:

*a. Publication of notice.* The department shall publish one notice in a newspaper as defined in Iowa Code section 618.3 published in the county where the proposed fleeting area is located or in an adjacent county. The newspaper shall be of general circulation in the vicinity of the proposed fleeting area site. The notice shall briefly describe the location and nature of the proposed fleeting area, identify the department rules which 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.

*b. Notification of governmental bodies and interested persons.* The notice as prepared for publication shall also be sent by first-class ordinary mail or an equivalent method of service to the directors of the Iowa department of transportation, Iowa department of economic development, the Iowa secretary of agriculture, the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, U.S. Coast Guard, natural resources and transportation management agencies of the adjacent state, and to any person who has requested in writing that the person's name be placed on a mailing list for notification of barge fleeting facility applications adjacent to a designated county or counties. The mailing list will be updated at the beginning of every other calendar year.

**17.11(3)** *Lease approval.* If the director determines that there is not a material issue concerning whether the application complies with applicable criteria in these rules, the lease will be presented to the commission to obtain the commission's recommendation for approval to the executive council of Iowa. Final approval of the lease shall be by the executive council.

**571—17.12(461A) Lease fee.** The annual lease fee in dollars to be paid by the operator to the department shall be based on the dimensions of the area to be used as a fleeting area. The fee shall be determined as follows:

1. For each year included under leases issued prior to January 1, 2007, $3.18 per each 100 square feet or fraction thereof.

2. Effective under leases issued on and after January 1, 2007, each subsequent January 1, the fee per 100 square feet shall be adjusted on a cumulative basis, by the percentage of the Consumer Price Index for the Midwest Urban Region, published by the U.S. Department of Labor, Bureau of Labor Statistics, for the previous one-year period.

**571—17.13(461A) Renewals.** The operator shall request renewal of the lease not more than nine or less than six months prior to its expiration. The application fee as provided in 17.10(2)*"b"* must accompany the request. A lease shall remain in force during the processing of an application for renewal, including any appeals process, provided that the application for renewal was made not less than six months before expiration of the lease. Failure to request renewal shall terminate the operator's rights to the fleeting area.

**571—17.14(461A) Disputes concerning leases.** Contested case procedures are not applicable to disputes concerning leases under this chapter, except as set forth in 17.15(461A) and 17.16(461A). 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—17.15(461A) Lease revocation.** A lease may be revoked upon determination that operation of the facility is in violation of a condition of the lease. Revocation proceedings shall be in compliance with Iowa Code chapter 17A and 571—Chapter 7.

**571—17.16(461A) 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.

These rules are intended to implement Iowa Code sections 461A.4, 461A.18, 461A.25, and 462A.32.

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[1] Effective date of 290—Ch 54 delayed by the Administrative Rules Review Committee 45 days after convening of the next General Assembly pursuant to §17A.8(9). [Published 10/28/81].

# CHAPTER 18
# RENTAL FEE SCHEDULE FOR STATE-OWNED PROPERTY, RIVERBED, LAKEBED, AND WATERFRONT LANDS

[Prior to 12/31/86, Conservation Commission[290] Ch 55]

**571—18.1(461A) General.** Table 1 and Table 2 are approved guidelines for the purpose of expediting the administration of applications for permit 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.

Fees for use of state-owned lands under the jurisdiction of the natural resource commission for agricultural purposes shall be determined by the usual "farm cropshare or lease agreement" depending on the crop, soil conditions, and other pertinent factors.

The fee for an area in which the primary use is to provide access, for the general public, from the river or lake to a commercial business may be determined by the noncommercial schedule, providing the renter does not offer any product for sale or collect any fees for services rendered on the state property.

**571—18.2(461A) Table 1—Areas designated for industrial or commercial use by the natural resource commission.**

| | FRONTAGE | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 50′ | 100′ | 150′ | 200′ | 250′ | 300′ | 350′ | 400′ | 450′ | 500′ | 550′ | 600′ | 650′ | 700′ | 750′ | 800′ |
| DEPTH | | | | | | | | | | | | | | | | |
| 100′ | 300 | 600 | 938 | 1200 | 1500 | 1800 | 2100 | 2400 | 2700 | 3000 | 3300 | 3600 | 3900 | 4200 | 4500 | 4800 |
| 200′ | 526 | 1050 | 1576 | 2100 | 2626 | 3150 | 3676 | 4200 | 4486 | 5250 | 5776 | 6300 | 6826 | 7350 | 7876 | 8400 |
| 300′ | 676 | 1350 | 2026 | 2700 | 3376 | 4186 | 4726 | 5400 | 6044 | 6750 | 7426 | 8100 | 8776 | 9450 | 10180 | 10800 |
| 400′ | 750 | 1500 | 2250 | 3000 | 3750 | 4500 | 5250 | 6000 | 6750 | 7500 | 8250 | 9000 | 9750 | 10500 | 11250 | 12000 |

When the area leased is larger than that designated by this table, the fee for each additional segment of 50′×100′ or any portion thereof shall be determined as follows:

A. The fee for increased depth shall be at the rate of $62.50 per segment (50′×100′) or any portion thereof.

B. The fee for additional frontage shall be proportionate to that indicated on the table.

C. In the case of industrial or commercial leases, the department shall determine the assessed valuation of other privately owned property used for similar purposes in association with the leased area or in the immediate vicinity. Using an average of assessed values, the department shall determine the likely assessed value of the area to be leased and multiply that value by 8 percent. The department shall charge the resulting value for the area to be leased unless that value is less than that set forth in the above table. In the event it is impractical to make such a determination, the department shall use the fees set forth in the table.

This rule is intended to implement Iowa Code sections 461A.4 and 461A.25.

**571—18.3(461A) Table 2—Areas designated for noncommercial use or use by nonprofit organizations.**

| | FRONTAGE | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | 50′ | 100′ | 150′ | 200′ | 250′ | 300′ | 350′ | 400′ | 450′ | 500′ |
| DEPTH | | | | | | | | | | |
| 50′ | 150 | 300 | 450 | 600 | 750 | 900 | 1050 | 1200 | 1350 | 1500 |
| 100′ | 226 | 450 | 676 | 900 | 1126 | 1350 | 1576 | 1838 | 2026 | 2250 |
| 150′ | 263 | 526 | 788 | 1050 | 1313 | 1576 | 1838 | 2100 | 2363 | 2626 |

The above table shall be used to determine the annual permit and rental fees for noncommercial use, or use by nonprofit organizations, except irregular parcels of less than 5,000 square feet; in which case the natural resource commission may rent and permit limited development which is appropriate for the area and the annual fee shall be not less than $150 nor more than $300.

When the area leased is larger than that designated by this table, the fee for each additional segment of 50′×50′, or any portion thereof, shall be determined as follows:

A. The fee for increased depth shall be at the rate of $25 per segment (50′×50′) or any portion thereof.

B. The fee for additional frontage shall be proportionate to that indicated on the table.

This rule is intended to implement Iowa Code sections 461A.4 and 461A.25.

**571—18.4(461A) Other fees.** When persons apply for permission to or have converted state property under the jurisdiction of the natural resource commission to personal use and the natural resource 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 natural resource commission. When determining the fee, the natural resource 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.

In addition to the fees established in this rule, all 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.

This rule is intended to implement Iowa Code sections 461A.4 and 461A.25.

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[1] Effective date of amendments to 290—Ch 55 [IAB 3/4/81] delayed 70 days by the Administrative Rules Review Committee.

# CHAPTER 19
# SAND AND GRAVEL PERMITS
[Prior to 12/31/86, Conservation Commission[290] Ch 77]

**571—19.1(461A) Purpose.** This chapter provides the procedures for individuals and businesses to obtain a permit for removal of sand and gravel from state-owned lands and waters under the jurisdiction of the department of natural resources and the rules associated with the holding of a permit. The purpose of these rules is to ensure that the waterways are protected from permanent damage, that they remain ecologically intact, and that public recreational use is not adversely affected.

**571—19.2(461A) Definitions.**

*"Department"* means the department of natural resources.

*"Director"* means the director of the department of natural resources or a designee.

*"Exclusive permit"* means a permit issued for a described area which gives the permit holder sole and superior right to conduct activities as stated in this rule.

*"Material"* means any size particle of sand, gravel or stone.

*"Nonexclusive permit"* means a permit issued for a described area that does not give the permit holder sole right to conduct activities as described in this rule, and which may be superseded by the issuance of an exclusive permit.

*"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 which through the buoyant force of water floats upon the water and is capable of carrying one or more persons.

**571—19.3(461A) Permit applications.** Applications shall be submitted to the department for nonexclusive or exclusive permits.

**19.3(1)** *Application procedures.* Applications shall be submitted on a form provided by the department and shall include the following:

*a.* A fee of $100 for the cost of inspection and issuance of each permit.

*b.* A map of the specific area or segment of the river or stream to be included under the permit indicating the section, township, range, location of the processing plant and material stockpiles, the location shape, and size of existing or proposed tailing ponds for washing operations, and the method of material removal.

*c.* A statement certifying that, if necessary, access over privately owned land to the permit site has been secured by the applicant for the use of the department personnel for inspection purposes.

**19.3(2)** *Nonexclusive permits.* Applications for nonexclusive permits may be submitted, for the current calendar year, at any time. Nonexclusive permits are subject to issuance of exclusive permits. In the event an exclusive permit is issued for a site covered by an existing nonexclusive permit, the nonexclusive permit shall be terminated in the same manner as termination for cause.

**19.3(3)** *Exclusive permits.* Applications for exclusive permits may be submitted, for the current calendar year, at any time. Applications for exclusive permits for the following calendar year shall only be accepted after November 15. In the event an application is received for an area covered by an existing nonexclusive permit, the holder of the existing permit shall be notified within 20 days and invited to submit an application for an exclusive permit. If more than one application for an exclusive 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 25 cents per ton shall not be accepted. The permit shall be issued to the applicant submitting the highest royalty rate bid.

**19.3(4)** *Application approval.* Each application will be reviewed by the department and a permit shall be issued unless it is determined that the proposed activity will result in significant temporary or permanent ecological damage or result in significant adverse effects on public recreational use.

**19.3(5)** *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, its agencies, officials and employees from and against all liability, loss, damage or expense which may arise in consequence of issuance of the permit.

**19.3(6)** *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.

**571—19.4(461A) Permit conditions and operating procedures.**

**19.4(1)** *Permit term.* Permits shall expire on December 31 of each calendar year.

**19.4(2)** *Permit area.* 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.

**19.4(3)** *Disturbance of bank.* 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.

**19.4(4)** *Water flow and watercraft obstruction.* 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.

**19.4(5)** *Waterway marking.* 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.

**19.4(6)** *Termination for cause.* Permits may be terminated by the director at any time if a permit holder fails to fulfill the obligations under the permit in a timely and proper manner, or if a permit holder violates any of the terms and conditions of the permit. In the event of termination, the director shall serve a notice of termination to the permit holder in person or to any agent of the permit holder at or near the operation site or by certified mail at the address indicated on the permit. The permit shall be considered terminated as of the date of service of the notice. In the event of termination, no refund of royalty or application fees will be paid. Upon service of the notice of termination, the permit holder shall immediately stop all removal operations and remove all equipment from the lands and waters covered by the permit within ten days after the date of the notice of termination. In the event of failure of the permit 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 holder.

**19.4(7)** *Inspections.* 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.

**19.4(8)** *Reporting procedures.* 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 removed. Each cubic yard of sand, gravel, and stone removed under permits shall be considered to weigh 3000 pounds. Statements shall be submitted on forms furnished by the department and shall indicate the following:

*a.* Hours of removal operations performed each day on lands and waters covered by the permit.

*b.* Tons of material removed from the lands and waters covered by the permit each day.

*c.* Tons of material, from all sources, stockpiled at the operations site at the end of the month.

**19.4(9)** *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 25 cents per ton or the rate determined by sealed bids. Exclusive permit holders shall pay an annual minimum royalty fee of $10,000, to be paid upon issuance of the permit. Exclusive permit holders shall receive royalty credit for materials removed to a maximum of $5,000 annually.

These rules are intended to implement Iowa Code sections 461A.52, 461A.53 and 461A.55 to 461A.57.

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[Filed 9/19/97, Notice 7/16/97—published 10/8/97, effective 11/12/97]

# 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 rule shall apply 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)** Type of boat.

*a.* Runabout.

*b.* Houseboat.

*c.* Open utility boat.

*d.* Cruiser.

*e.* Sailboat.

*f.* Pontoon boat.
*g.* Personal watercraft.
*h.* Other (describe).

**20.3(8)** Propulsion.
*a.* Inboard/outdrive.
*b.* Inboard.
*c.* Outboard.
*d.* Sail only.
*e.* Manual.
*f.* Horsepower if applicable.

**20.3(9)** Fuel (if applicable).
*a.* Gasoline.
*b.* Diesel.
*c.* Other.

**20.3(10)** Hull material.
*a.* Fiberglass.
*b.* Plastic.
*c.* Steel.
*d.* Wood.
*e.* Aluminum.
*f.* Other.

**20.3(11)** Length overall in feet and inches (exact measurement required). For pontoon boats and houseboats this shall be the deck measurement.

**20.3(12)** 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(13)** 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(14)** Manufacturing firm name and complete address.

**20.3(15)** Signature and title of authorized person.

**20.3(16)** The reverse side of the certificate shall contain 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—manufacturer.**

**20.4(1)** The manufacturer of the vessel shall enter all applicable information on the certificate of origin for each vessel.

**20.4(2)** The manufacturer's authorized agent shall sign the certificate and by so signing certify that all information contained on the certificate is true and accurate.

**20.4(3)** The completed certificate of origin shall be delivered to the dealer with the vessel to which it applies.

**571—20.5(462A) Procedure—dealer.**

**20.5(1)** Upon sale of a vessel the dealer shall complete the first assignment information required on the reverse of the certificate of origin.

**20.5(2)** The dealer shall deliver the certificate of origin to the purchaser along with a bill of sale or receipt (DNR Form 542-0471) showing that the person has purchased the vessel for consumer use.

**571—20.6(462A) Procedure—purchaser.**

**20.6(1)** The purchaser shall utilize the information contained on the certificate of origin to complete the information required on the application for vessel title.

**20.6(2)** The purchaser shall surrender the certificate of origin to the county recorder upon applying for a vessel title.

**571—20.7(462A) Procedure—county recorder.**

**20.7(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.

**20.7(2)** The county recorder shall retain the certificate of origin as a part of the permanent record of that vessel's title transactions.

**571—20.8(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.

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TITLE III
*ASSISTANCE PROGRAMS*

# CHAPTER 21
# AGRICULTURAL LEASE PROGRAM

[Prior to 12/31/86, Conservation Commission[290] Ch 74]

**571—21.1(456A) Purpose.** The purpose of the agricultural lease program is to enhance habitat for wildlife in the state of Iowa, thereby providing recreational opportunities to the public. Utilization of agricultural 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.

*"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) Agricultural 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 soil loss limits as established by the USDA Soil 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 procedures.** The following procedures shall be followed by the department in administering the agricultural lease program.

**21.4(1)** *Advertising for bids.* A notice shall be published in at least two local newspapers a minimum of two weeks prior to the date of the bid opening.

**21.4(2)** *Prebid informational meeting.* A prebid informational meeting may be held when the land manager determines it 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.

**21.4(3)** *Form of bid.* Written sealed bids shall be utilized.

**21.4(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.

**21.4(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.

**21.4(6)** *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.

**21.4(7)** *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 $5000 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.

**21.4(8)** *Payment of cash rent.* The operator shall pay a minimum of 10 percent of the total gross rent at the time of signing of the lease and the balance for each crop year on or before December 1, or 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.

**21.4(9)** *Payment of crop share rent.* The operator shall pay the total annual rent December 1 or at time of harvest whichever is later.

**21.4(10)** *Standard termination.* Leases shall be terminated in accordance with Iowa Code chapter 562. If the department requires leased land for other conservation purposes, the operator shall relinquish all rights under the existing lease, upon demand by the director, at the end of the current crop year consistent with Iowa Code chapter 562.

**21.4(11)** *Termination for cause.* If the operator fails to comply with any of the terms of the lease, the department may serve notice demanding redress within a specified period of time and, if compliance is not made within the specified period, may proceed to collect any moneys which may be due and payable during the crop year the lease is terminated, and void the remainder of the lease. Further, the department shall have a landlord's lien as set out by Iowa Code chapter 570.

**21.4(12)** *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.

**21.4(13)** *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 by the director.

[**ARC 8197B**, IAB 10/7/09, effective 11/11/09]

These rules are intended to implement Iowa Code sections 461A.25, 456A.24(2), and 456A.24(5).

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# CHAPTER 22
# WILDLIFE HABITAT ON PRIVATE LANDS PROMOTION PROGRAM

[Prior to 12/31/86, Conservation Commission[290] Ch 22]

**571—22.1(456A,483A) Purpose.** The purpose of these rules is to designate procedures by which revenues from the state fish and game protection fund will be used to assist landowners in establishing wildlife habitat on private lands. These rules authorize department staff to work with conservation organizations, educational groups, and private landowners to improve wildlife habitat on private land.

**571—22.2(456A,483A) Authority.** Iowa Code section 456A.19 authorizes that the state fish and game protection fund shall be expended solely in carrying on the activities embraced in the fish and wildlife division. Iowa Code section 483A.25 directs the department to spend 60 percent of the revenue derived from an increase in the hunting license fee to fund a pheasant and quail restoration program. The natural resource commission, hereinafter referred to as the commission, acting through its director, will enter into agreements with landowners and conservation groups to fulfill the requirements of the law.

**571—22.3(456A,483A) Project scope.** This program will provide cost-sharing assistance to landowners to establish farmstead and feedlot shelterbelts, temporary winter habitat plots, and habitat practices designed to implement the pheasant and quail restoration program throughout the state. The purpose of these practices is to assist Iowa's landowners with developing and enhancing wildlife habitat on private lands in cooperation with other state, federal, and county agencies as well as conservation organizations.

**571—22.4(456A,483A) Availability of funds.** The amount of moneys available at any time will be determined by revenues received by the department and by matching contributions from conservation groups.

**22.4(1)** *Allotments for this program.* Funds available for assisting landowners shall be 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.

**22.4(2)** *Matching funds.* To maximize the amount of wildlife habitat actually established, the department may accept contributions from any governmental or private conservation group to help establish shelterbelts or winter habitat demonstration areas or habitat practices designed to implement the pheasant and quail restoration program. Department funds may also be used to match other funding sources or incentive programs.

**571—22.5(483A) Winter habitat areas.** This rule delineates eligibility and procedures for establishing temporary winter cover and food plots.

**22.5(1)** *Eligibility.* The program is available statewide.

To be eligible for cost assistance, individual landowners must enter into a written agreement with the department specifying the obligations of both parties.

**22.5(2)** *Applications for assistance.* Applications will be accepted only from those eligible as noted above.

*a.* Applications must be submitted on forms furnished by the department.

*b.* Applications and contracts must be received by April 15 to provide adequate time for site inspection and plot design. The application period may be extended indefinitely, or until all available funds have been committed. Landowners will be contacted within 30 days as to their acceptance or rejection.

**22.5(3)** *Project review and selection.*

*a.* Projects will be reviewed by the department wildlife biologist, who will then recommend that the commission enter into agreements with the successful applicants.

*b.* Rescinded IAB 1/24/90, effective 2/28/90.

*c.* Winter habitat areas will be selected on the basis of site suitability, the availability of other winter cover, and the availability of nesting cover to determine those projects with the greatest chance of benefiting wildlife populations.

*d.* Rescinded IAB 1/24/90, effective 2/28/90.

**22.5(4)** *Contract agreements.* The director is authorized to enter into agreements with landowners to carry out the purposes of this program.

*a.* Agreement forms will be provided by the department. They shall explicitly state the terms of the agreement including, but not limited to, plot size, configuration, crop types, ground preparation, and weed control and cultivation practices. Terms of the agreement and copies of the contract will be available from the department for examination.

*b.* Cost-sharing assistance will not be provided unless an agreement has been signed by both parties.

*c.* Contracts may be amended by mutual agreement of both parties.

**22.5(5)** *Specifications.* Winter habitat plots must conform to the following guidelines to be eligible for cost assistance:

*a.* Individual winter habitat plots must be at least three acres if they are located next to suitable winter cover; five acres if other winter cover is lacking or inadequate. Larger plots may be specified by the department wildlife biologist.

*b.* Individual winter habitat plots will be designed by the department wildlife biologist to fit individual habitat situations.

*c.* One, or a combination of the following practices, will be allowed:

(1) Standing corn left throughout the winter.

(2) Standing corn in combination with grain sorghum left throughout the winter.

(3) Forage sorghum and grain sorghum left throughout the winter.

(4) Forage sorghum in combination with standing corn left throughout the winter.

*d.* Landowners must follow site preparation, seeding and cultivation practices similar to that used in normal agricultural production.

*e.* Winter habitat plots must produce a crop similar to that in fields under normal crop production practices.

*f.* No grazing, mechanical disturbance, or harvesting will be permitted until after March 15 of the final contract year unless specified in the design.

**22.5(6)** *Cost-share rates.* The department will provide cost-sharing assistance for winter habitat plots at the following rates, except when a lesser amount is negotiated with a landowner.

The department will enter into Cooperative Wildlife Habitat Agreements with landowners, which stipulate the rates that will be paid for various habitat practices. These "flat rates" will be developed using information collected from the ISU Extension Service custom rate guidelines, flat rates used by USDA for similar practices, and input from local conservation professionals.

*a.* to *d.* Rescinded IAB 1/8/03, effective 2/12/03.

**22.5(7)** *Reimbursements.* Cost assistance payments will be made after March 15 after inspection by the department wildlife biologist.

Reimbursement shall not be paid unless all terms of the contracts have been met.

**571—22.6(456A,483A) Shelterbelts.** This rule delineates eligibility and procedures for establishing shelterbelts for winter wildlife habitat.

**22.6(1)** *Eligibility.* The program is available statewide.

*a.* To be eligible for cost assistance, landowners must enter into a written agreement with the department specifying the obligations of both parties.

*b.* Rescinded IAB 1/24/90, effective 2/28/90.

*c.* Assistance for replacement of trees or shrubs suffering normal mortality in a shelterbelt previously cost-shared by the department will be available in any county currently or previously eligible subject to conditions in subrule 22.6(6), paragraph *"c."*

**22.6(2)** *Application for assistance.* Applications will be accepted only from those eligible as noted above.

*a.* Applications must be submitted on forms furnished by the department.

*b.* Applications must be submitted by February 15. The application period may be extended until all available funds have been committed.

**22.6(3)** *Project review and selection.* Project applications will be reviewed separately for each county to determine the projects which will be eligible for cost assistance.

*a.* Projects will be reviewed by the department wildlife biologist and the soil conservation service district conservationist for each county, who will then recommend that the commission enter into agreements with the successful applicants.

*b.* Projects will be selected on the basis of site suitability, location within the county, and the availability of nearby wildlife habitat to determine those projects with the greatest chance of benefiting wildlife populations.

*c.* Rescinded IAB 1/24/90, effective 2/28/90.

*d.* Priority for rating will be given in the following order:

(1) Establishment of new shelterbelts or enlargement of existing shelterbelts in which department funds are used to supplement other funding sources.

(2) Establishment of new shelterbelts or enlargement of existing shelterbelts using only department funding.

(3) Renovations of cost-shared shelterbelts which meet the criteria of subrule 22.6(5), paragraph *"b."*

(4) Enlargements of previously cost-shared shelterbelts above minimum specifications, subject to limitations in subrule 22.6(5), paragraph *"c,"* subparagraphs (1) to (4).

**22.6(4)** *Contract agreements.* The director is authorized to enter into agreements with landowners in order to carry out the purposes of this program.

*a.* Agreement forms will be provided by the department. They shall explicitly state the terms of the agreement, including but not limited to, requirements for shelterbelt size, configuration, species composition of trees, ground preparation, weed control and management in subsequent years. Terms of the agreement and copies of the contract will be available from the department for examination.

*b.* Cost-sharing assistance will not be provided unless an agreement has been signed by both parties prior to the inception of the project.

*c.* Contract periods will not be approved for any term less than ten years in duration.

*d.* Contracts may be amended by mutual agreement of both parties.

**22.6(5)** *Specifications and guidelines.* Shelterbelts must conform to the following specifications to be eligible for cost-share assistance.

*a.* New shelterbelts must meet at least the following minimum guidelines:

(1) Eight rows of planting stock with at least 100 feet per row in an L-shaped shelterbelt, 150 feet per row in a unidirectional block.

(2) Two rows of shrubs or trees windward, followed by a minimum 50-foot snowcatch leeward of the first two rows. The snowcatch may be used to plant nesting cover, food plots, Christmas tree plantations or may be cropped.

(3) Two rows of shrubs leeward of the snowcatch, followed by four rows of dense conifers.

(4) Additional rows of dense shrubs may be planted interior to conifers for screening. See subrule 22.6(5), paragraph *"c,"* subparagraphs (1) to (4) for restrictions on additional rows.

(5) Species of conifers, shrubs, and deciduous trees which may be grown in shelterbelts will be designated by the department, as well as size of stock and conditions of culture.

(6) Shelterbelts must be at least 50 feet from an occupied residence.

*b.* Renovations or improvements of existing shelterbelts not previously cost-shared must meet at least minimum specifications for new shelterbelts outlined in paragraph *"a"* of this subrule.

*c.* Maximum specifications for which cost-sharing will be allowed are as follows:

(1) Fourteen rows of planting stock with a maximum of 400 feet per unidirectional row.

(2) For each additional row over eight, one row must be planted with an approved conifer.

(3) Snowcatch requirement is dropped for shelterbelts of at least ten rows and meeting all other requirements in subrule 22.6(5), paragraph *"a,"* subparagraphs (1) to (6) and paragraph *"c,"* subparagraph (2).

(4) In a 14-row shelterbelt, one row of deciduous trees may be black walnut for eventual harvest.

*d.* Planning and design for newly established shelterbelts, renovations, and enlargements, and replacement of trees in a previously cost-shared shelterbelt, and deviations from the listed specifications, must be approved by the department's wildlife biologist and may require consultation with the department's district forester and U.S. Department of Agriculture Soil Conservation Service (SCS) district conservationist.

*e.* Planting sites should be prepared with seedbed conditions the same as for corn. Sod planting or other exceptions may be allowed only by the department wildlife biologist, and may require consultation with the district forester and SCS district conservationist.

*f.* The following maintenance requirements are in effect for the contract period:

(1) All competing vegetation must be controlled within three feet of each tree and shrub for the first three years of the contract. Control may be by chemicals, mulching, or mechanical means.

(2) Plantings must be protected from livestock, poultry, and rodents by repellents, fencing, trapping, or other effective means.

(3) Cooperators must use whatever means possible to protect plantings from herbicide drift from adjacent fields.

**22.6(6)** *Cost-sharing rates.* The department will provide cost-sharing assistance during the first year of the contract to establish new shelterbelts or renovate existing shelterbelts to bring them to minimum standards for size, composition, and configuration.

*a.* New establishments and enlargements. During the initial establishment year for new shelterbelts and enlargements of existing shelterbelts, the department will pay 75 percent of the cost of establishment, not to exceed $1600 per eight-row planting.

(1) Additional rows over the minimum will be cost-shared at the same rate with a ceiling limit of $200 per additional row.

(2) Total rows cost-shared will not exceed 14.

*b.* Upon mutual agreement of the cooperator and the department, tree planting by the department or its designee may be substituted for all or part of the cost-sharing assistance. Standardized rates for labor and machinery operation will be used to calculate the value of the tree planting operation when determining cost-share payments.

*c.* Renovations and restorations. Upon recommendation by department wildlife biologists, cost-sharing of tree replacement is permissible where age, disease, drought, insect, or mammal damage has reduced the effectiveness of existing shelterbelts.

(1) Cost-sharing for these reasons will be at 50 percent of planting stock costs not to exceed $1000. All minimum specifications must be met.

(2) If renovation is needed due to cooperator neglect, no cost-sharing will be allowed.

*d.* Limitations to total cost-share assistance do not preclude use of cost-sharing funds from other governmental entities or private conservation groups to defray cost to the landowner. Where more than one cost-sharing entity is involved, the total cost-share to the landowner cannot exceed 100 percent of the cost of establishment, enlargement, or renovation.

*e.* If funds are limited, cooperators are limited to one department cost-shared shelterbelt within a three-year period, except for renovations as listed in subrule 22.6(6), paragraph *"c."*

*f.* Three years following establishment of an eight-row shelterbelt, cost-sharing to enlarge the shelterbelt will be available subject to the following limitations:

(1) Established rows must exhibit reasonable growth rates and good care by the cooperator.

(2) Added rows will be considered a new planting under guidelines existing at that time.

(3) Such enlargements are subject to priorities established in subrule 22.6(3), paragraph *"d,"* subparagraphs (1) to (4).

**22.6(7)** *Reimbursements.* Cooperators shall submit billings for reimbursements on forms provided by the department.

*a.* Billings shall be submitted prior to September 1 each year.

*b.* Billings shall include documentation of costs incurred for planting stock.

*c.* Reimbursements will not be made unless the landowner has fulfilled obligations as specified in the contract.

*d.* Billings will be approved or disapproved by the wildlife biologist after inspection of the project.

**571—22.7(456A,483A) Pheasant and quail restoration practices.** This rule delineates eligibility and procedures for establishing pheasant and quail restoration practices.

**22.7(1)** *Eligibility.* The program is available statewide. To be eligible for cost assistance, landowners must enter into a written agreement with the department specifying the obligations of both parties.

**22.7(2)** *Applications for assistance.* Applications will be accepted only from those who are eligible as noted above.

*a.* Applications must be submitted on forms furnished by the department.

*b.* Applications and contracts must be received by June 1 to provide adequate time for site inspection and practice design. The application period may be extended indefinitely, or until all available funds have been committed. Landowners will be notified within 30 days of their acceptance or rejection.

**22.7(3)** *Project review and selection.*

*a.* Projects will be reviewed by the department wildlife biologist, who will then recommend that the commission enter into agreements with the successful applicants.

*b.* Projects will be selected on the basis of habitat potential, site suitability, priority locations, and other habitat factors, to determine those projects with the greatest chance of benefiting wildlife populations.

**22.7(4)** *Contract agreements.* The director is authorized to enter into agreements with landowners to carry out the purposes of this program.

*a.* Agreement forms will be provided by the department, and they shall explicitly state the terms of the agreement including restoration practices.

*b.* Cost-sharing assistance will not be provided unless an agreement has been signed by both parties.

*c.* Contracts may be amended by mutual agreement of both parties.

**22.7(5)** *Restoration practices.* Pheasant and quail restoration practices will be guided by the Natural Resources Conservation Service (NRCS) field office technical guide (FOTG).

*a.* Approved practices include: brush management (314), conservation cover (327), critical area planting (342), early successional development/management (647), forage harvest management (511), pasture and hay planting (312), prescribed burning (338), prescribed grazing (528A), tree/shrub establishment (612), upland wildlife habitat management (645), wetland enhancement (659), wetland restoration (657), wetland wildlife habitat management (644).

*b.* Deviation from these practices or new practices must be approved by a department wildlife biologist.

**571—22.8(456A,483A) Cost reimbursement.** Whenever a landowner has been found to be in violation of a contract specified in this rule, the department may cancel the contract and the landowner shall reimburse the state for the full amount of any cost-share payments received. The requirement and procedure for recovering the cost-share payments shall be explained in the contract.

**571—22.9(456A,483A) Wildlife habitat enhancement on public and private lands.** The department's primary goal for the wildlife bureau's seed harvest program is to provide an adequate supply of native plant materials to meet the diverse seeding requirements of state and federal land that is owned or managed by the department.

**22.9(1)** *Private land.* The department may enter into agreements to meet the challenge of providing native plant materials to conservation groups, educational groups, and private landowners for use in promoting and establishing wildlife habitat and conservation plantings in Iowa. These materials include, but are not limited to, seed and seedlings of prairie plants, grains, and agricultural crop seeds. All native prairie plant materials provided to Iowa landowners will be purchased through these

agreements. Landowners who receive this seed will be required to enter into a cooperative habitat development agreement with the department. This agreement shall limit the landowner to utilizing the seed for development of wildlife habitat only and explicitly prohibit the landowner from harvesting or producing seed for any purpose other than providing wildlife habitat.

**22.9(2)** *Public land.* The department's seed harvest program will harvest, process, and distribute native plant materials for the purpose of improving wildlife habitat on department-managed land in Iowa. Native plant materials include prairie grasses and forbs and mast crops from trees. In addition, native plant materials may be provided to educational groups (schools) or conservation groups who want to carry out educational, environmental or demonstration plantings that will promote prairies and wildlife habitat. These materials will be limited to $300 or less in value and must be used for providing wildlife habitat or demonstrating the use of native plant materials. These materials provided to groups will include a marketing disclaimer which prohibits the materials from being used for seed source by the receiving group. The department may enter into agreements with conservation partners or governmental agencies to utilize prairie seed and seedlings as a matching source of in-kind value to secure additional funding or land acquisition, providing all seed materials remain on lands owned, managed or to be acquired by the department.

These rules are intended to implement Iowa Code sections 483A.3 and 456A.16.

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# CHAPTER 23
# WILDLIFE HABITAT PROMOTION WITH LOCAL ENTITIES PROGRAM
[Prior to 12/31/86, Conservation Commission[290]]

**571—23.1(483A) Purpose and definitions.** The purpose of this rule 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 of natural resources will administer the stamp funds for the purposes as stated in the law at both the state and local levels. The following definitions apply in these rules:

*"Commission"* means the natural resource commission.

*"Department"* means the department of natural resources.

*"Director"* means the director of the department or a designee.

*"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.

[**ARC 8885B**, IAB 6/30/10, effective 8/18/10]

**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. At least 50 percent of the stamp revenues will be apportioned to local entities. 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) Eligibility.** Only those public agencies authorized by law to spend funds for wildlife habitat shall be eligible to participate in this program.

**571—23.4(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—23.5(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.

**23.5(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. 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 23.12(7) 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.

**23.5(2)** *Development projects.* Eligible expenditures for development projects shall include seeding and planting of habitat to support or enhance the wildlife area. Requests to purchase equipment will not be approved. 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.

**23.5(3)** *Enhancement projects.* For purposes of this rule, "enhancement" shall be considered to be synonymous with "development."

This rule is intended to implement the provisions of Iowa Code section 483A.3.

[**ARC 8885B**, IAB 6/30/10, effective 8/18/10]

**571—23.6(483A) Application for assistance.** Applications shall provide sufficient detail as to clearly describe the scope of the project and how the area will be managed.

**23.6(1)** *Form.* Applications shall be submitted on forms provided by the department.

**23.6(2)** *Time of submission.* Applications for funds shall be reviewed and selected for funding during January and July of each year. Applications must be received in acceptable form by the Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319, by the close of business on the last business day of May for consideration at the summer review and the last business day of November for the winter review. Changes to grant applications must be submitted to the department no later than 4 p.m. the day prior to the committee review date. Upon timely notice to eligible recipients, additional selection periods may be scheduled if necessary to expedite the distribution of these funds. In emergencies, 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.

**23.6(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 form, 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.

**23.6(4)** *Development projects.* An application for development project assistance may include development on more than one area if the development is of a like nature (e.g., planting trees and shrubs).

This rule is intended to implement the provisions of Iowa Code section 483A.3.

[**ARC 8885B**, IAB 6/30/10, effective 8/18/10]

**571—23.7(483A) Project review and selection.**

**23.7(1)** *Review and selection committee.* 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 determine which grant applications and amendment requests shall be selected for funding.

**23.7(2)** *Consideration withheld.* The committee will not consider any application which, on the date of the selection session, is not complete, or for which additional pertinent information has been requested and not received.

**23.7(3)** *Application rating system.* The committee will apply a numerical rating system to each grant application which is considered for fund assistance. The following criteria, with a weight factor for each, will be considered:

| | |
|---|---|
| Wildlife habitat needs | 2 |
| Existing or potential habitat quality | 3 |
| Cost-effectiveness | 1 if at least 35 percent less than appraised amount<br><br>2 if at least 45 percent less than appraised amount |
| Species diversity | 1 |

Each criterion will be given a score of from 0 to 10 which 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 one that has not been completed by the date specified in the project agreement. 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 which might otherwise be lost.

All points will be totaled for each application, and those applications receiving the highest scores will be selected 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.

**23.7(4)** *Applications not selected for fund assistance.* All applications not selected for fund assistance will be retained on file for consideration and possible funding during subsequent review periods or until a request for withdrawal is received from the applicant. Applications which have been considered and not selected for funding during three consecutive review periods will be returned to the applicant.

**23.7(5)** *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.

**23.7(6)** *Rating of scores for tie breakers.* If two or more projects receive the same score, the committee shall use the points awarded to 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.

[**ARC 8885B**, IAB 6/30/10, effective 8/18/10]

**571—23.8(483A) Commission review.** The natural resource commission will review and act upon all committee recommendations semiannually at the next following commission meeting. The commission may reject any application selected for funding.

**571—23.9(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 director prior to their inception. Amendments to increase project costs and fund assistance due to cost overruns will not be approved where funds have already been committed or the work already performed.

**571—23.10(483A) Timely commencement of projects.** Grant recipients are expected to carry out their projects in an expeditious manner. 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.

**571—23.11(483A) Project period.** A project period which is commensurate with the work to be accomplished will be assigned to each project. Project period extensions will be granted only in a case of extenuating circumstances.

**571—23.12(483A) Payments.**

**23.12(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.

**23.12(2)** *Project billings.* Grant recipients shall submit billings for reimbursements or cost-sharing on forms provided by the commission.

**23.12(3)** *Project billing frequency.* Project billings for development 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.

**23.12(4)** *Final project billing.* A final project billing shall be submitted within 90 days following the end of a project period. Failure to do so may be cause for termination of the project with no further reimbursement to the grant recipient.

**23.12(5)** *Documentation.* Grant recipients shall provide documentation as required by the department to substantiate all costs incurred on a project.

**23.12(6)** *Reimbursement withheld.* 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.

**23.12(7)** *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.

**23.12(8)** *Development projects.* On approved development projects, payment will be made by the state only as reimbursement for funds already expended by the local entity.

**571—23.13(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 of natural resources' 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—23.14(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 which 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.

**23.14(1)** *Remedy.* Funds thus 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.

**23.14(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.

**23.14(3)** *Ineligibility.* Whenever a local agency shall be in violation of this rule, it shall be ineligible for further assistance until the matter has been resolved to the satisfaction of the commission.

[**ARC 8885B**, IAB 6/30/10, effective 8/18/10]

These rules are intended to implement Iowa Code section 483A.3.

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[1] Effective date of rule 23.1(7/31/91) delayed until adjournment of the 1992 Session of the General Assembly by the Administrative Rules Review Committee (ARRC) at its meeting held July 12, 1991. Delay lifted at the ARRC meeting held November 13, 1991.

# CHAPTER 24
# BLUFFLANDS PROTECTION PROGRAM AND REVOLVING LOAN FUND

**571—24.1(161A) Purpose.** The purpose of this chapter is to establish policies and procedures for the administration of the blufflands protection revolving loan fund program. The fund was established by 1999 Iowa Acts, chapter 1219, section 17, to provide assistance to private conservation organizations in the acquisition and protection of significant blufflands along the Iowa side of the Mississippi River and Missouri River.

**571—24.2(161A) Allocation of funds.** As specified in Iowa Code section 161A.80, 50 percent of available funds shall be allocated to projects on the Missouri River blufflands and 50 percent to projects on the Mississippi River blufflands.

**571—24.3(161A) Definitions.** For the purpose of this rule:

*"Blufflands"* means a cliff, headland, or hill with a broad, steep face along the channel or floodplain of the Missouri River or Mississippi River and their tributaries.

*"Conservation organization"* means a nonprofit corporation incorporated in Iowa or an entity organized and operated primarily to enhance and protect natural resources in this state.

*"Fund"* means the bluffland protection revolving fund established in Iowa Code section 161A.80.

*"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—24.4(161A) Types of acquisitions.** Organizations meeting the definition of conservation organization are eligible to receive loans from the fund for the purchase of bluffland properties adjacent to state-owned public lands. 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—24.5(161A) Application for loans.** Conservation organizations shall apply for loans on forms and at times announced by the department as sufficient moneys are available in the fund. Applications shall clearly identify the applicant and give a complete description of the area to be acquired, the expected date of acquisition, and planned long-term use and management of the land to be acquired.

**571—24.6(161A) Approval of loan applications.** The director shall appoint a committee to review loan applications and the committee shall make appropriate recommendations to the director. If applications exceed funds available, the committee shall evaluate the proposals using criteria established in the department's land acquisition priority plan. The director shall present loans and projects recommended for funding or nonfunding to the natural resource commission for informational purposes.

**571—24.7(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—24.8(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—24.9(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—24.10(161A) Loans not to exceed appraised value.** Loan recipients may be required to submit to the department an appraisal of land to be acquired with loan funds. The department shall review the appraisal and certify that it is fair and accurate. Loans from the fund shall not exceed the appraised value of the land to be acquired plus approved incidental expenses listed in rule 571—24.8(161A).

These rules are intended to implement Iowa Code section 161A.80.

[Filed emergency 8/20/99 after Notice 6/30/99—published 9/8/99, effective 8/20/99]

# CHAPTER 25
# CERTIFICATION OF LAND AS NATIVE PRAIRIE OR WILDLIFE HABITAT

[Prior to 12/31/86, Conservation Commission[290] Ch 25]

**571—25.1(427) Purpose.** The purpose of this rule is to define lands which qualify for tax exemptions as "native prairie" or "wildlife habitat," 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:

**25.2(1)** *"Native prairie"* is defined as those lands which 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 which were found originally on Iowa's prairie lands.

**25.2(2)** *"Wildlife habitat"* is defined as those parcels of land of two acres or less which 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 including the storage of equipment, machinery, or crops, nor shall there be any buildings, used or unused, on this property.

**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 follow the following procedures:

**25.5(1)** *Native prairie.* To have land certified as a native prairie, the owner must make application to the county conservation board, or to the department of natural resources in an area not served by a county conservation board, on forms furnished by the department of natural resources. The application shall describe and locate the property to be exempted and have attached to it an aerial photo of that property on which is outlined the boundaries of the property to be exempted.

**25.5(2)** *Wildlife habitat.* To have land certified as wildlife habitat, the owner must make application to the department of natural resources on forms furnished by the department of natural resources. The application shall describe and locate the property to be exempted.

**571—25.6(427) Application for exemption.** Application for exemption as a native prairie shall be made annually to the assessing authority on forms provided by the department of revenue and finance, and must be accompanied by an affidavit signed by the applicant that if exemption is granted, the property will not be used for economic gain. The certificate from the county conservation board or the department of natural resources must accompany the application for the first year only. Lands certified as wildlife habitat shall be automatically exempt upon submission of the certification to the appropriate assessor by the department of natural resources.

**571—25.7(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 appropriate assessor will be notified and the land shall then be taxed at the regular rate for the fiscal year in which the violation occurs, and for subsequent years unless the property in question is recertified.

These rules are intended to implement the provisions of Iowa Code section 427.1.

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[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]

# CHAPTER 26
# RELOCATION ASSISTANCE
[Prior to 12/31/86, Conservation Commission[290] Ch 65]

**571—26.1(316) Definitions.** The following terms when used in these rules shall have the following meanings:

*"Acquisition cost of the dwelling acquired"* means the price finally paid an owner for the residential portion of the real property acquired by contract, settlement, condemnation or condemnation appeal award.

The *"Act"* means Iowa Code chapter 316 plus the implementation of the governing federal cost-sharing agency's relocation handbook (manual or rules) as directed by Iowa Code section 316.11.

*"Agency"* means the department of natural resources.

*"Annual net earnings"* are any net earnings of a business or farm operation before federal, state, and local income taxes.

*"Claimant"* means any displaced person filing a written claim with the agency for relocation assistance or a relocation assistance payment as provided by these regulations.

*"Commission"* means the natural resource commission.

*"Comparable dwelling"* means a dwelling in a location meeting the standards established in these regulations for comparable available replacement housing.

*"Dwelling"* means any single family house, a single family unit in a multifamily building, a unit of condominium or cooperative housing project, a mobile home, or any other residential unit.

*"Family"* means two or more individuals, one of whom is the head of a household, plus all other individuals regardless of blood or legal ties who live with and are considered a part of the family unit. Where two or more individuals occupy the same dwelling with no identifiable head of household, they shall be treated as one family for replacement housing purposes.

*"Farm operation"* means any activity conducted solely or primarily for production of one or more agricultural products or commodities, including timber for sale or home use and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support. The term "contributing materially" used in this definition means that the farm operation contributes at least one-third of the operator's income. In instances where the operation is obviously a farm operation it need not contribute one-third to the income of the operator to receive a moving cost payment under Iowa Code section 316.4(3).

*"Habitable floor space"* is that space used for sleeping, living, cooking or dining purposes, and excludes such enclosed places as closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, cellars, utility rooms and similar spaces.

*"Initiation of negotiations for a parcel"* means the date the acquiring agency makes the first personal contact with the owner or the owner's representative and furnishes a written notice of the agency's intent to acquire the property.

*"Initiation of negotiations for the project"* is the date the acquiring agency makes the first personal contact with the owner or the owner's designated representative and furnishes a written offer to purchase, except where such contact is made solely for protective buying or because of hardship. The control date thus established shall be documented in the project file.

*"Moving cost payments"* means any actual, estimated, scheduled or statutory payments to relocatees for costs, losses and expenses the payment of which is authorized by section 316.4 and these rules.

*"Nonprofit organization"* means any corporation, partnership, individual or other public or private entity, engaged in a business, professional or institutional activity on a nonprofit basis, necessitating fixtures, equipment, stock in trade, or other tangible property for the carrying on of the business, professional or institutional activity on the premises.

*"Owner"* means an individual (or individuals) owning, legally or equitably, the fee simple estate, a life estate, a 99-year lease or other proprietary interest in the subject property; the contract purchaser of any of the foregoing estates or interests; or any person who has succeeded to any of the foregoing interests by devise, bequest, inheritance or operation of law, or who is possessed of such other proprietary

interest in the property acquired as, in the judgment of the head of the agency, warrants consideration as ownership. In the event of acquisition or ownership by devise, bequest, inheritance or operation of law the tenure of ownership, not occupancy of the succeeding owner shall include the tenure of the preceding owner.

*"Project"* means any acquisition or development project on which federal funds are or will be utilized to plan, design, acquire real property, provide relocation assistance, construct or for any one or more of these purposes.

*"Relocatee"* means any person who is a displaced person as defined by Iowa Code chapter 316.

*"Relocation assistance payment"* means any or all of the payments authorized to displaced persons by Iowa Code chapter 316 and by these rules.

The *"relocation assistance supervisor"* is the agency employee responsible for carrying out the provisions of these rules and Iowa Code chapter 316.

*"Subject dwelling or subject property"* means the dwelling or property being acquired by or on behalf of the agency.

*"Taxable year"* is any 12-month period used by a business or farm operation in filing income tax returns.

*"Willing seller"* means any landowner that is willing to negotiate the sale of land with the agency, and where the agency does not intend to pursue the purchase under eminent domain procedures if the owner and the agency should fail to reach a mutually satisfactory agreement.

**571—26.2(316) Actual reasonable moving costs and related expenses.**

**26.2(1)** *Moving expenses.* Actual reasonable moving expenses include payments for the cost of moving the relocatee, including family, business, farm operation or for moving a nonprofit organization, for storage, insurance, losses in moving, removal, reinstallation and reestablishment expenses.

*a.* The expenses incurred in advertising for packing, crating and transportation may be paid when the agency determines that such advertising is necessary. Such advertising payments shall be limited to complicated or unusual moves where advertising is the only reasonable method of securing bids.

*b.* The cost of storage of the relocatee's personal property where determined necessary by the agency, for a reasonable period but not to exceed 12 months, may be paid. The cost to store a relocatee's personal property on the property being acquired or on property remaining after the acquisition or on another property owned or controlled by the relocatee shall not be paid.

*c.* The cost of insurance premiums covering loss and damage of personal property while in storage or transit may be paid. Such insurance coverage shall not exceed the reasonable replacement value of personal property.

*d.* The reasonable replacement value of property lost, stolen or damaged in the process of moving may be paid where insurance to cover such loss or damage is not available provided that in the judgment of the agency the loss or damage was not caused by the fault or negligence of the relocatee, or an agent or employee of the relocatee.

*e.* The expenses of removal, reinstallation and reestablishment of machinery, equipment, appliances and other items which are not acquired, including reconnection of utilities to such items, may be paid. No part of any removal, reinstallation and reestablishment expense payment shall be made where the item would constitute an improvement to the replacement site, unless the same is required by law. No payment of removal, reinstallation and reestablishment expenses shall be made for any item classified by the agency as real property retained by the relocatee where the relocatee has been paid or is secured to be paid for the item by the terms of the acquisition agreement whether by purchase or as damage or where purchased by the agency and sold to the relocatee for its salvage value. Items not so paid for or secured to be paid for may be considered personalty for purposes of the payment of removal, reinstallation and reestablishment expenses where by the terms of the acquisition agreement the relocatee and the agency agree that the property is personalty and that the agency is released from any payment for the property as realty.

*f.* A relocatee who chooses to use the dwelling as a means of moving personal property may be paid a scheduled moving payment.

*g.* In addition to the payment for the moving of personal property, the relocatee and relocatee's family from the dwelling unit in accord with the provisions of these rules, a relocatee who owns and occupies a multifamily dwelling may also be paid the actual cost of moving the business portion of the personal property or a payment under Iowa Code section 316.4(3) in accordance with the provisions of these rules.

**26.2(2)** *Moving cost exclusions.* No payment shall be made for the following costs, losses or expenses as actual reasonable moving expenses.

*a.* No payment shall be made for additional expenses incurred because of living in a new location.

*b.* No cost shall be paid for moving of structures, improvements and other real property in which the relocatee is reserved ownership, where compensation for the item has been paid or is secured to be paid by the terms of the acquisition agreement whether by purchase or as damage, or where purchased by the agency and sold to the relocatee at its salvage value.

*c.* No payment shall be made for improvements to the replacement site or for modification of personal property to adapt it to a replacement site, except when required by law or by these rules.

*d.* Interest on loans to cover moving expenses, loss of good will, loss of business, loss of profit, loss of trained employees, personal injury and the cost of preparing an application or claim for moving and related expenses shall not be paid.

*e.* No payment shall be made for such other items as the agency determines should be excluded on the basis that they are not reasonable, or proper.

**26.2(3)** *Distance of move payment determinations.* There is no limitation on the distance a relocatee may move either interstate or intrastate. Relocatees may be paid the actual, reasonable costs of moving personal property onto remaining or other lands owned or controlled by the relocatee or elsewhere not to exceed the cost of moving a distance of 50 miles either interstate or intrastate, except where it is determined by the agency that relocation cannot be accomplished within the 50-mile area. In the case of such a determination payment will be made to the nearest adequate and available site as determined by the agency.

**26.2(4)** *Commercial or self-moves.* Relocatees may either move commercially or may elect a self-move in accord with Iowa Code chapter 316 and by these rules.

*a.* Payments made on an actual moving cost basis shall be supported by receipt bills or other evidence of expenses incurred but in the case of a self-move shall not be paid in an amount which exceed the estimated cost of moving commercially. In the case of a self-move, estimates of the cost of moving commercially may be prepared by a commercial moving firm.

*b.* A relocatee electing to move personal property personally may also elect to be paid an amount to be negotiated with the agency based on the lower of two firm estimates obtained from two qualified moving firms.

*c.* Businesses may be paid actual moving costs where two firm bids or estimates cannot be obtained from qualified moving firms.

*d.* Moving cost estimates may also be made by a qualified employee of the agency, other than the employee providing the relocation assistance, if the moving costs do not exceed $1,000 or in such amount as authorized by the appropriate federal authority, in which case the relocatee may be paid the amount of such moving expense finding upon completion of the move without supporting evidence of the actual expenses incurred.

*e.* Negotiated moving cost payments and moving cost payments for commercial moves shall be limited to the rates as established by the lowest of two firm estimates obtained from two qualified moving firms.

*f.* When personal property which is used in connection with the business is of low value and high bulk the agency will pay an amount not to exceed cost of replacement in lieu of moving the personal property if less than the moving expenses.

*g.* The costs of transportation of individuals and families to a new location may be paid. Such costs may be on a mileage basis, not to exceed 15 cents per mile, or reasonable actual fees if commercial transportation is used and may include special services such as the cost of ambulance to transport invalid relocatees. The actual reasonable cost of meals and lodging, when the agency determines that such costs

are required because of unforeseen circumstances or practical necessities of the moving operation, may also be paid. However, receipts are required in all situations for out-of-pocket expenses.

**26.2(5)** *Loss of tangible personal property.* Actual direct losses of tangible personal property may be paid to nonprofit organizations and to relocatees who are displaced from their place of business or whose farming operation is discontinued who are entitled to relocate such property in whole or in part but elect not to do so.

*a.* Payment for actual direct losses of such property made under authority of Iowa Code section 316.4(1)*"b"* and these rules may be made only after a bona fide effort has been made by the owner to sell the item(s) involved.

*b.* If the item(s) cannot be sold the owner may be compensated for such loss as provided in these rules.

*c.* The sale prices, if any, and the actual reasonable cost of advertising and conducting the sale shall be supported by copies of the bills of sale or similar documents and by copies of any advertisements, offers to sell, auction records and other data supporting the bona fide nature of the sale.

*d.* If the business is to be reestablished and an item of personal property which is used in connection with the business is not moved but promptly replaced with a comparable item at the new location the payment shall be the lesser of the replacement cost minus the net proceeds of the sale, or the estimated cost of moving the item, or the trade-in value of the item to be replaced.

*e.* If the business is being discontinued or the item is not to be replaced in the reestablished business the payment will be the lesser of the difference between the depreciated value of the item in place and net proceeds of the sale; or the estimated cost of moving the item.

*f.* If a bona fide sale is not effected for the reason that no offer is received for the property the relocatee may be paid the reasonable expenses of the sale and the estimated cost of moving the item. The relocatee shall arrange to have the personalty removed from the subject property at no cost by a junk salvage or other dealer. If this fails the agency shall remove the item in the most economical manner.

*g.* When personal property is abandoned with no effort being made by the owner to dispose of such property by sale or by removal at no cost the owner shall not be paid moving expenses or losses for the item involved.

**26.2(6)** *Searching costs.* A relocatee may receive a payment for actual, reasonable expenses in searching for a replacement site for a nonprofit organization, business or farm not to exceed an amount of $500.

Such actual reasonable expenses include transportation expenses at the rate of 15 cents per mile, meals, lodging away from home and the reasonable value of time actually spent in the search including the fees of real estate agents or brokers.

Out-of-pocket expenses shall be supported by receipted bills or other evidence of expenses incurred. A certified statement of the time spent in search and hourly wage rate(s) shall accompany the claim. Payment for time actually spent in search shall be based on the applicable hourly wage rate for the person(s) conducting the search but may not exceed $10 per hour.

**26.2(7)** *Scheduled moving costs.* Scheduled residential moving payments made under authority of Iowa Code section 316.4(2) and these rules to occupants of furnished and unfurnished dwellings, shall include a dislocation allowance and shall give consideration to room count of those rooms containing personal property and may be made to occupants of mobile homes where the mobile home is not moved.

*a.* Where the mobile home is moved the schedule shall also consider the size of the mobile home and distance moved.

*b.* Scheduled moving cost payments shall be made on the basis of the then current moving costs schedule as established by the department of transportation not to exceed the limitations established by Iowa Code section 316.4(2) and by these rules.

**26.2(8)** *Determining substantial loss of existing patronage.* A business, other than a part-time occupation which does not contribute materially to the relocatee's income or which is not part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity, shall be entitled to a payment under authority of Iowa Code section 316.4(3) and these rules where the business shall have suffered a substantial loss of its existing patronage.

*a.* A business shall have suffered a substantial loss of existing patronage and its owner shall be entitled to receive such a payment where, in the judgment of the agency, the business cannot be reestablished or cannot be reestablished without creating a substantial reduction in the average annual net earnings of the business during the two taxable years immediately preceding the taxable year in which the business is required to relocate.

*b.* In determining if the owner of a business will suffer a substantial loss of its existing patronage, consideration shall be given to the size, nature and type of business, capital available, the market area served and availability of sites within the market area served.

*c.* Business earnings shall include any compensation paid by the business to the spouse or dependents of the owner or to the owner as a majority interest holder where the owner is a corporation. For the purposes of determining majority ownership, stock held by a husband, his wife and their dependent children shall be treated as one unit.

**26.2(9)** *Determining displacement of a farm operation.* A farm operation may be considered to have been displaced and the operator shall be entitled to a payment under authority of Iowa Code section 316.4(3) and these rules when:

*a.* The agency has either acquired the whole farm and the farm operator has discontinued or relocated the entire farm operation, or

*b.* The agency has acquired only a portion of the farm and the property remaining after the acquisition is no longer an economic unit as determined by the agency during its appraisal process, for those principal farm operations which contributed at least one-third of the operator's average annual net earnings for the two taxable years before the acquisition and such operations have been discontinued or relocated.

*c.* In instances where such operation is obviously a farm operation it need not contribute one-third to the operation's average annual net earnings for the operator to be so eligible.

*d.* Income from the farm operation shall include any compensation paid by the farm operation to the spouse or dependents of the operator and any paid to the operator as a majority interest holder where the farm is a corporation. For the purposes of determining majority ownership, stock held by a husband, his wife and their dependent children shall be treated as one unit.

**26.2(10)** *Newly established business or farm operation.* If a business or farm operation affected can show that it was in business 12 consecutive months during the two taxable years prior to the taxable year in which it is required to relocate, had income during such period and is otherwise eligible, the owner of a business or the operator of a farm is eligible to receive a payment under authority of Iowa Code section 316.4(3) and these rules. Where the business or farm was in operation for 12 consecutive months or more but was not in operation during the entire two preceding taxable years, the payment shall be computed by dividing the net earnings by the number of months the business was operated and multiplying by 12.

**26.2(11)** *Business owner or farm operator must provide information.* The owner of a business and the operator of a farm shall provide information stating the net business earnings or farm income for support of any claim for a payment under authority of Iowa Code section 316.4(3) and these rules. City, county, state or federal tax returns for the tax years in question are acceptable as evidence of earnings. Any commonly acceptable method may be accepted such as certified financial statements or an affidavit from the owner stating the net earnings providing it grants the state the right to review the records and accounts of the business. The owner's statement alone shall not be sufficient if the claim is in excess of $2,500.

**26.2(12)** *Temporary storage moving cost payments.* When an actual cost basis is used and the agency determines that it is necessary for a relocatee to store personal property for a reasonable time, not to exceed 12 months, the cost of such storage is reimbursable as a part of the moving expenses. Storage of personal property on the property being acquired or on other property owned by the relocatee is not eligible for reimbursement.

**26.2(13)** *Moving costs for nonprofit organizations.* A displaced nonprofit organization is eligible to receive payments for actual reasonable moving expenses, actual direct losses of tangible personal property and actual reasonable expenses in searching for a replacement site.

*a.* In lieu of such actual reasonable payments, the nonprofit organization may be paid $2,500 if it cannot be relocated without a substantial loss of its existing patronage, and it is not part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity.

*b.* The term "existing patronage" as used in connection with nonprofit organizations includes the persons, community or clientele serviced or affected by the activities of the nonprofit organization.

**26.2(14)** *Limitation on moving cost payments.* Moving and related expense payments made under authority of Iowa Code section 316.4 and of these rules shall be made only to such relocatees who move from the subject dwelling and who file timely claim for the same. All claims for moving and related expense payments shall be filed not later than the 18-month period beginning on the date on which the relocatee receives from the agency final payment of all costs of the real property acquired or on the date on which the relocatee moves from the real property acquired, whichever is the later date. The director may extend this period upon a proper showing of good cause.

**571—26.3(316) Replacement housing payments for homeowners.**

**26.3(1)** A homeowner or a mobile homeowner who is displaced from the subject dwelling who has owned and occupied the subject dwelling in whole or in part or who has owned the mobile home and has occupied the mobile home in whole or in part or who has owned the mobile home and has occupied the mobile home on the site for not less than 180 consecutive days immediately prior to the date of vacation or the initiation of negotiation for the acquisition of the subject property and who purchases and occupies a decent, safe and sanitary replacement dwelling within the time limitations specified in Iowa Code section 316.5(2) and by these rules may receive an additional payment. Such payment should be in the amount, if any, when added to acquisition cost of the dwelling acquired equals the actual cost which the owner has paid for the replacement dwelling or the amount determined by the agency as reasonably necessary to purchase a comparable replacement home, or mobile home, or mobile home and site, or mobile homesite, whichever is less, not to exceed the payment limitations established by Iowa Code chapter 316 and by these rules.

*a.* Replacement housing payment offers and payment determinations for such homeowners shall be made on the basis of a survey of market information applicable to the owner's particular circumstance, the availability of comparable replacement housing and the condition and location of the subject dwelling.

*b.* A relocatee who has entered into a contract for the construction or rehabilitation of a replacement dwelling, and for reasons beyond the relocatee's reasonable control, cannot occupy the replacement dwelling within the time limitations specified in Iowa Code section 316.5(2), shall be considered to have purchased and occupied the dwelling as of the date of such contract. Replacement housing payments under these circumstances shall be deferred until actual occupancy is accomplished.

*c.* Where a mobile home is acquired from an otherwise eligible displaced mobile homeowner who rents the site, the mobile homeowner shall be eligible to receive the lesser of that payment authorized by Iowa Code section 316.5 and by these rules or a rental replacement housing payment or a purchase down payment authorized by Iowa Code section 316.6 and by these rules.

**26.3(2)** *General provisions for replacement housing payments.* Offers for replacement housing payments and payment determinations for payments made by authority of Iowa Code sections 316.5 and 316.6 and by these rules shall be made in accord with these provisions:

*a.* If two or more eligible families occupy the same single-family dwelling unit each family is eligible for a replacement housing payment if they relocate to separate dwelling units.

*b.* If two or more eligible individuals with no identifiable head of household occupy the same single-family dwelling unit they are to be considered as one family for replacement housing payment purposes and any and all relocation assistance payments are to be distributed equally.

*c.* When all individuals do not relocate to decent, safe and sanitary housing the agency shall determine and pay those individuals who do relocate into decent, safe and sanitary housing a pro rata share of the appropriate payments that would have been received if all individuals had relocated together in the same ownership or rental status as they had at the time of the initiation of negotiations.

*d.* Where only a portion of the subject property is being acquired and the subject dwelling is located on a tract normal for residential use in the area, the maximum replacement housing payment shall be determined by subtracting the agency's approved before-value appraisal of the property as a whole, from the estimated selling price of a comparable dwelling on a lot typical for the area.

*e.* Where only a portion of the subject property is being acquired and the subject dwelling is located on a tract larger than normal for residential use in the area, replacement housing payment offers and payments shall be determined by estimating the value of the dwelling at the present location on a homesite typical in size for the area and deducting this amount from the selling price of a comparable dwelling on a site typical for the area.

*f.* Where a dwelling is located on a tract where the fair market value is established on a higher and better than residential use replacement housing payment offers and payments shall be determined by estimating the value of the dwelling at the present location on a homesite typical for the area and zoned for residential use and deducting this amount from the selling price of a comparable dwelling on a typical residential homesite for the area.

*g.* Where displaced individuals or families occupy living quarters on the same premises as a displaced business, farm or nonprofit organization, such individuals or families are separate displaced persons for purposes of determining entitlement to relocation payments.

*h.* Replacement housing payment offers and payments to owners of multifamily dwellings who occupy one unit shall be determined by estimating that difference, if any, between the value of that portion of the entire property being acquired which represents the owner's living unit and the value of a living unit on the most comparable available property. Where available the comparable dwelling should be the same as that acquired, i.e., if the acquired property is a triplex, then the comparable should be a triplex. If the comparable is a triplex, the replacement housing payment is based on the value of only one of the three units; if a duplex, the payment is based on only one of the two units; if a single-family dwelling, the payment is based on the entire value of the dwelling. If similar comparables are not available, then structures of the next lowest density must be used. If there are not any available comparable multifamily structures to be found, then the comparison of the owner's living unit would be to a single-family residence. A higher density structure should never be used as a comparable.

**26.3(3)** *Comparable replacement housing available.* Where comparable replacement housing is available, the replacement housing payment offers and payment determination for eligible homeowners and mobile homeowners shall be the difference between the estimated selling price of the most comparable of at least three comparable dwellings available in the community and the acquisition cost of the subject dwelling but shall not exceed the limitations established by Iowa Code section 316.5 and these rules.

**26.3(4)** *Comparable replacement housing no longer available.* When comparable replacement housing at the time of the move is no longer available, replacement housing payment offers made to eligible homeowners and mobile homeowners shall be revised. In such a case the revised replacement housing payment offer and payment determination shall be based on available housing which is equal or better and meets the other comparable criteria but shall not exceed the limitations established by Iowa Code section 316.5 and by these rules.

**26.3(5)** *Absence of available comparable rural replacement housing.* In the absence of available comparable replacement rural housing, the replacement housing payment offer and payment determination to eligible homeowners and mobile homeowners shall be the difference between the acquisition cost of the subject dwelling and the estimated cost of constructing a new and reasonable comparable dwelling adequate for the needs of the relocatee but shall not exceed the limitations established under Iowa Code section 316.5 and by these rules.

*a.* The estimated costs of a new dwelling shall be expressed as an average cost per square foot for the building plan, the estimated cost of a typical improved lot where relocating to an urban area, or approximately one acre where remaining in a rural area.

*b.* Where necessary the estimated cost of a well, septic system, laterals and landscaping shall also be included.

*c.* All such cost estimates shall be obtained from qualified contractors regularly engaged in building housing in the project area.

**26.3(6)** *Subject dwelling moved as replacement housing.* Replacement housing payment offers and payment determinations for eligible homeowners and mobile homeowners electing to move the subject dwelling for purposes of replacement housing shall be the difference, if any, between the acquisition cost of the subject dwelling and the estimated cost of reestablishing the subject dwelling on a suitable foundation in a comparable and decent, safe and sanitary condition, but shall not exceed the estimated cost of a new dwelling adequate for the needs of the relocatee nor the limitations established by Iowa Code section 316.5 and by these rules.

*a.* The estimated cost to reestablish the subject dwelling shall include the cost of a typical improved lot in town where relocating to an urban area or approximately one acre where relocating to a rural area.

*b.* Where necessary the estimated cost of a well, septic system, laterals and landscaping shall also be included. All such cost estimates shall be obtained from qualified contractors furnishing such services.

**26.3(7)** *Increased interest payment determinations.* Increased interest payments may be made to compensate a displaced homeowner or mobile homeowner for the increased interest cost that is required for financing a replacement dwelling as provided in Iowa Code section 316.5(1)*"b"* and these rules.

*a.* The increased interest payment may be paid only when the dwelling acquired by the state was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 consecutive days prior to the first contract for acquisition or the date established for the commencement of acquisition by a notice of the agency's intent to acquire the subject property and the mortgage on the replacement dwelling bears a higher rate of interest than the mortgage interest rate on the acquired dwelling.

*b.* The increased interest payment will be based on, and limited to, the lesser of the present worth of the right to receive the monthly difference in mortgage payments on the existing mortgage using the old and new interest rates; or the present worth of the right to receive the monthly difference in mortgage payments on the new mortgage using the old and new interest rates.

*c.* The amount of increased interest payment will be computed on relocation assistance "Computation of Increased Interest Cost" forms, copies of which are attached to these rules. The computation will be made in accordance with the following: The monthly principal and interest payment difference caused by the change in interest rate is computed for both the existing mortgage and new mortgage for their respective remaining terms and amounts. The old and new interest rates are used in each case. The present worth of the monthly interest differences found in the above is computed for each mortgage by discounting the monthly difference at the savings deposit interest rate for the remaining term of each mortgage. The lesser of the amounts so derived is the increased interest payment. To the amount so derived will be added the amount actually paid by the purchaser as points on the amount refinanced but not to exceed an amount which would have been paid if the original mortgage balance was refinanced, or a fee actually charged as an origination or service fee (not to exceed one percent of the mortgage amount as shown above) if such fees are normal to real estate transactions in the area.

*d.* The discount rate shall be the prevailing rate of interest paid on passbook savings account deposits by commercial banks in the general area in which the dwelling is located. In the case of a partial acquisition and where the dwelling is located on a tract normal for residential use in the area, the interest payment shall be reduced to the percentage ratio that the acquisition price bears to the before-value of the tract as a whole; except, the reduction shall not apply when the mortgagee requires the entire mortgage balance to be paid because of the acquisition and it is necessary to refinance.

*e.* In the case of a partial acquisition and where a dwelling is located on a tract larger than normal for residential use in the area, the interest payment shall be reduced to the percentage ratio that the value of the residential portion bears to the before-value of the tract as a whole. This reduction shall apply whether or not it is required that the entire mortgage balance be paid.

*f.* The interest payment on multiuse properties shall be reduced to the percentage ratio that the residential value of the multiuse property bears to the before-value of the tract as a whole.

*g.* If a dwelling is located on a tract where the fair market value is established on a higher and better than residential use, and if the mortgage is based on residential value, the interest payment shall be computed as provided in the regular increased interest computation. If the mortgage is obviously based on the higher use, however, the interest payment shall be reduced to the percentage ratio that the estimated residential value of the parcel has to the before-value of the tract as a whole.

**26.3(8)** *Determining closing costs payments.* Payments to eligible homeowners and mobile homeowners pursuant to Iowa Code section 316.5(1)*"c"* shall be limited to the reasonable cost of the following closing costs necessary and incident to the purchase of a replacement dwelling.

*a.* Costs eligible for payment include legal, closing and related costs including title search, the cost of preparing conveyance documents, notary fees, surveys, preparing drawings or plats and recording fees. Lender's, FHA or VA appraisal fees, FHA or VA application fees and a certification of structural soundness when required by the lender or FHA or VA, may be paid. The cost of a credit report, title opinion, escrow fees and sales or transfer taxes may be paid.

*b.* No fee, cost charge or expense shall be paid as a closing cost which is not necessary and incident to the purchase of a replacement dwelling nor which is determined to be a part of the debt service or finance charge under the Truth in Lending Act, Title I, Public Law 90-321.

**26.3(9)** *Limitation on housing payment for homeowners and certain others.* Replacement housing payments to homeowners and certain others shall be limited by the following:

*a.* No replacement housing or other payment shall be made by authority of Iowa Code section 316.5 or 316.6 or these rules unless and until the agency, or its authorized designee, has inspected the replacement dwelling and determined that it meets the standards of decent, safe and sanitary housing. All such determinations shall be made in writing and shall be signed by the agent or person making the same.

*b.* No claim for a payment under Iowa Code section 316.5 or 316.6 or these rules shall be paid where it is filed later than six months after the expiration of the one-year period specified in Iowa Code section 316.5(2), except that in the case of an appeal from the awards of a compensation commission, such period shall be extended to six months after final adjudication.

*c.* If a dislocated homeowner or mobile homeowner is otherwise qualified for a payment under Iowa Code section 316.5 and these rules, but has previously received a payment under Iowa Code section 316.6(1) and these rules, the amount of such payment so received shall be deducted from the amount to which the owner is determined entitled under Iowa Code section 316.5 and these rules. In no event shall the combined payments exceed $15,000.

*d.* A displaced homeowner who is otherwise eligible for a replacement housing payment under Iowa Code section 316.5 or 316.6 and these rules who acquires replacement housing after the initiation of negotiations on the project but before the first contact for the acquisition of the subject dwelling may be eligible for such payment only if the move from the subject dwelling is subsequent to the first contact for its acquisition. No payment shall be made in any such case until the subject dwelling has been acquired.

**571—26.4(316) Replacement housing payments for tenants and certain others.**

**26.4(1)** Owner-occupants and tenant-occupants of sleeping rooms or of homes or of mobile homes who are displaced from the subject dwelling, in whole or in part, for not less than 90 consecutive days immediately prior to the initiation of negotiations for the acquisition of the subject property, and who occupy a decent, safe and sanitary replacement dwelling or replacement sleeping room within the time limits specified in Iowa Code section 316.5(2) and by these rules, may receive a rental replacement housing payment or a purchase down payment which does not exceed the payment limitations established by Iowa Code chapter 316 and by these rules.

Where a mobile home is acquired from an otherwise eligible displaced mobile homeowner who rents the site, the mobile homeowner shall be eligible for both a rental replacement housing payment for the site and a purchase down payment for the mobile home but not to exceed $4,000 and the limitations established by Iowa Code section 316.6 and by these rules.

**26.4(2)** Rental replacement housing payment.

*a.* Rental replacement housing payments to relocatees eligible for a payment under Iowa Code section 316.6 and by these rules who elect to rent replacement housing shall be the difference, as determined by the agency, between the amount necessary to rent a comparable replacement home or mobile home and site, or mobile homesite or sleeping room for the next four years and the amount of rent presently paid but not to exceed the limitations established by Iowa Code section 316.6 and by these rules.

*b.* The amount necessary to rent comparable replacement housing may be determined by the agency by a schedule, the three comparable or other methods contained in 26.3(3), 26.3(4), 26.3(5) or 26.3(6).

**26.4(3)** Determining the amount of rent presently paid. For the purpose of determining a rental replacement housing payment the amount of rent presently paid shall be the actual rental paid by relocatees renting a mobile home and site or dwelling where the actual rental rate is reasonably equal to the economic rent of the subject dwelling as determined by the agency from market data.

*a.* The actual rental rate shall include any rent supplement supplied by others except when, by law, such supplement is to be discontinued upon vacation of the subject property.

*b.* If the actual rental rate is not reasonably equal to the average market rental for similar dwellings the actual rental rate shall be adjusted to the economic rent of the subject dwelling as determined by the agency from market data. For purposes of determining a rental replacement housing payment for a relocatee who is an owner-occupant of the subject dwelling the rent presently paid shall be economic rent for the subject dwelling as determined by the agency from market data.

**26.4(4)** Determining comparability of replacement rental dwelling. An otherwise comparable replacement dwelling shall not be considered a comparable replacement rental dwelling unless it is available at a rental rate within the financial means of the family or individual relocatee involved.

*a.* The rental rate shall not be considered within the financial means of the family or individual relocatee where the rental of available replacement housing exceeds 25 percent of the gross income of the family or relocatee plus the $4,000 rental replacement housing payment for the next four years.

*b.* Gross income for this purpose shall include any rent supplements supplied by other except when, by law, such supplement is to be discontinued upon vacation of the subject property.

**26.4(5)** Limitation of rental replacement housing payment to homeowners. No rental replacement housing payment to a displaced homeowner eligible for a replacement housing payment under Iowa Code section 316.5 shall exceed $4,000.

**26.4(6)** Disbursement of rental replacement housing payments. Replacement housing rental payments may be disbursed as a lump-sum payment.

**26.4(7)** Purchase down payments. Relocatees eligible for a payment under Iowa Code section 316.6 and by these rules who elect to buy replacement housing may receive a replacement housing payment as a purchase down payment in the amount of the down payment required by financial institutions for a conventional real estate loan all of which payment shall be applied in full to the purchase of a decent, safe, and sanitary comparable replacement home, or mobile home, or mobile home and site, or mobile homesite.

*a.* This payment shall include and reimburse the relocatee for reasonable and necessary closing costs incident to such purchase but not to exceed $4,000 and the limitations provided in Iowa Code section 316.6(2) and by these rules.

*b.* An owner-occupant who elects to retain the subject dwelling for replacement housing purposes who is otherwise eligible to receive a purchase down payment shall be entitled to a payment under this section determined as provided in subrule 26.3(6) but not to exceed $4,000.

**26.4(8)** Limitation on amount of combined rental replacement housing and purchase down payments. Within 18 months from the date of the required move, a relocatee who has previously received a rental replacement housing payment who is otherwise eligible may elect to receive a purchase down payment. Any amount received as a prior payment shall be subtracted from the amount of the subsequent payment for which the relocatee is eligible. In no event may any combination of such payments exceed $4,000 and the limitations provided by Iowa Code section 316.6 and by these rules.

**571—26.5(316) Notice of relocation assistance advisory service.** In order to ensure that the public has adequate knowledge of the relocation program the agency shall make a conceptual stage survey, distribute to the public the information contained in the survey, provide an opportunity for discussion of relocation assistance and services, eligibility requirements and payment procedures and give full and adequate notice of the relocation assistance program as hereinafter provided.

**26.5(1)** *Relocation brochure.* The agency shall prepare and distribute a brochure adequately describing the relocation program, notifying relocatees of their right to appeal determinations made by the relocation assistance supervisor and indicating the procedures for such an appeal; and shall distribute the same without cost to all public hearings and to all interested individuals and organizations.

**26.5(2)** *Conceptual stage survey.* Prior to the agency's selection of the final proposed project location, the agency shall survey the area of the proposed project. This survey shall include an estimate of the number of individuals, families, businesses, farm operations and nonprofit organizations that are to be relocated and the probable availability of decent, safe and sanitary replacement housing within the financial means of each of the individuals or families affected by each of the alternatives under consideration.

*a.* The survey shall be discussed by the agency at public hearing along with a brochure adequately describing the relocation program, and an explanation of studies that have been and will be made and methods that will be followed to ensure that housing needs of relocatees will be met.

*b.* Reserved.

**26.5(3)** *Preparation of project relocation plan.* After the agency has selected a location and has developed a design and acquisition plan for a proposed project, all apparent relocatees shall be personally contacted by a relocation agent.

*a.* If such personal contact cannot be made, the agency shall note in a record of contacts those reasonable efforts that were to achieve the personal contact.

*b.* Each apparent relocatee shall be provided with a written statement and an explanation of benefits available under the relocation assistance program or under other federal and state housing, disaster loan or other programs offering assistance to displaced persons.

*c.* The agency shall survey and determine, and the relocation plan shall initiate and include, a current and continuing inventory of the needs of each family or relocatee who would be displaced in accord with the proposed design and acquisition plan for the project.

*d.* The plan shall inventory available replacement housing appropriate to the needs of apparent relocatees and shall consider planned and proposed federal, state and local governmental and private project work in the area which may affect the supply and demand for housing.

*e.* The plan shall outline the various relocation problems, and indicate the method of operation to resolve such problems and to provide maximum assistance to apparent relocatees.

*f.* The plan shall contain an estimate of the amount of lead time required and demonstrate its adequacy in order to ensure that no person shall be required to move from a dwelling on account of any project unless replacement housing as required by Iowa Code sections 316.7(3)*"c"* and 316.8(2) and by these rules, is available to such persons.

**26.5(4)** *Exceptions.* The agency shall follow subrules 26.5(2) and 26.5(3) on those projects involving a number of property owners; where acquisition will be pursued with all owners at the same time; and where the agency intends to acquire the land by eminent domain if one or more owners are unwilling to accept the agency's best final offer.

Where any acquisition project involves a single owner, or where acquisition is contemplated from a willing seller, the agency may elect not to follow subrules 26.5(2) and 26.5(3) under authority of Iowa Code section 316.7(3)*"c."* Provided, however, that the agency shall provide the owner a complete explanation of the relocation assistance program at the time formal acquisition negotiations are initiated.

**26.5(5)** *Project assurances.* Negotiations for the acquisition of real property which will cause the relocation of any person shall not proceed until the agency offering relocation assistance ensures compliance with Iowa Code sections 316.7(3)*"c"* and 316.8(2) and with these rules. All such assurances shall be submitted, in writing, along with the project relocation plan to the appropriate federal or state authority prior to the commencement of negotiation on the project. The assurance shall

include a statement of the relocation program being offered and the project relocation plan. All such submissions shall include a request that the plan be approved, that the agency be authorized to make relocation payments and to proceed with the acquisition.

**26.5(6)** *Maintenance of project file.* In order to minimize hardships to relocatees, the agency's relocation assistance supervisor shall maintain a file containing information appropriate to the needs of relocatees available for inspection on a project basis.

*a.* This project file shall include a copy of any agreement with another agency or other persons under contract to perform relocation functions. It shall include a current and continuing inventory of available and appropriate replacement housing of comparable commercial properties and locations, and current data for such costs as security deposits, closing costs, typical down payments, interest rates and terms. It shall include a copy of the project conceptual stage survey, and project relocation plan. It shall include a list of realtors and contractors of all appropriate types maintained on a project basis for the benefit of relocatees needing or requesting this type of information.

*b.* Other such information shall be maintained on a project basis concerning financial institutions, brochures or lists of federal, state and local housing, technical and financial assistance programs, loan rates, public transportation rates and utility rates, housing developments and FHA and VA repossessed housing. The agency shall maintain a plan of the project and where applicable a map showing the locations of schools, medical facilities, shopping areas, recreational facilities and public transportation routes.

*c.* The project file shall include requests for project approvals or authorization and such authorization and approvals as are received from appropriate federal or state authorities and shall contain such documentation as necessary to establish the date of initiation of negotiations for the project. Project assurances, project certifications, and project inspection and progress reports shall be maintained in the project file.

*d.* Semiannual and other statistical summary of relocation assistance and payment statistics reports and such other records as are required by appropriate federal authority may be maintained in this file.

**26.5(7)** *Initiation of negotiations for the project.* Negotiations may be instituted and relocation payment may be made only after the agency has requested and received from the appropriate federal authority approval of:

*a.* The proposed project;

*b.* Approval of the project relocation plan;

*c.* Authorization to make relocation payments;

*d.* A request to approve an advanced purchase and to make relocation payments for hardship or protective buying purposes; and the agency may institute negotiations and may make relocation payments for those parcels thus approved.

**26.5(8)** *Presentation of relocation assistance offer.* At the first personal contact at which a written offer to purchase the subject property is made, the relocatee shall be simultaneously presented with a written offer of relocation assistance and an explanation of the eligibility requirements to receive relocation payments.

*a.* This offer shall contain a description of the various entitlements for which the relocatee may be eligible, a statement of the relocatee's occupancy rights, and the name of the relocation agent assigned to the project.

*b.* Within 15 days after the initiation of negotiations on the parcel, tenants shall be personally contacted and given a similar written offer of relocation assistance.

*c.* Out-of-state owners or other unavailable relocatees may be presented with such written offer of relocation assistance by certified or registered mail, return receipt requested.

**26.5(9)** *Notice of intent to acquire.* When a relocatee requests approval to move in advance of the first contact for acquisition of the subject property, the eligibility to receive relocation payments shall be preserved where the agency sends the relocatee a written notice that the agency intends to acquire the subject property by a stated date.

*a.* Such notice shall offer payments for which the relocatee is eligible, state any restrictions thereto and inform the relocatee how additional information may be obtained.

*b.* Such a notice shall be sent when, considering the status of appraisal or other information necessary to value the subject property, a realistic estimate of the time necessary to acquire the subject property and the adequacy of the supply of available replacement housing, it is, in the judgment of the agency, in its best interest to do so.

*c.* When a notice of intent to acquire is sent to an owner such notice shall also be sent to any tenant within 15 days.

*d.* A notice of intent to acquire sent to a tenant shall be simultaneously sent to the owner.

*e.* No relocation payments shall be made until the subject property has been acquired by the agency.

*f.* No notice of intent to acquire shall be sent on any project until after the agency has requested and received authorization from the appropriate federal authority to either institute negotiations on the project or to acquire individual parcels solely to protect the interests of the agency or because of hardship.

**26.5(10)** *Standards for decent, safe and sanitary housing.* A decent, safe and sanitary dwelling is one which meets all of the following minimum requirements.

*a.* It conforms with all applicable provisions for existing structures that have been established under state or local building, plumbing, electrical, housing and occupancy codes and similar ordinances or regulations applicable to the property in question.

*b.* It has a continuing and adequate supply of potable safe water.

*c.* It has a kitchen or an area set aside for kitchen use which contains a sink in good working condition and connected to hot and cold water, and a sewage disposal system. A stove and refrigerator in good operating condition shall be provided when required by local codes, ordinances, or custom. In lieu thereof the kitchen area or area set aside for such use shall have utility service connections and adequate space for the installation of such facilities.

*d.* It has an adequate heating system in good working order which will maintain a minimum temperature of 70 degrees in the living area under local outdoor design temperature conditions.

*e.* It has a bathroom, well-lighted and ventilated and affording privacy to a person within it, containing a lavatory basin and a bathtub or stall shower, properly connected to an adequate supply of hot and cold running water, and a flush water closet, all in good working order and properly connected to a sewage disposal system.

*f.* It has provision for artificial lighting in each room.

*g.* It is structurally sound, in good repair and adequately maintained.

*h.* Each building used for dwelling purposes shall have two safe unobstructed means of egress leading to safe open space at ground level. Each dwelling unit in a multidwelling building must have access either directly or through a common corridor to two means of egress to open space at ground level. In buildings of three stories or more, the common corridor on each story must have at least two means of egress.

*i.* It has 150 square feet of habitable floor space for the first occupant in a standard living unit and at least 100 square feet of habitable floor space for each additional occupant.

*j.* The square footage requirements for mobile homes shall be 150 square feet for the first occupant and 70 square feet for each additional occupant.

*k.* The floor space is to be subdivided into sufficient rooms to be adequate for the family.

*l.* All rooms must be adequately ventilated.

*m.* Rental replacement sleeping rooms shall meet the minimum requirements of local codes, heating, electricity, structural soundness, and egress as set forth herein.

*n.* Sleeping rooms shall have as a minimum at least 100 square feet of habitable floor space for the first occupant, 50 square feet of habitable floor space for each additional occupant and lavatory and toilet facilities that provide privacy including a door that can be locked if such facilities are separate from the room.

**26.5(11)** *Adjustments to standards for decent, safe and sanitary housing.* Subject to the approval of the appropriate federal authority the agency providing relocation assistance may grant exceptions to decent, safe and sanitary housing standards on those projects or parcels where unusual conditions exist.

*a.* Requirements for sanitary, electrical or water facilities may be reduced in those areas where a majority of the residences do not have the facilities meeting the minimum standards for decent, safe and sanitary housing.

*b.* Where large families are being relocated, the minimum square footage requirements may be waived provided there is satisfactory bedroom space based on the age and sex of the occupants.

**26.5(12)** *Determining comparability of available replacement housing.* A comparable dwelling is a decent, safe and sanitary dwelling adequate to accommodate the needs of the relocatee, which is available on the open market and which meets all of the following minimum requirements.

*a.* To be available the dwelling shall be open to all persons regardless of race, color, religion, sex or national origin, and within the financial means of the family or individual to be relocated.

*b.* The square footage of the available replacement dwelling shall generally be the same, but may be 75 square feet less or may be greater than, the dwelling being acquired by the agency.

*c.* The number of rooms shall equal or exceed the number of rooms in the dwelling being acquired, or have sufficient open space to allow for the construction of the required number of rooms. In no case will a dwelling be considered comparable if it lacks sufficient bedrooms to make it decent, safe and sanitary as defined by these rules.

*d.* The area of living space exclusive of hallways, closets, bathrooms, and other storage facilities of available replacement dwellings shall generally equal that of the subject dwelling.

*e.* It shall be the same or better general type of construction as the subject dwelling.

*f.* It shall be approximately (within ten years) the same age as the subject dwelling and shall be in the same or better state of repair.

*g.* It shall be located in the same, or a better type of neighborhood or area as determined by the general age and condition of the subject dwelling, availability of public utilities and access to public and commercial facilities.

*h.* It shall be reasonably accessible in terms of distance or time elapsed in traveling, by the head of the household to the place of employment.

**26.5(13)** *Notice of occupancy rights and notice to vacate.* A written notice of occupancy rights shall be given to all owners and relocatees alike at the initiation of negotiations for the property proposed to be acquired by the agency. This notice shall state that the owner or relocatee will not be required to move from the dwelling or to move the business, farm or nonprofit organization or personal property sooner than 90 days from the date of said notice. The notice shall also state that the owner or relocatee will be sent a written notice specifying the date by which the subject property must be vacated at least 30 days prior to the required vacation date and that the 30-day written notice will not be sent until the relocatee or owner has received payment from the agency as agreed, or that the award of a compensation commission has been deposited by the agency as prescribed by law.

*a.* A written 30-day notice to vacate shall be sent by certified mail, return receipt requested, by the relocation assistance supervisor, after the agency has obtained effective control over the subject property.

*b.* Where the owner or relocatee has agreed to convey any interest in the subject property and to give the agency possession thereof, either prior to or on the day final acquisition payment will be received the 30-day notice to vacate shall be sent so that the last day of said notice is not earlier than the day agreed to surrender possession of the subject property.

*c.* Where the owner or relocatee has agreed to convey any interest in the subject property and has consented to the agency withholding a portion of the agreed purchase price to secure the agency's future possession thereof after the time agreed for said conveyance, the 30-day notice to vacate shall be sent so that the last day of the notice is not earlier than the day the owner or relocatee has agreed to surrender possession of the subject property.

*d.* All condemnees whether owners, tenants, businesses, nonprofit organizations, farm operators or occupants shall be sent a written 30-day notice to vacate as herein required.

*e.* Railroads and utilities shall be sent a 30-day notice to vacate where there is personal property to be relocated.

*f.* Except for condemnees who own and occupy a residence or dwelling house located on lands acquired by condemnation, a 30-day notice to vacate shall be sent so that the first day of said notice is

a day not earlier than the day the compensation commissioner's award is deposited as required by law and thus made available to the condemnee.

*g.* Thirty-day notices to vacate to condemnees who own and occupy a residence or dwelling house located on lands acquired by condemnation shall be sent after the deposit of the condemnation award and after the time for appeal therefrom has passed.

*h.* In the case of an appeal from the award of a compensation commission, condemnees owning and occupying a residence or dwelling house shall be sent a 30-day notice to vacate so that the last day of said notice is not earlier than the day specified for the surrender of possession of such property to the agency either by the terms of a stipulated settlement of the appeal or of an order of the court or, in the absence of such stipulation or order, on the day the agency is entitled to possession of such property by law.

*i.* No 30-day notice to vacate need be sent to any owner or relocatee who moves or moves personal property prior to the time the agency sends such notice.

**571—26.6(316) Preconstruction project certificate.** Prior to advertising the physical construction for bids on any project on which a relocation program is offered or required by Iowa Code chapter 316, the director of the agency offering relocation programs shall submit a project certificate to the appropriate federal or state authority stating that the agency has legal and physical possession of all land required and that comparable replacement housing is available or has been provided for or is built for all relocatees and that all persons have been relocated from the project.

**26.6(1)** All residentially improved properties that have not been vacated and those businesses whose operation has not been terminated shall be identified and listed as an exception to the project certificate.

**26.6(2)** Any exception shown on a certificate shall state the anticipated vacation date for residentially improved properties and the anticipated date for the termination of business operations and indicate the basis for the date or dates stated.

**26.6(3)** No physical construction shall be advertised for bids and no physical construction shall begin on any project on which a relocation program is offered or required by Iowa Code chapter 316 unless and until the appropriate federal authority has approved the agency's project certificate. For this purpose physical construction includes that part of a construction project which requires the actual displacement of any persons and not the preliminary activities which can be efficiently and practically conducted without such displacement.

**571—26.7(316) Record of payment determinations and claims for benefits paid.** The agency offering relocation assistance shall maintain a record of payment determinations and claims for benefits paid.

**26.7(1)** *Record of agency contacts with each relocatee.* Any agent offering relocation assistance shall maintain written notes on a parcel basis of the time, place and date of personal contacts with each relocatee or the relocatee's representative and shall make and sign such writings immediately after each contact.

*a.* The notes shall be identified by appropriate federal and other project and parcel identification, and note the type of tenure, the names, addresses and telephone numbers, if any, for all relocatees on the subject parcel.

*b.* The notes shall indicate the name of the agent making the contact and report circumstances necessary to determine the needs of each relocatee and to support an offer of relocation assistance and payments.

*c.* A reasonable effort shall be made to obtain general parcel identification information where relocatees moved without assistance.

*d.* The notes shall indicate the new address and telephone number, if any, for each relocatee, whether the offer of assistance in locating or obtaining replacement housing was accepted or declined and the name of the individual accepting or declining the offer.

*e.* The dates and substance of subsequent or follow-up contacts, the date on which the relocatee was required to move from the subject property, the date on which the actual relocation took place and the new tenure of each relocatee shall be shown.

**26.7(2)** *Amount determinations and limitations.* Payment eligibility and payment determination shall be made in writing and shall be signed and dated by the person making the determination who shall thereby disclaim any personal interest therein.

*a.* Parcel files shall show computations necessary to determine and show the amount of the payment, shall recite facts and the rationale used to support payment eligibility determinations and shall contain such proof of payment or support documentation as is required by Iowa Code chapter 316 and by these rules.

*b.* Such disclaimers of personal interest shall state that the signator has no direct or indirect present or contemplated personal interest in the transaction, nor will any benefit be derived from the payment determinations thus made, and where applicable a statement that it is the understanding of the person making the determination that the determined amount is to be used in connection with a federal aid project.

**26.7(3)** *Audit claims for payment.* Claims for payments to be made by authority of Iowa Code chapter 316 and of these rules shall be made in writing on forms furnished or approved by the agency.

*a.* All such claims shall contain a certification by the relocatee that the above claim is correct, just and unpaid and, to the best of the relocatee's knowledge and belief, the housing described is decent, safe and sanitary.

*b.* Claims requesting payments shall be approved for payment by the person making the payment eligibility or amount determination or by the relocation assistance supervisor, and by the person auditing the claim.

*c.* No claim for payment shall be approved in amounts in excess of limitations established by Iowa Code chapter 316 or these rules, or which duplicate payments made to a relocatee as a contract seller or condemnee through an exercise of the power of eminent domain.

*d.* Claims for the payments made by authority of Iowa Code chapter 316 and of these rules shall be audited prior to their payment and delivery. The audit shall determine that the claim is due, unpaid and supported in the amount claimed by an appropriate approved payment determination, proof of payment and such documentation as is necessary to support payment eligibility and amount determinations made by the agency and as required by Iowa Code chapter 316 and these rules. The person making the claims payment audit shall sign, date and approve the form of the claim for payment.

*e.* Payments by authority of Iowa Code chapter 316 and of these rules shall not be delivered to a relocatee or into escrow by the person or agent offering relocation assistance or the person who has made the payment eligibility or amount determination.

**26.7(4)** *Assignment of relocation payments.* Relocation payments may be made and warrants may be drawn on the basis of written assignments by the relocatee, payable directly to the party or parties providing the moving, financing, services or replacement housing for the relocatee.

*a.* Warrants drawn directly to such persons shall be delivered to the assignee or such persons only upon the agency's receipt of an executed contract, receipted bill, or itemized statement for moving, or a contract to purchase, or a rental agreement by the relocatee and the contractor, seller or landlord or person furnishing the service.

*b.* Warrants, in the discretion of the agency, may be drawn payable either directly or jointly to the relocatee and to the party or parties providing such moving, financing, services or replacement housing.

*c.* In any cases where the relocatee otherwise qualifies for a replacement housing payment, and upon the relocatee's specific request, the agency may make such payments into escrow prior to the relocatee's moving. Any supplemental housing payment made into escrow shall be delivered subject to the condition that it shall not be paid unless and until the agency has, in writing, accepted proof of the relocatee's purchase or rental and occupancy of decent, safe and sanitary housing.

*d.* In the case of an appeal from the award of a compensation commission the agency may pay into escrow the amount of a replacement housing payment to which the relocatee is then determined eligible pending final adjudication of the acquisition cost of the dwelling acquired. The delivery of any such

payment into escrow shall reserve to the agency the right to recompute the amount of such payment, if any, due as a result of the final adjudication of the acquisition cost of the subject dwelling, to reclaim and to receive delivery of the warrant paid into escrow and to pay that amount, if any, as is determined due as a result of such recomputation.

*e.* No relocation payment shall be withheld nor amounts deducted therefrom (including closings in escrow) to satisfy claims or obligations to others including those of the agency.

**26.7(5)** *Statement of eligibility to a lending agency.* At the request of the relocatee the agency shall state to any interested party, financial institution or lending agency, that the relocatee will be eligible to receive a replacement housing payment in a specific sum provided the relocatee purchases and occupies a specified replacement dwelling not later than the end of the 18-month period beginning on the date on which the acquisition cost of the acquired dwelling is received from the agency, or on the date on which the relocatee moves from the acquired dwelling, whichever is the later date.

*a.* No such statement shall be made unless the relocatee otherwise qualifies for the replacement housing payment except that the relocatee has not yet purchased or occupied a suitable replacement dwelling.

*b.* No replacement dwelling shall be specified in any such statement unless it has been inspected and found to meet the standards for decent, safe and sanitary housing by the agency offering the relocation assistance.

**26.7(6)** *Avoidance of conflicts of interest.* The individual responsible for determining the amount of the replacement housing payment shall place in the file a signed and dated statement setting forth:

*a.* The amount of the payment;

*b.* The understanding that the determined amount will be used in connection with a federal-aid project;

*c.* That the individual has no direct or indirect present or contemplated personal interest nor will any benefit be derived from the payment.

**26.7(7)** *Administrative appeal and limitations.* Any person dissatisfied with a determination by the agency's relocation supervisor as to eligibility for a payment or as to the amount of payment offered under the relocation assistance program may have application or claim reviewed by the agency providing relocation assistance in accordance with this rule.

*a.* Persons dissatisfied with any such determination shall have 30 days after the day the agency's relocation assistance supervisor sends notice of the supervisor's determination to file a written request that the agency review the same.

*b.* Promptly upon timely receipt of a written request for such review the commission shall hear and finally determine the appeal.

*c.* The commission shall inform themselves of the nature, scope, standards for eligibility and limitation of benefits and payments established by Iowa Code chapter 316 and by these rules.

*d.* The commission shall make, note and report the necessary computations and line of reasoning used to support their findings.

*e.* The commission shall award to the person requesting the review all benefits and payments to the extent and in the amounts, if any, determined within the limitations and under the terms of Iowa Code chapter 316 and of these rules.

*f.* The person requesting the review shall be promptly notified in writing of the decision of the commission whose decision shall be final.

**26.7(8)** *Notice of administrative appeals.* The commission shall convene the review after sending the person requesting the review or the person's representative reasonable notice of the proceeding.

*a.* Notice of such review proceeding may be sent by ordinary mail and where practical, shall be held at a time and place agreeable to the person requesting the same.

*b.* The person requesting the review or the person's representative, and any relocation assistance officer appearing, shall have equal rights and shall have an equal opportunity to be heard.

*c.* No inferences or presumptions are to be indulged against either the agency, the relocation assistance officer, or the person requesting the review or the person's representative.

**26.7(9)** *Statistical reports.* The agency offering relocation assistance shall keep such records and make such other statistical reports as are required by the appropriate federal or state authority.

**26.7(10)** *Records retention and availability.* The agency shall retain those records required by Iowa Code chapter 316 and by these rules for a period of not less than three years after the federal authority's payment of the final voucher on any federally aided project or not less than three years after the state authorizes payment of the final voucher on any joint or local project, whichever date is later. All such records shall be available for inspection by representatives of the federal or state government at any reasonable hour.

**571—26.8(316) Last resort housing.** If a project cannot proceed to actual construction because comparable replacement sale or rental housing is not available, and the agency determines that such housing cannot otherwise be made available, the agency may take such action as is necessary or appropriate to provide such housing by use of funds authorized for such project. The agency may let contracts for the construction of said housing, approve plans and specifications for the building thereof, and supervise, inspect and approve the housing constructed.

**RELOCATION ASSISTANCE**
**COMPUTATION OF INCREASED INTEREST COST**

Name _____ County _____

Street Address _____ R.O.W. Project No. _____

City _____ R.A. Project No. _____

State and Zip Code _____ Parcel No. _____

COMPUTATION OF INCREASED INTEREST COST

| MORTGAGE DATA | Existing Mortgage | | New Mortgage | |
|---|---|---|---|---|
| | 1st Mortgage | 2nd Mortgage | 1st Mortgage | 2nd Mortgage |
| Interest Rate..... | _____ | _____ | _____ | _____ |
| Remaining Term..... | _____ | _____ | _____ | _____ |
| Remaining Principal Balance..... | _____ | _____ | _____ | _____ |

COMPUTATION

First Mortgage:

Monthly P & I Payment.....$_____ X _____ Factor _____ (_____ Periods) = $_____

Monthly P & I Payment.....$_____ X _____ Factor _____ (_____ Periods) = $_____

Monthly Interest Difference.....$_____

Present Worth of.....$_____ X _____ Factor _____ (_____ Periods)

discounted at ____% savings deposit rate.....$_____

Second Mortgage

Monthly P & I Payment.....$_____ X _____ Factor _____ (_____ Periods) = $_____

Monthly P & I Payment.....$_____ X _____ Factor _____ (_____ Periods) = $_____

Monthly Interest Difference.....$_____

Present Worth of.....$_____ X _____ Factor _____ (_____ Periods) =

discounted at ____% savings deposit rate.....$_____

AMOUNT OF INTEREST PAYMENT.....$_____

These rules are intended to implement Iowa Code section 316.11.

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# CHAPTER 27
# LANDS AND WATERS CONSERVATION FUND PROGRAM
[Prior to 12/31/86, Conservation Commission[290] Ch 72]

**571—27.1(456A) Purpose.** The purpose of the Federal Land and Water Conservation Fund, hereinafter referred to as the LWCF, is stated in Section 1(b) of the Land and Water Conservation Fund Act of 1965, as amended (78 stat. 897):

"The purposes of this Act are to assist in preserving, developing, and assuring accessibility to all citizens of the United States of America of present and future generations and visitors who are lawfully present within the boundaries of the United States of America such quality and quantity of outdoor recreation resources as may be available and are necessary and desirable for individual active participation in such recreation and to strengthen the health and vitality of the citizens of the United States by (1) providing funds for and authorizing Federal assistance to the States in planning, acquisition, and development of needed land and water areas and facilities and (2) providing funds for the Federal acquisition and development of certain lands and other areas."

Section 6 of the Act contains the basic requirements and conditions for fulfilling the above:

"The Secretary of the Interior (hereinafter referred to as the Secretary) is authorized to provide financial assistance to the States from monies available for State purposes. Payments may be made to the States by the Secretary as hereafter provided, subject to such terms and conditions as he considers appropriate and in the public interest to carry out the purposes of this Act, for outdoor recreation: (1) planning, (2) acquisition of land, waters, or interest in land or waters, or (3) development."

Section 6 of the Act further provides that:

"If consistent with an approved project, funds may be transferred by the State to a political subdivision or other appropriate public agency."

The Iowa department of natural resources, hereinafter referred to as the department, acting through its director, will administer the LWCF for the same purpose at the state and local levels.

**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 and 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 in accordance with the following schedule:

| Population of Area of Jurisdiction | LWCF Assistance Ceiling |
|---|---|
| 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 | 175,000 |
| over 75,000 | 200,000 |

Exceptions to the above limits: The maximum grant for local entities with populations in excess of 25,000 shall be $125,000 for any swimming pool or golf course project. The maximum grant limit for local entities with populations of up to and including 10,000 shall be $125,000 for any land acquisition project.

The assistance ceiling may be waived upon approval by the director under the following circumstances:

1. The project being proposed for LWCF assistance is regional in nature or is expected to serve a minimum of 100,000 people.
2. The proposed project cannot be staged over a multiyear period so that a separate grant application might be submitted each year.

No grant shall be approved which 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.* The following information applies to local projects only. Grant applications and amendment requests which increase the existing grant amount shall be reviewed and selected for funding on an annual basis as provided in subrule 27.2(2). Annual reviews shall be held in April. Applications must be received in acceptable form by the Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034, by the close of business on the work day closest to the fifteenth day of March.

**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 or area with the exception that an application may include development of a like nature only on several sites (e.g., tennis courts).

**27.5(5)** *Application timing.* The following applies only to state projects. Grant applications and amendments to existing approved projects which exceed 10 percent of the original grant amount 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(6)** *Application acceptance.* Applications for state projects will be accepted from the Iowa department of natural resources and any other state agency which submits an eligible project application.

**571—27.6(456A) Project review and selection.**

**27.6(1)** *Review and selection committee.* 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 of the department, one member appointed by the director with input from the Iowa Association of County Conservation Boards, and one member appointed by the director of the department with input from the Iowa League of Cities and the Iowa Parks and Recreation Association.

The committee shall determine which grant applications and amendment requests shall be selected for funding at the local level. A review and selection committee for state projects shall be composed of four staff members of the department as appointed by the director.

**27.6(2)** *Consideration withheld.* The committee will not consider any application which, 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)** *Application rating system for local projects.* The committee will apply a numerical rating system to each grant application which is considered for fund assistance. The following criteria, with a weight factor for each, will be considered:

| Criteria | Weight Factor |
|---|---|
| Relationship to SCORP priorities | 5 |
| Direct recreation benefits | 1 |
| Local need | 1 |
| Quality of site | 1 |

Each criterion will be given a score of from 1 to 10 which is then multiplied by the weight factor. The following additional criteria will be considered in the rating system:

*a.* Prior assistance. Any applicant who has never received a grant will be given a bonus of five points. Any applicant who has received prior assistance which is more than its fair share will be assessed penalty points. Fair share will be computed by dividing 50 percent of Iowa's total apportionment from the LWCF by the total state population and multiplying this amount by the population of the applicant agency. Penalty points will be assessed in accordance with the following schedule:

| Prior Assistance in Excess of Fair Share | Penalty Points |
|---|---|
| 0 to $2.50 per capita | 0 |
| $ 2.51 to 12.50 per capita | 1 |
| 12.51 to 22.50 per capita | 2 |
| 22.51 to 32.50 per capita | 3 |
| 32.51 to 42.50 per capita | 4 |
| over 42.50 per capita | 5 |

*b.* Bonus points. Additional points will be added to the total score for the following:

(1) Projects which have special features for the elderly and handicapped above the normal access requirements for this population will receive three points.

(2) Projects which include the use of recycled content materials will receive two points.

(3) Projects which serve an area of greater minority population than the state average of 2.6 percent will receive points as follows:

| | | |
|---|---|---|
| Minority population greater than: | 3.5 percent | 1 point |
| | 4.0 percent | 2 point |
| | 4.5 percent | 5 point |

(4) Projects which show evidence that the specific project has been through the normal channels of review and approval by proper local decision makers, thereby ensuring that public support and a commitment to develop and operate the facility are present and that the project under consideration is a part of (or does not conflict with) broader plans which exist, may receive up to three bonus points.

All points will be totaled for each application and those applications receiving the highest scores will be selected for fund assistance to the extent of the allotment for each review period. However, no application shall be selected which has received a score of less than 60. Such applications shall be returned to the applicant.

**27.6(4)** *Application rating system for state projects.* The committee will apply a numerical rating system to each grant application which is considered for fund assistance. The following criteria, with a weight factor assigned for each, will be considered:

| Criteria | Weight Factor |
|---|---|
| SCORP priority | 4 |
| Quality of site | 1 |
| Renovation/rehabilitation project | 1 |
| Direct recreation benefits | 1 |

Each criterion will be given a score from 0 to 10, which is then multiplied by the weight factor. Additional points will be added to the total score for the following:

Projects which have special features for the elderly and handicapped above the normal access requirements for this population will receive three points.

Projects which include the use of recycled content materials will receive two points.

Projects which serve an area of greater minority population than the state average of 2.6 percent will receive points as follows:

| | | |
|---|---|---|
| Minority population greater than: | 3.5 percent | 1 point |
| | 4.0 percent | 2 point |
| | 4.5 percent | 5 point |

**27.6(5)** *Applications not selected for fund assistance.* Rescinded IAB 12/8/04, effective 1/12/05.

**571—27.7(456A) Public participation.** All regional planning agencies will be advised of the time and place of review sessions. Written comments will be accepted prior to each review session. A time period for public comment will be allowed immediately prior to each review session.

Potential applicants will be advised of any changes in the project evaluation and selection processes and criteria; but in any event, state agencies, regional planning agencies, county conservation boards and the Iowa League of Cities will be advised of the availability of program funding at least once every two years.

**571—27.8(456A) Commission review.** The natural resource commission will review all committee recommendations each review period at the next following commission meeting. The commission may reject any application selected for funding or approve any application not selected by the committee.

**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 to increase or decrease project scope or to increase or decrease project costs and fund assistance. Amendments to increase project costs and fund assistance due to cost overruns will not be approved. A percentage of each year's appropriation may be reserved for amendments.

**571—27.11(456A) Timely commencement of projects.** Grant recipients are expected to carry out their projects in an expeditious manner. Projects for which grants are approved by the administering federal agency between January 1 and May 31 shall be commenced during the same calendar year. Projects for which grants are approved by the administering federal agency between June 1 and December 31 shall be commenced by June 1 of the following year. Failure to do so may be cause for termination of the project and cancellation of the grant.

**571—27.12(456A) Project period.** A project period which is commensurate with the work to be accomplished will be assigned to each project. Project period extensions will be granted only in a case of extenuating circumstances.

**571—27.13(456A) Reimbursements.**

**27.13(1)** *Grant amount.* Grant recipients will be reimbursed 50 percent of all eligible costs incurred on a project up to the amount of the grant.

**27.13(2)** *Project billings.* Grant recipients shall submit billings for reimbursements on forms provided by the department.

**27.13(3)** *Project billing frequency.* No more than two project billings plus a final project billing shall be allowed.

**27.13(4)** *Final project billing.* A final project billing shall be submitted within 90 days following the end of a project period. Failure to do so may be cause for termination of the project with no further reimbursement to the grant recipient.

**27.13(5)** *Documentation.* Grant recipients shall provide documentation as required by the department to substantiate all costs incurred on a project.

**27.13(6)** *Reimbursement withheld.* 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.

**571—27.14(456A) Ineligible items.** The following items are ineligible for assistance from the LWCF:

**27.14(1)** Donated labor, materials, and equipment use.

**27.14(2)** Force account labor and equipment use. (A grant recipient's own personnel and equipment.)

**27.14(3)** Donated real property.

**571—27.15(456A) Record keeping 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 to 456A.35.

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# CHAPTER 28
# SNOWMOBILE AND ALL-TERRAIN VEHICLE REGISTRATION REVENUE COST-SHARE PROGRAM

[Prior to 12/31/86; Conservation Commission[290] Ch 52]

**571—28.1(321G) Definitions.**

*"All-terrain vehicle (ATV)"* or *"off-highway vehicle (OHV)"* means a motorized flotation-tire vehicle with not less than three low-pressure tires, but not more than six low-pressure tires, or a two-wheeled off-road motorcycle, that is limited in engine displacement to less than 800 cubic centimeters and in total dry weight to less than 750 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

*"Commission"* means the natural resource commission.

*"Department"* means the department of natural resources.

*"Director"* means the director of the department of natural resources.

*"High quality natural area"* means an area that includes high quality native plant communities or highly restorable native plant communities or an area that provides critical wildlife habitat. An on-site evaluation by a qualified person(s) for each proposed site is necessary in making this determination.

*"Local cost-share portion"* 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, improved pastureland, severely overgrazed second growth forest, rock-gravel quarries, mines, and sand pits.

*"Snowmobile"* means a motorized vehicle weighing less than 1,000 pounds which uses sled-type runners or skis, endless belt-type tread, or any combination of runners, skis, or tread, and is designed for travel on snow or ice.

*"Sponsor"* means the incorporated organization or other public agency receiving funding through the snowmobile or ATV grant programs to acquire, develop, maintain or otherwise improve snowmobile or all-terrain vehicle areas and trails.

*"State share"* means those funds that may be used by the state for administration or for other miscellaneous expenses related to the respective program such as law enforcement.

**571—28.2(321G) Purpose and intent.** This program provides funds from snowmobile and all-terrain vehicle registrations to political subdivisions and incorporated private organizations for the acquisition of land; development and maintenance of snowmobile trails and all-terrain vehicle 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 used in implementing agreements under Iowa Code section 321G.7 between the department and sponsors, and the authority of the director of the department. All areas, trails and facilities established or maintained using revenues under this program shall be open to use by the general public.

**571—28.3(321G) Distribution of funds.** The local cost-share portion of state snowmobile and all-terrain vehicle registration funds as established in Iowa Code section 321G.7 and this rule shall be distributed in accordance with this chapter and upon execution of agreements under Iowa Code section 321G.7. The local cost-share portion of each 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 revenue generated for either program per fiscal year.

**571—28.4(321G) Application procedures.**

**28.4(1)** *Forms.* Applications for cost-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)** *Deadlines for application submission.*

*a.* Applications for snowmobile fund moneys must be received by the department no later than 4:30 p.m. on July 1 or the closest business day of each year.

*b.* Applications for all-terrain vehicle fund moneys must be received by the department no later than 4:30 p.m. on April 1 or October 1 or the closest business day of each year.

*c.* Applications received after the dates given in 28.4(2)*"a"* and *"b"* above will be returned to the submitting sponsor and shall not be considered for cost-share moneys during the current review and selection process, unless the application deadline has been extended by the director.

**571—28.5(321G) Review and selection committees.**

**28.5(1)** The committee responsible for reviewing, ranking and selecting projects to receive funding from the local cost-share portion of snowmobile registration revenues shall be comprised of two representatives appointed by the president of the Iowa State Snowmobile Association and three department representatives appointed by the director. The committee responsible for reviewing, ranking and selecting projects to receive funding from the local cost-share portion of the all-terrain vehicle registration revenues 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 committees shall meet at the department central office in Des Moines within 30 days following the application deadline for each program. 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(321G) Director's review of approved projects.** The director shall review, amend, reject or approve committee selections and may reject any application recommended by the committee for funding. Appeals of the director's decision may be made to the commission. A project is considered approved and the grant period shall begin and end as specified in the grant approval letter from the program administrator. Applicants shall be notified of their grant status in writing within 30 days after the review and selection committee meeting.

**571—28.7(321G) Project selection criteria.** In reviewing, ranking and recommending projects to receive available funding, the following criteria shall be used:

**28.7(1)** *Snowmobile program.*

*a.* Projects with long-distance trails, connector trails or trails linking several existing trails.

*b.* Projects proposing maintenance and management of existing trails.

*c.* Projects located near a major population center or in a high-demand area.

*d.* Projects having documented local support.

*e.* Projects located in areas having sustained and adequate snow cover each year.

**28.7(2)** *All-terrain vehicle program.*

*a.* Projects proposing maintenance and management of existing approved all-terrain vehicle trails and use areas.

*b.* Development within existing approved all-terrain vehicle trails or use areas.

*c.* Projects having documented local support and involvement.

*d.* Acquisition and development projects located in areas of high-demand that have 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(321G) Eligibility of projects.** Items listed in this chapter or approved by the director which can reasonably be utilized in the construction or maintenance of riding areas or trails for snowmobile or ATV riding shall be eligible for funding.

**571—28.9(321G) Use of funded items.** Manufactured products or machinery purchased by sponsors with state assistance under these programs shall be used only for the purpose of establishing or maintaining riding areas, trails, or facilities and as emergency rescue equipment where applicable.

**571—28.10(321G) Disposal of equipment, facilities or property.**

**28.10(1)** Without prior written approval of the department, sponsors shall not dispose of any manufactured products, machinery, facilities or property if the department paid all or a portion of the actual cost. Sponsors shall, in the case of equipment or facilities, reimburse the department a percentage of the disposal price received, that percentage being the percent of the original purchase price paid by the snowmobile or all-terrain vehicle 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 appropriate snowmobile or all-terrain vehicle registration account from which the funding originated.

**571—28.11(321G) Record keeping.** Sponsors receiving funds under these programs shall keep adequate records relating to the administration of the grant, 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 Iowa State Snowmobile Association or Iowa Off-Highway Vehicle Association as appropriate.

**571—28.12(321G) Sponsors bonded.** Prior to receiving prepayment from these grant programs, 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(321G) Items eligible for funding specific to the all-terrain vehicle program.**

**28.13(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 cost-share portion of registration revenues shall be in the name of the sponsor, unless otherwise approved by the commission. The grant may be 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 ATV registration revenues shall utilize the following specific criteria:

*a.* ATV parks shall be limited to previously disturbed areas. High quality natural areas and historical and cultural areas shall be avoided. If a proposed ATV park contains fragments of any of the aforementioned areas, they 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 ATV land acquisition, a public informational meeting shall be held to address the proposed ATV park. 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 ATV park. 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 ATV park and shall implement and abide by an approved operational plan.

*f.* A local sponsoring political subdivision shall support the park and may provide local input.

*g.* The topography and associated soil erosion potentials shall be cost-effectively manageable as determined by the ATV review and selection committee.

*h.* The commission shall make the final determination whether to acquire a tract of land as an ATV park.

**28.13(2)** Development and maintenance of existing publicly owned property that has been recognized and designated as an ATV area by a local political subdivision or the commission.

**28.13(3)** Hourly wages may be reimbursed as approved by the director. Approved labor expenses may include equipment maintenance or repair and trail maintenance activities. Labor costs shall be documented on logs provided 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 contract approved by the director. The sponsor shall obtain any federal, state or local permits required for the project.

**28.13(4)** Actual material cost of trail maintenance tools, gravel, fence openings, gates, bridges, culverts, and fencing supplies. Diesel fuel, propane, gasoline, oil, parts replacement and repair bills for equipment used for land or property management.

**28.13(5)** Purchase of approved equipment to be used for maintenance of riding areas or trails. Cost of leasing equipment used to maintain or manage ATV riding areas or trails.

**28.13(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 ATV 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. ATV registration funds 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.

**28.13(7)** Cost of educational, enforcement or medical services for ATV areas funded through the ATV program.

**28.13(8)** Trail signs. Signs shall be provided to the sponsor by the department. Only those signs approved by the department for use on funded areas or trails shall be used by the sponsor. Signs appropriate to the ATV program shall be ordered on forms provided by the department. The sign order deadline shall be the same as the application date specified in subrule 28.4(2).

**28.13(9)** Developmental expenditures. Access roads, parking lots, picnicking, camping and playground facilities; sanitary, shelter, concession and control facilities; and utilities.

**28.13(10)** Pursuant to an agreement between the department and the Iowa Off-Highway Vehicle Association, miscellaneous personal expenses and salary for an association representative may be reimbursed at a rate approved by the director. Expenses and salary expenses shall be documented on logs provided by the department and submitted at the end of the term specified in the agreement.

**28.13(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 and trail signs.

*b.* Unexpected repairs including materials or other expenses costing more than $250 that may be necessary to operate and maintain the ATV use area or trail in a safe manner.

**571—28.14(321G) Items eligible for funding specific to the snowmobile program.**

**28.14(1)** Grooming equipment.

*a.* The project sponsor shall have a minimum of 100 miles of groomed snowmobile trail before the department awards funding for a groomer purchase or lease.

*b.* The state may acquire committee-approved groomers and drags through the use of the standard state purchasing procedure. If the purchase and lease of groomers and drags are approved by the grant review and selection committee and the department, sponsors may acquire or lease snow grooming equipment with snowmobile program funds.

*c.* After approval by the department and upon trade-in to the department of a used groomer by a sponsor for replacement purposes, the trade-in value shall be applied to the new groomer purchase. The

sponsor is responsible for obtaining liability insurance, licensing the machine as needed and providing personnel for daily operation and maintenance.

*d.* Upon sale or trade-in of a used groomer with no replacement, the snowmobile fund shall refund to the sponsor the percentage of the trade-in value which matches the percent originally invested in the groomer. Groomers shall not be traded between sponsors without written prior approval from the department.

**28.14(2)** Groomer maintenance, repair and operation wages may be reimbursed at a rate approved by the review and selection committee and the department. If repair work is done by professional shops, payment shall be in the amount billed for the repair. Costs for towing disabled grooming equipment shall be reimbursed as billed by the company doing the work.

**28.14(3)** Trail signs. Signs shall be provided to the sponsor by the department. Only those signs approved by the department for use on funded areas or trails shall be used by the sponsor. Signs appropriate to the snowmobile program shall be ordered on forms provided by the department. The sign order deadline shall be the same as the application date specified in subrule 28.4(2).

**28.14(4)** Actual material cost of gates, fence openings, bridges, culverts and permanent bridges. Permanent bridges are eligible only if placed on public land or on private property under a lease or easement for ten or more years.

**28.14(5)** Program and facility liability 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 snowmobile 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. Snowmobile registration funds shall not be used to purchase insurance for special events. The total payment from the snowmobile 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.

**28.14(6)** Direct payment to vendors. The department may establish operational procedures to facilitate direct payment to vendors for:

*a.* Major expenditures or specialty items including but not limited to land acquisitions, development expenses, program liability insurance fees and trail signs.

*b.* Unexpected repairs including materials or other expenses costing more than $500 that may be necessary to operate the snowmobile trails in a safe manner.

**28.14(7)** Pursuant to an agreement between the department and the snowmobile association, miscellaneous personal expenses for association officers when incurred in conjunction with program activities may be reimbursed.

**571—28.15(321G) Competitive bids.** Any equipment or development expense costing more than $500 and funded by grant funds 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—28.16(321G) 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—28.17(321G) Expense documentation, balance payment or reimbursement.**

**28.17(1)** Documentation of expenditures eligible for prepayment or reimbursement shall be submitted on forms provided by the department and shall be accompanied by applicable receipts showing evidence that the expense is chargeable to the program. 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. If necessary, the department may request copies of canceled checks to verify expenditures.

**28.17(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 daily logs of groomer or other 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.

**28.17(3)** Documentation of expenditures under the snowmobile portion of the revenue-sharing program must be received by the department prior to May 1 of each year.

**28.17(4)** Documentation of expenditures under the all-terrain vehicle portion of the revenue-sharing program must be received within 60 days of the project end date as specified in the grant approval letter 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 and cancellation of the grant.

**28.17(5)** 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 annual local share or the appropriate fund.

**571—28.18(321G) 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 approval letter, the grantee shall request an amendment to the project. If the department approves a project amendment, the department shall notify the project sponsor in writing. Whenever any real or personal property acquired, developed or maintained with snowmobile and ATV 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 section 321G.7.

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# CHAPTER 29
# LOCAL RECREATION INFRASTRUCTURE GRANTS PROGRAM

**571—29.1(8,77GA,ch1219) Purpose.** The purpose of the local recreation infrastructure grants program is to provide state cost sharing to communities, counties, organizations and associations for the restoration or construction of recreational complexes or facilities.

The Iowa department of natural resources, hereinafter referred to as the department, will administer the local recreation infrastructure grants program.

**571—29.2(8,77GA,ch1219) Definitions.**

*"Commission"* means the natural resource commission created in Iowa Code section 455A.5.

*"Department"* means the department of natural resources created in Iowa Code section 455A.2.

*"Director"* means the director of the department of natural resources.

*"Infrastructure"* is defined in Iowa Code section 8.57(5c) as "vertical infrastructure" and includes only land acquisition and construction, major renovation and major repair of buildings, all appurtenant structures, utilities, site developments, and recreational trails.

**571—29.3(8,77GA,ch1219) Eligibility requirements.** Grants shall be awarded to local political subdivisions of the state and to any other established organization or association which is duly authorized and charged with responsibilities for construction, maintenance and operation of public recreation complexes and facilities. Private entities making application must demonstrate that they are acting on behalf of a public entity.

**571—29.4(8,77GA,ch1219) Assistance ceiling and cost share.** Grants to any individual project shall not exceed $100,000. Local project sponsors must provide local funding at the rate of two local dollars for each state grant dollar. Up to 50 percent of the local share may be a "soft match" in the form of donated labor, materials or land value. An appraisal must be approved by the department to serve as the basis for establishing the value of real property if used to provide soft match. Prevailing wage rates in the vicinity of the project shall serve as the basis for establishing the value of donated labor or services.

**571—29.5(8,77GA,ch1219) Minimum grant amount.** Applications for assistance totaling less than $2,500 will not be considered.

**571—29.6(8,77GA,ch1219) Grant application submission.**

**29.6(1)** *Form of application.* Grant applications shall be on forms and shall follow guidelines provided by the department. Completed applications shall provide sufficient detail as to clearly describe the scope of the project.

**29.6(2)** *Application timing.* Grant applications (one original and six copies) must be received in acceptable form by the Iowa Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034, by the close of business on the first business day of September.

**29.6(3)** *Local funding.* An applicant shall certify that it has committed its share of project costs before the 90 percent up-front grant payment will be made. A "letter of intent" signed by the mayor, chairperson of the board of supervisors, chairperson of the county conservation board, or the CEO or chief financial officer of an agency or organization and submitted with the application showing intent to include funds in finalized budgets by March 15 will be accepted as proof of commitment. Applicants must forward proof of budgeting by April 1 or be removed from the list of approved projects.

**29.6(4)** *Similar development projects.* A single application for a development project grant may include development on more than one area if that development is of a like type.

**571—29.7(8,77GA,ch1219) Project review and selection.**

**29.7(1)** *Review and selection committee.* A review and selection committee, hereinafter referred to as the committee, comprised of six members appointed by the director, two representing cities, two representing counties, one representing other organizations or associations, and one having expertise

in the vertical infrastructure industry shall review and evaluate project applications and shall develop funding recommendations to be forwarded to the natural resource commission for approval.

**29.7(2)** *Conflict of interest.* If a project is submitted to the review and selection committee by a city, county or other eligible sponsor, one of whose members or employees is on the review and selection committee, that individual shall not participate in discussion and shall not vote on that particular project.

**29.7(3)** *Consideration withheld.* The committee will not consider any application which, on the date of the selection session, is not complete or for which additional pertinent information has been requested and not received.

**29.7(4)** *Application rating system.* The committee will apply a numerical rating system to each grant application which is considered for fund assistance. The criteria, with a weight factor for each, shall include the following:

*a.* Public demand or need—weight factor of 2.
*b.* Quality of site or project—weight factor of 3.
*c.* Urgency of proposed project—weight factor of 2.
*d.* Multiple benefits provided, including economic benefits—weight factor of 3.
*e.* Conformance with local/regional and statewide plans—weight factor of 2.
*f.* Geographic distribution—weight factor of 1.
*g.* Up to 5 bonus points may be awarded to projects demonstrating public/private partnerships.

Each criterion shall be given a score from 1 to 10, which is then multiplied by the weight factor.

**571—29.8(8,77GA,ch1219) Rating system not used.** If total grant requests are less than the allotment available, the rating system will not be applied. All applications will be reviewed by the review and selection committee for eligibility to ensure they conform with the purpose of the program.

**571—29.9(8,77GA,ch1219) Applications not approved for funding.** Applications which have been considered but not approved for immediate funding or placed on the reserve list shall be returned to the applicants if requested.

**571—29.10(8,77GA,ch1219) Commission review.** The commission will review all committee recommendations as well as recommendations from the director and staff of the department at the first commission meeting following the review session. The commission may make alterations to the recommended priorities of projects and may reject any application recommended for funding or may approve any application not recommended by the committee or the director and staff. Reasons for change or rejection of any recommended project must be included in the motion to change the order or to reject any project. Commission action will result in three categories of projects: (1) approved for immediate funding; (2) approved for funding but placed on a reserve list to be funded from current funding cycle in the event that higher ranking projects fail to be implemented; and (3) disapproved for funding.

**571—29.11(8,77GA,ch1219) Grant amendments.** Project amendments may be made upon request by the applicant, subject to the availability of funds, and approval by the director.

**571—29.12(8,77GA,ch1219) Timely commencement of projects.** Grant recipients are expected to carry out their projects in an expedient manner. The project agreement signed by the sponsor and the director will include anticipated start-up and completion dates. Projects shall be initiated no later than July 1 following their approval by the commission and shall be completed within one year. Extensions must be approved by the director. Failure to initiate projects in a timely manner may be cause for termination of the agreement and cancellation of the grant.

**571—29.13(8,77GA,ch1219) Payments.** Ninety percent of approved grant amounts may be paid to project sponsors when requested, but not earlier than start-up of the project. Ten percent of the grant total shall be withheld by the department, pending successful completion and final site inspection, or until any irregularities discovered as a result of a final site inspection have been resolved.

**571—29.14(8,77GA,ch1219) 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—29.15(8,77GA,ch1219) Eligible projects.** Grants under this program are directed toward "vertical infrastructure" as defined in Iowa Code section 8.57(5c).

**571—29.16(8,77GA,ch1219) Project life and recovery of funds.** Applicants shall state an expected project life which will become part of the project agreement. Should the funded project cease to be used for public recreation before the stated project life, the director may seek to recover the remaining value of the grant award in the project.

**571—29.17(8,77GA,ch1219) Unlawful use of funds.** Whenever any property, real or personal, acquired or developed with grants under this program 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.

**571—29.18(8,77GA,ch1219) 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 supporting this program. In the case of diversion of personal property, the grantee shall remit to the department funds in the amount of the original purchase price of the property. The grantee shall have a period of two years after notification by the department in which to correct the unlawful use of funds. The remedy provided in this rule is in addition to others provided by law.

**571—29.19(8,77GA,ch1219) Ineligibility.** Whenever the director 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 commission.

These rules are intended to implement Iowa Code section 8.57(5c) and 1998 Iowa Acts, chapter 1219, section 10.

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# CHAPTER 30
# WATERS COST-SHARE AND GRANT PROGRAMS
[Prior to 12/31/86, Conservation Commission[290] Ch 79]

## DIVISION I
## WATER RECREATION ACCESS COST-SHARE PROGRAM

**571—30.1(452A) Title and purpose.** This division shall provide 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 shall designate an amount to be available for this program.

**571—30.3(452A) Eligibility of development projects.** Development projects may include, but are not necessarily limited to, the following:

1. Construction of boat ramps or other conveyances by which recreational boaters are provided a means of placing boats in the water and removing them.
2. Docks as necessary to provide loading and off-loading of equipment and passengers.
3. Boat slips or other on-water boat storage facilities when available to the general public.
4. Parking lots for vehicles and trailers of boaters utilizing public ramps.
5. Roads to provide access to ramp(s) and parking.
6. Rest rooms designed and located so as to primarily serve needs of recreational boaters.
7. Localized dredging required to provide boat access to boatable waters.
8. Shoreline protection measures judged necessary to provide for safety and longevity of boating waters.
9. Signs and markers as needed to direct recreational boaters on use and regulations of access areas.
10. Fencing as needed to establish boundaries, prevent encroachments and control trespass.
11. Lights to provide for safe utilization of ramps and parking areas.
12. Support facilities such as sidewalks, utilities, landscaping, etc., which are necessary for safe and appropriate public use.
13. Canoe/small boat access sites/parking.
14. Renovation projects when they meet all other criteria as specified in this rule.
15. Contractual services for survey and engineering necessary for the design and construction of access facilities.
16. Diagnostic feasibility studies of basin restoration and watershed protection needs of public-owned lakes where water quality, water-based recreation and sport fishing have been diminished and when the lake is included in the department's first or second priority lists for restoration.
17. Watershed protection and lake basin restoration measures of those lakes for which a diagnostic feasibility study has been completed and that meet the criteria of paragraph "16" of this rule. Measures funded shall be limited to those recommended in the diagnostic feasibility study.

**571—30.4(452A) Eligibility of acquisition projects.** Lands acquired with water access funds must be used for recreational boating/canoeing access. 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. Acquisitions of five acres in size for motorboat access sites and two acres in size for canoe access sites are considered typical. Applicant must provide specific justification to demonstrate how larger acreages relate to boat access needs.

**571—30.5(452A) Projects not eligible.** The following types of projects are not eligible for assistance from the water access fund:

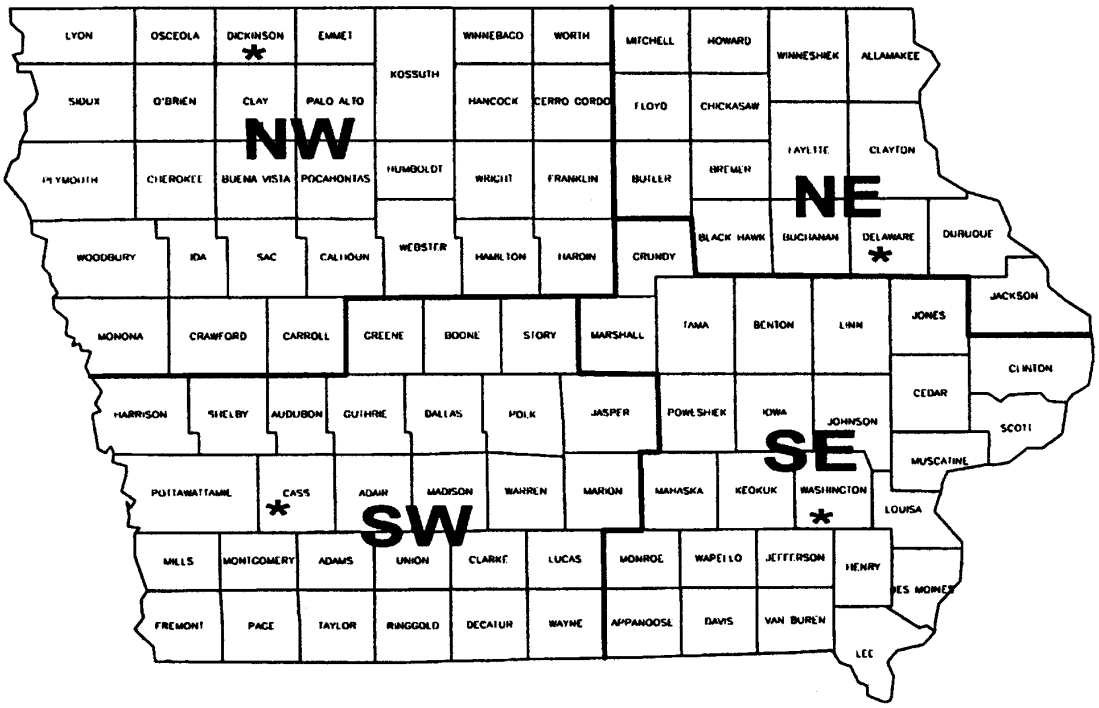
1. Acquisition of land when the principal use of the land will be for something other than recreational boating access.
2. Any type of development which will not provide for improved or increased public access to or safety and longevity of boating waters.
3. The cost of land in excess of the approved appraised valuation.
4. Donated labor, materials, and equipment use, except as specified in rule 571—30.9(452A).
5. Force account labor and equipment use (sponsor's own labor and equipment), except as specified in 30.9(452A).
6. Any portion of a facility, as determined by area or time of usage, that is of a commercial nature and does not provide a direct service to recreational boaters.
7. Projects with a total grant request of less than $1,000.
8. Any project or project costs incurred prior to notification of the sponsoring agency by the director that a grant had been approved. The only exception to this is when a waiver of retroactivity has been granted on a land acquisition project under 30.6(452A).

**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 its 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 planning 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 on forms provided by the agency must be received by the Department of Natural Resources Fisheries Management Area Office for the county in which the project is to be located as shown on the map below, no later than 4:30 p.m. on the last working day of January in order to be eligible for review at the next water access committee meeting. Addresses of the area offices are:

| Northwest Iowa | Southwest Iowa | Northeast Iowa | Southeast Iowa |
|---|---|---|---|
| District Fisheries Supv. | District Fisheries Supv. | District Fisheries Supv. | District Fisheries Supv. |
| 611 252nd Ave. | Cold Springs State Park | State Fish Hatchery | Lake Darling Station |
| Spirit Lake, IA 51360 | Lewis, IA 51544 | 22693 205th Ave. | 10 Lake Darling Road |
| (712) 336-1840 | (712) 769-2587 | Manchester, IA 52057 | Brighton, IA 52540 |
| | | (319) 927-3276 | (319) 694-2430 |




**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, except as provided in exceptions listed below.

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 will be funded at 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 rule 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 he 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(77GA,SF2381) Implementation of pilot program for state and local cooperative lake rehabilitation.** This rule provides for implementing a pilot program of state and local cooperative lake rehabilitation, funded with a special appropriation from the general assembly by 1998 Iowa Acts, Senate File 2381, and applies only to that special appropriation or subsequent appropriations made for the same purpose.

**30.14(1)** *Program goal.* The goal of this program shall be to improve or protect the quality of public inland lakes through state and local cooperative efforts that include compilation of scientific data on lakes and their watersheds of this state and assessment of experimental and innovative techniques of lake rehabilitation and protection.

**30.14(2)** *Definitions.* As used in this rule, unless the context otherwise requires:

*"Lake rehabilitation"* means the improvement or restoration of lakes and watersheds from an undesirable or degraded condition to a former, less deteriorated condition or to a condition of greater usefulness.

*"Local project sponsor"* means recreational lake districts established pursuant to Iowa Code chapter 357E, local units of government, incorporated lake protection or improvement associations or other associations of persons directly affected by the deteriorated condition of lakes and willing to assist financially in alleviating those deteriorated conditions.

*"Plan"* means a plan for lake and watershed restoration, rehabilitation or enhancement that prescribes specific measures, judged feasible and cost-effective, and endorsed by the department.

*"Public lake"* or *"lake"* means a natural water body or impoundment within the boundaries of the state that is accessible to the public by way of contiguous public lands or easements giving public access and does not include federal flood control impoundments.

*"Study"* means a lake diagnostic feasibility study of a methodology and design approved by the department.

**30.14(3)** *Availability of funding and application procedures.* Funding appropriated by the legislature for this program shall be available for grants to local project sponsors. Application for funding shall be made in a format and on a date announced by the department.

**30.14(4)** *Project review, selection and approval.* Applications for funding shall be reviewed by the committee established pursuant to rule 30.7(452A). The committee shall make recommendations to the director for project funding. Projects in which the state grant exceeds $25,000 shall be presented to the natural resource commission for approval.

**30.14(5)** *Cost-share provisions.* Local project sponsors shall match each state dollar provided from this program with one dollar of local project money raised. Federal funds, other nonstate public funds, in-kind contributions and private funds raised by local project sponsors may be combined to meet the local match requirement, subject to approval of the department.

**30.14(6)** *Eligible projects.* Projects eligible for funding include studies of public lakes that include gathering data on the lake, its drainage basin, sources of pollution or nutrients, or other information necessary to determine the causes of degradation and remedial courses of action to prevent continued degradation or to determine potential causes of degradation and preventive courses of action. Preparation of a lake protection and rehabilitation plan developed under the direction of the department, lake dredging, erosion control and land acquisition related to dredging are also eligible for funding.

**30.14(7)** *Retroactivity.* Expenses and activities related to diagnostic feasibility studies occurring prior to the effective date of these rules may be eligible for funding if they are part of a project approved for funding and if the expenses and activities were necessary to record data or monitor lake conditions that are affected by seasonal changes or other natural cycles.

**30.14(8)** *Project agreements and disbursement of funds.* Upon approval of grant projects, the department and local project sponsor shall enter a project agreement on a form prescribed by the

department. The duration, amount of funding and timing of disbursement of grant funds shall be stipulated in the agreement.

These rules are intended to implement Iowa Code section 452A.79.

**571—30.15** to **30.50** Reserved.

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:

*"Advisory committee"* means the water trails advisory committee.

*"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, which 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 other department staff members appointed by the director, and two representatives 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, counties and nonprofit organizations in the state of Iowa to develop water trails eligible for designation 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 herein and appropriate river management through the design and spacing of accesses. At the same time, the program shall discourage unnecessary impacts to natural resources through construction. Water trails development program projects may be eligible to become designated water trails, as determined by the department, and may be eligible for inclusion in the department's marketing materials.

**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. Low-head dam removal and modification projects, when possible, shall enhance or restore ecological and recreational functions of rivers, including but not limited to fish passage, aquatic habitat, and navigation.

**571—30.54(455A,461A,462A) Announcement of funding opportunity.** The coordinator shall announce, at least annually, 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. Not more than quarterly, the department shall provide for additional application cycles if additional funds are made available or otherwise become available.

**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)** *Maintenance and ownership.* The sponsor will assume the overall maintenance of the integrity of the project or shall otherwise make agreements with landowners and other interested parties for such long-term maintenance as may be required.

**30.55(2)** *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(3)** *Resource impacts.* The sponsor will install safeguards and otherwise ensure that the proposed project will have minimum or negligible impacts on natural resources.

**30.55(4)** *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 an extension from the department to be eligible for funds beyond the original time period for completion.

**30.55(5)** *Reports.* The sponsor shall be responsible for the filing of a midterm report about the status of the project. The report shall include a description of funds expended and any issues encountered or problems that may delay or otherwise cause the project not to be completed. The sponsor shall submit a final report, which shall include the complete budget outlay for the completed project; samples of the completed project, if applicable; and a narrative of the project.

**30.55(6)** *Expenditures.* The sponsor shall expend all funds in accordance with the sponsor's governance documents, which may include applicable provisions of the Code of Iowa.

**30.55(7)** *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(8)** *Grant amendments.* For any deviation from the project outlined in the original application, the sponsor must receive approval from the coordinator in advance via electronic mail or in writing.

**30.55(9)** *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(10)** *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 term of a lease, management agreement, or easement must be commensurate with the life expectancy of the proposed improvements.

**571—30.56(455A,461A,462A) Application procedures.** For proposals to be considered for funding, the sponsor shall submit them in the following manner:

**30.56(1)** The sponsor will submit an application on the forms provided by the department postmarked by the date provided in the grant opportunity announcement. The forms shall include in the project narrative a statement of grounds for eligibility.

**30.56(2)** The sponsor will support any claim of cost share through a signed letter from the organization providing the cost share.

**571—30.57(455A,461A,462A) Proposal evaluation.** Proposals will be evaluated by the scoring committee. The scoring committee shall evaluate both water trails development program proposals and low-head dam public hazard program proposals.

**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 and to nonprofit organizations recognized and incorporated pursuant to the laws of Iowa.

**30.58(2)** *Low-head dam public hazard program.* The low-head dam public hazard program is available to dam owners, including counties, cities, state agencies, cooperatives, 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 to determine whether the projects will achieve, or achieve progress related to, the goal of creating water trails that may ultimately be eligible for designation on navigable waters in the state of Iowa. The following types of projects may be eligible:

*a. Accesses.* Construction of low-impact water access points or other conveyances by which recreational users are provided a means of legally placing vessels in the water and removing them.

*b. Land acquisition for water trail development.* Purchases of easements or fee title lands that will be used for water trail navigation, such as access, portage, camping, or other uses related to navigation on a water trail.

*c. Dam warning signage.* Warning signs, supporting structures, and navigational aids such as buoys at and near low-head dams.

*d. Navigation and interpretive signage.* Various water trail signs and markers, as needed, to instruct recreational users about safe uses, regulation of access areas, and surrounding area characteristics.

*e. Portages.* Construction of portage trails where a portage would aid navigation or around dangerous water areas, such as dams, unnavigable waters, or any other sections of water that are potentially dangerous or life-threatening.

*f. Related construction and development.* Construction and development of items related to water trail navigation, including dam modification/removal; amenities such as access roads or parking areas, canoe racks or bike racks for shuttling purposes, and restrooms, picnic areas, and campsites that are easily accessible from waterways of primary use by water travelers; and contracted costs of developing any of the water trails navigational amenities listed. Direct labor costs to the sponsor may count toward in-kind match according to prevailing local wages, up to $10.50 per hour.

*g. Promotion.* Informational publications of water trails for public access and online materials available to the public.

*h. Education.* Education projects related to water safety and appropriate etiquette, with a primary focus on water trails recreation.

*i. Materials and equipment.* Actual material cost of trail maintenance tools, gravel, fencing supplies, gates, bridges, culverts, riprap, and other materials necessary for trail, portage and access maintenance.

**30.59(2)** *Low-head dam public hazard program.* The scoring committee will evaluate proposals for projects that enhance safety at low-head dams on or adjacent to navigable waters in Iowa. The scoring committee will evaluate the following three categories of proposals:

*a. Small projects.* Small projects shall include proposal requests of up to $20,000. Eligible projects for consideration for award as small projects shall include: warning signage and supporting infrastructure; feasibility, environmental, or preliminary design or engineering studies related to removal of hazardous structures; and construction costs related to portage trails and modification or removal of hazardous dams.

*b. Medium-sized projects.* Medium-sized projects shall include proposal requests of $20,001 to $50,000. Eligible projects for consideration of award as medium-sized projects shall include: warning signage and supporting infrastructure; and construction and engineering costs related to portage trails and modification or removal of hazardous dams.

*c. Large projects.* Large projects shall include proposal requests of more than $50,000. Eligible projects for consideration of award as large projects shall include construction and engineering costs related to modification or removal of hazardous dams.

**571—30.60(455A,461A,462A) Cost-share requirements.**

**30.60(1)** *Water trails development program.* Grant proposals for water trails development projects do not require cost share; however, cost share is strongly encouraged through the selection criteria. Any claim of cost share shall be supported through a signed letter from the organization providing the cost share.

**30.60(2)** *Low-head dam public hazard program.* Proposals requesting funds to be used for warning signs, supporting structures, and navigational aids such as buoys at and near low-head dams shall receive priority and shall be selected pursuant to the dam owner's contribution of at least 20 cents for every 80 cents awarded by the department. For the remainder of funds, proposals for other low-head dam public hazard projects shall provide at least 50 percent of the funds required to complete small, medium-sized, and large projects. Cost-share funds may include local, private, federal or other state funds. Any claim of cost share required by this subrule shall be supported through a signed letter from the organization providing the cost share. The department strongly encourages sponsors to provide more cost share than is required by these rules, and the scoring committee will provide additional consideration to those proposals that exceed cost-share requirements.

**571—30.61(455A,461A,462A) Evaluation criteria.**

**30.61(1)** *Water trails development program.*

*a.* The scoring committee shall evaluate grant proposals for water trails development program projects based on the following criteria:

(1) Feasibility of the proposed project;

(2) Level of private resources or local resources or both available to the project; and

(3) The project's contribution to developing a designated water trail or designated wilderness water trail.

*b.* The scoring committee shall publish its ranking system, which shall be based on the criteria described above, with the application forms. The department shall post this ranking system on its Web site, www.iowadnr.gov, at least 30 days prior to proposal due dates.

*c.* Designated water trails.

(1) For purposes of this rule, designated water trails shall include those bodies of water with the following minimum treatment:

1. Provide signs to users about possible dangers and portages;

2. Possess adequate portage around obstructions and dams, or have modified obstructions and dams to make them safe to navigate, or ensure that the water trail begins or ends a safe distance upstream and downstream from the obstruction or dam;

3. Have accesses spaced and developed appropriately to the natural resource integrity of the water body from public roadways to the water trails;

4. Provide periodic kiosks with information for users;

5. Identify access to camping, lodging or other overnight accommodations; and

6. Have adequate promotion through maps, brochures and other media, which include information about the access points, difficult areas, distance between accesses, nearby cities, ADA amenity information, safety information, and other information related to use of the water trail.

(2) For purposes of this rule, designated wilderness water trails, because they are located in areas of special scenic, ecological, geological, habitat or wildlife value, shall be a type of designated water trail that encourages only low-impact human uses and keeps signage and accesses to a minimum, but still provides critical information and access.

**30.61(2)** *Low-head dam public hazard program.* The scoring committee shall consider the following criteria when evaluating cost-share proposals for low-head dam public hazard program projects:

*a.* Improvements to public safety;

*b.* Demonstrated beneficial impacts to the overall stream health, fish migration and habitat, aesthetics, and recreational impacts; and

*c.* Contribution of private resources or local resources or both beyond the minimum requirements provided by these rules.

**571—30.62(455A,461A,462A) Disbursement of awards.**

**30.62(1)** *Water trails development program.* Grants for water trails development projects will be announced not later than 90 days after the grant proposals are due. The earliest disbursement date is July 1 of the following state fiscal year.

**30.62(2)** *Low-head dam public hazard program.* Grants for low-head dam public hazard projects will be announced not later than 90 days after the grant proposals are due. All funds shall be obligated not later than July 1 of the next fiscal year.

**571—30.63(455A,461A,462A) Water trails advisory committee.** The advisory committee shall provide input to the water trails development program and the low-head dam public hazard program. The advisory committee appointed by the director shall be comprised of a minimum of six members of the water recreation community, including canoe and kayak enthusiasts and club leaders, interested conservation associations, canoe and kayak livery owners, and county conservation board staff in Iowa. Members of the advisory committee shall serve for two years.

The meetings of the advisory committee shall be held at least four times per calendar year and shall be arranged by the coordinator. The advisory committee will provide expertise to the scoring committee and assist the department in the development of any water trails or low-head dam public hazard master planning that the department may undertake.

These rules are intended to implement Iowa Code chapters 455A, 461A, and 462A and 2008 Iowa Acts, Senate File 2380 and House File 2700.

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# CHAPTER 31
# PUBLICLY OWNED LAKES PROGRAM
[Prior to 12/31/86, Conservation Commission[290] Ch 76]

**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 and maintain a priority list of watersheds above publicly owned lakes and reservoirs where private landowners are eligible to receive cost-share funding of up to 75 percent of the cost of approved permanent soil and water conservation practices. Funds for these practices are set aside in appropriations to the department of agriculture and land stewardship, division of soil conservation.

**571—31.2(456A) Definitions.**

*"Commission"* means the natural resource commission.

*"Department"* means the department of natural resources.

*"Priority list for lake restoration"* means the list of lakes that is developed by the department based on feasibility for restoration funding pursuant to Iowa Code section 456A.33B.

*"Program"* means the publicly owned lakes program.

*"Publicly owned lake"* means any constructed or natural lake having a watershed acreage-to-lake surface area ratio of less than 80 to 1 and owned by an Iowa county or municipal government or by the state of Iowa.

*"Sediment delivery calculator"* means a formula for calculating the sediment delivery reduction from proposed or constructed best management practices by comparing known preconstruction rates of sediment delivery to proposed postconstruction rates of sediment delivery based on models developed and maintained by the department.

*"Soil and water conservation district"* means a governmental subdivision of the state as set forth in Iowa Code section 161A.3.

*"Watershed"* means those lands that naturally drain into a publicly owned lake.

*"Watershed planning protocol"* means a planning process developed and published by the department to assist soil and water conservation districts in developing watershed plans and projects that will improve water quality in lakes and streams.

**571—31.3(456A) Priority of watersheds.** The commission shall annually establish a priority list of watersheds above publicly owned lakes. This list shall take into account the priority list for lake restoration so as best to protect and enhance fish and wildlife habitat, public recreation and the natural environment and the public's investment therein and to increase community commitment to watershed health, with the financial resources available.

**571—31.4(456A) Application.** To apply for the program, an applicant must meet the following conditions and requirements:

**31.4(1)** *Eligible applicant.* An applicant must be a soil and water conservation district. When a watershed is located in more than one county, applications must be submitted jointly by all soil and water conservation districts in which that watershed is located.

**31.4(2)** *Application period.* Applications shall be submitted annually, in writing, to the department of agriculture and land stewardship, division of soil conservation, no later than April 1. The division of soil conservation will forward applications to the department by April 15 for eligibility beginning the following July 1 and ending the following June 30.

**31.4(3)** *Content of application.* The following shall be included in the application:

*a.* A map of the watershed identifying the sources of significant sediment delivery to the lake.

*b.* Documentation of the existence of a watershed plan that targets significant sources of sediment delivery to the lake. All applications submitted after April 1, 2010, must include documentation of the existence of a watershed plan based on the watershed planning protocol.

**31.4(4)** *Renewal application.* Renewal applications must be submitted for continued program eligibility and must include the same information required by subrule 31.4(3). Renewal applications

shall be submitted annually, in writing, to the department of agriculture and land stewardship, division of soil conservation, no later than April 1. The division of soil conservation will forward renewal applications to the department by April 15 for eligibility beginning the following July 1 and ending the following June 30. The renewal application must include a report of any changes to the watershed plan, the practices completed during the most recent period of program eligibility with estimates of the reduced delivery of eroded sediment using the sediment delivery calculator, and the projected practices planned to be completed during the following year. Renewal applications are not guaranteed funding and are subject to review and approval by the department.

**31.4(5)** *Newly constructed lakes.* Applications may be submitted for watersheds of proposed publicly owned lakes, provided the publicly owned lake is listed as a part of a priority watershed.

**571—31.5(456A) Application review.** The department will review applications based on compliance with application requirements, adequacy of watershed plans to reduce the delivery of sediment to the publicly owned lake as demonstrated by the use of the sediment delivery calculator, presence on the priority list for lake restoration, and available funding.

**571—31.6(456A) Commission approvals.** All publicly owned lakes eligible under the program must be approved by the commission.

These rules are intended to implement Iowa Code section 456A.33A.

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# CHAPTER 32
# PRIVATE OPEN SPACE LANDS

**571—32.1(9H) Applicability.** This chapter defines the private natural open space heritage exemption for agricultural land acquired or obtained by authorized farm corporations or trusts. Iowa Code section 9H.5 exempts lands held or acquired and maintained to protect significant elements of the state's natural open space heritage from the 1,500-acre restriction placed on such entities otherwise provided by that section.

**571—32.2(9H) Definition.** "Natural open space land" referred to in Iowa Code section 9H.5 means:

**32.2(1)** Areas which have been designated as tax exempt under Iowa Code subsections 427.1(33) (impoundment structures), 427.1(36) (natural conservation or wildlife areas), 427.1(37) (native prairie), 427.1(38) (wildlife habitat), or Iowa Code chapter 427C (forest reservations), as long as the area is maintained for the exempt purpose.

**32.2(2)** Dedicated preserves under Iowa Code chapter 465C.

**32.2(3)** Areas which have been designated as containing historical or cultural value, pursuant to Iowa Code chapter 303, or as significant archaeological land, pursuant to Iowa Code chapter 263B, as long as the area is maintained for the designated purpose.

**32.2(4)** Areas which have been certified or otherwise approved under 571—Chapter 21, "Agricultural Lease Program"; Chapter 22, "Wildlife Habitat on Private Lands Promotion Program"; Chapter 23, "Wildlife Habitat Promotion With Local Entities Program"; Chapter 25, "Certification of Land as Native Prairie or Wildlife Habitat"; or Chapter 33, "Resource Enhancement and Protection Program: County, City and Private Open Spaces Grant Programs," as long as the area is maintained for the approved purpose.

**32.2(5)** Areas which meet the criteria specified in statute or rule for the specified exemption or purpose described above, but for which exemption or approval has not been obtained or sought under those provisions, and other areas which are deemed by the director to protect significant elements of the state's natural open space heritage. Application for exemption under this subrule shall be made in writing and shall state all facts and reasons supporting a finding that the area meets the above criteria. Denial of the application may be appealed to the natural resource commission. It is the intent of these rules that if exemption or approval has been granted under the programs specified in subrules 32.2(2) and 32.2(3), additional approval pursuant to this chapter is not necessary and will not be given.

These rules are intended to implement Iowa Code section 9H.5.

[Filed 6/8/90, Notice 3/21/90—published 6/27/90, effective 8/15/90]

# CHAPTER 33
# RESOURCE ENHANCEMENT AND PROTECTION PROGRAM: COUNTY, CITY AND PRIVATE OPEN SPACES GRANT PROGRAMS

## Part 1
## 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, and the city park and open spaces account of the resource enhancement and protection fund.

**571—33.2(455A) Resource enhancement policy.** The resource enhancement and protection 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) Definitions.**

*"County resource enhancement committee"* means the county resource enhancement committee created in 1989 Iowa Acts, chapter 236, section 7 [Iowa Code section 455A.20].

*"Department"* means the department of natural resources created in Iowa Code section 455A.2.

*"Director"* means the director of the department of natural resources.

*"Natural resource commission"* means the natural resource commission of the department created in Iowa Code section 455A.5.

*"Open spaces"* means those natural or cultural resource areas that contain natural vegetation, fish, 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) Restrictions.** Funds allocated to cities and counties under this chapter shall not be used for single or multipurpose athletic fields, baseball or softball diamonds, tennis courts, golf courses, swimming pools, and other group or organized sport facilities.

**571—33.5(455A) Grant applications, general procedures.**

**33.5(1)** Any project submitted from a city or county for grant consideration or for the private cost-sharing program must first have been reviewed and commented on by the county resource enhancement committee from the county in which the project is located. Application must include documentation of that review and a summary of any comments made by the committee.

**33.5(2)** Applications for all grant programs shall be made on forms provided by the department. An original and five copies shall be submitted by deadlines as specified in subrule 33.5(4) of this chapter or as otherwise published by the department.

**33.5(3)** Applications shall provide sufficient detail as to clearly describe the scope of the project. Any application which 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.

**33.5(4)** Application deadlines are the same for county, city, and private open space grant programs. Applications will be reviewed and projects selected for funding one time each year in September. Applications must be received in acceptable form by the department by the close of business on the fifteenth day of August. Upon a 60-day notice to potential applicants, the department may schedule additional review and selection periods to expedite the distribution of grant funds.

**33.5(5)** 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.

**571—33.6(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—33.7(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—33.8(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—33.9(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—33.10(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—33.11(455A) Commission review and approval.** The director will present the recommendations of the appropriate project review and selection committee in recommended funding order to the natural resource commission at its next meeting following the ranking of projects for funding. The commission may approve or disapprove funding for any project on the list. The commission may change the order of the list. Reasons for change or rejection of any recommended project must be included in the motion to change the order of the list or reject any project.

**571—33.12(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—33.13(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—33.14(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 which 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 which involve a change in the project purpose also must be approved by the commission.

**571—33.15(455A) Payments.** Ninety percent of approved grant amounts may be paid to project sponsors when requested, but not earlier than start-up of the project. Ten percent of the grant total shall be withheld by the department pending successful completion and final inspection, or until any irregularities discovered as a result of a final site inspection have been resolved.

**571—33.16(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—33.17(455A) Penalties.** Whenever any property, real or personal, acquired or developed with resource enhancement and protection 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 of 33.14(455A). The department shall notify the grantee of any such violation.

**33.17(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 resource enhancement and protection fund from which they were originally apportioned. In the case of diversion of property acquired with resource enhancement and protection 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 funds in the amount of the original purchase price of the property. 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.

**33.17(2)** *Land disposal.* Whenever the department, and, if a city or county, the grantee, determine that land acquired or developed with resource enhancement and protection 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 all grant funds shall be returned to the state 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.

**33.17(3)** *Ineligibility.* 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 commission.

**571—33.18(455A)** Rescinded IAB 6/4/97, effective 7/9/97.

**571—33.19(455A) Property tax reimbursement.** Political subdivisions of the state shall be reimbursed for property tax dollars lost to open space acquisitions made under the private cost-sharing program specified in part 4 of these rules based on the reimbursement formula provided for in Iowa Code section 465A.4.

**571—33.20(455A) Public hearing.** Any project in excess of $2 million must be the subject of a public hearing in the area of the state affected by the project before funds can be obligated to the project.

**571—33.21(455A) Conflict of interest.** If a project is submitted to a review and selection committee by a city, conservation board or private conservation interests, one of whose members or employees is on the review and selection committee, that individual shall not participate in discussion on and shall not vote on that particular project.

**571—33.22(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 571—33.15(455A), 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 fliers 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.

**33.22(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.

**33.22(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.

**33.22(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.

**571—33.23** to **33.29** Reserved.

Part 2
COUNTY GRANTS

**571—33.30(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 33.4(455A).

**33.30(1)** *Allocation of funds.* The first $350,000 in the resource enhancement and protection fund is allocated annually to the conservation education board and 1 percent of the revenues to the fund are allocated to the administration fund. Twenty percent of funds remaining after that allocation shall be allocated to the county conservation account. That 20 percent shall be distributed to counties as follows:

*a.* Thirty percent equally to each county

*b.* Thirty percent based on county population

*c.* Forty percent on a competitive grant basis

In determining the amount to be allocated to each county based on population, the department will use the most current census data available from the department of economic development.

**33.30(2)** *Expenditure guidelines.* All expenditures shall be in accord with the policy stated in 33.2(455A) and subject to the restrictions stated in 33.4(455A). Expenditure of funds for personnel costs from 33.30(1)*"a"* and *"b"* is allowable, but only when personnel are clearly directed toward the purpose and policy of the resource enhancement and protection program. No personnel costs are allowable under 33.30(1)*"c"* grant program.

Up to 20 percent of a total project's cost under 33.30(1)*"c"* may be used to cover costs of engineering and design work or other consultant fees directly associated with the project.

**33.30(3)** *Project planning and review committee.* 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; one member selected every three years by a majority vote of the director's appointees. 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.

**33.30(4)** *Project selection criteria.* Under the competitive grants program, a project planning and review committee shall establish criteria and scoring systems to be utilized in project evaluation. Criteria and scoring systems must be distributed to all counties at least 90 days prior to project application deadline. Criteria will be reviewed at least annually to determine if amendments are needed. The committee shall evaluate and rank the resource enhancement and protection (REAP) county conservation grant applications, scoring each criterion from 1 to 10, low to high, and using the following multipliers for each criterion:

*a.* The committee shall use a multiplier of four for a demonstrated relationship to the state comprehensive outdoor recreation plan, the Iowa open spaces protection plan, the county resource enhancement plan, and other relevant local, state and federal plans.

*b.* The committee shall use a multiplier of three for the quality of the site or the project, or both.

(1) Quality of site. For land acquisition projects, the committee shall consider the following characteristics:

1. Level of significance. Relative rarity of the natural resources found on the project site, including but not limited to native vegetation, documented presence of species of greatest conservation need as defined by the Iowa Wildlife Action Plan developed by the department, which may be amended from time to time, or other uncommonly occurring but native resources.

2. Resource representation. Quality of the project site, including but not limited to the size and diversity of the project area and the vegetation and wildlife it supports.

3. Relation to public land. Proximity to existing wildlife management areas, existing parks and other public recreation areas, or other greenbelt areas already under public ownership and management.

(2) Quality of project. For construction projects, the committee shall consider plans that demonstrate the highest and best site-specific quality of design, including projects that use materials which incorporate energy savings and adhere to sustainable building principles, including waste minimizations and material reuse; plans for improvements that enhance the restoration or expansion of Iowa's natural resources or that use development principles which benefit the natural ecology of the proposed area; plans that include innovations or construction methods in the design and development of the project; and projects whose actual design and construction will exceed commonly accepted design and construction standards.

*c.* The committee shall use a multiplier of two for each of the following:

(1) Multiple benefits. The project provides the greatest number of public benefits/services to meet the public's diverse outdoor recreation interests.

(2) Public need. Demonstrated need for the project; increased public use of the project area as a result of the award, as documented through surveys and other testing methods; letters of support; and planning processes that consider social, demographic, ecological and economic considerations.

(3) Urgency of project. Specific factors or immediate threats to the project area that constitute urgency for acquisition or development, including but not limited to urban expansion, residential development, agricultural activities or clearing.

(4) Unique project characteristics. Documented relative rarity or uniqueness of the natural, cultural and historical resources found on the project site, including but not limited to the presence of rare or unique plant and animal species; rare, unique or protected ecosystems; and historical markers and other historically or culturally significant finds.

*d.* The committee shall use a multiplier of one for each of the following:

(1) Communication plan. Project sponsor's effort to inform and advise constituents and users about the importance of the proposed project and the plans to promote the proposed project to expected user groups.

(2) Economic benefit. Estimate of positive impact on local tourism, existing businesses, encouragement of new businesses, and values to nearby property owners.

**33.30(5)** *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¢ per $1000 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; a schedule of expenditures and staffing. A copy of this certification must be filed with the director. Resource enhancement and protection program funds received shall not reduce or replace county tax revenues appropriated for county conservation purposes.

*a.* The term "county conservation purposes" includes and is 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, rest room 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.

*b.* Reserved.

**33.30(6)** *Certification procedures.* The annual certification that a county is dedicating property tax revenue at least equal to 22¢ per $1000 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.

**33.30(7)** *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.

**33.30(8)** *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 resource enhancement and protection 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 rule 33.4(455A). 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¢ per $1000 of assessed taxable property.

**33.30(9)** *Grant application schedule.* Rescinded IAB 12/26/90, effective 1/30/91.

**571—33.31** to **33.39** Reserved.

Part 3
CITY GRANTS

**571—33.40(455A) Competitive grants to cities.** Fifteen percent of available funds in the resource enhancement and protection 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 percent 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:

Cities of less than 2,000

Cities between 2,000 and 25,000

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.

**33.40(1)** *Eligible projects.* Grants for up to 100 percent of project costs made to cities may be used for the acquisition, establishment and maintenance of natural parks, preserves and open spaces.

Grants may include expenditures for multipurpose trails, rest room facilities, shelter houses and picnic facilities, museums, parks, preserves, parkways, city forests, city wildlife areas as well as other open space-oriented acquisition and development projects, subject to the restrictions in rule 33.4(455A).

**33.40(2)** *Eligible sponsors.* Any incorporated city or town in the state may make application for a grant.

**33.40(3)** *Grant ceilings.* Incorporated cities and towns are eligible to receive annual grants from the resource enhancement and protection 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.

**33.40(4)** *Review and selection committee.* 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 league of Iowa 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. The committee shall elect its own chairperson from its members. Members shall serve three-year staggered terms.

**33.40(5)** *Project selection criteria.* The committee shall evaluate and rank the resource enhancement and protection (REAP) city grant applications, scoring each criterion from 1 to 10, low to high, and using the following multipliers for each criterion:

*a.* The committee shall use a multiplier of four for the relationship to relevant regional and statewide programs based on the demonstrated relationship to the state comprehensive outdoor

recreation plan, the Iowa open spaces protection plan, the county resource enhancement plan, and other relevant local, state and federal plans.

*b.* The committee shall use a multiplier of three for the quality of the site or the project, or both:

(1) Quality of site for land acquisition projects. The committee shall consider the following characteristics:

1. Level of significance. Relative rarity of the natural resources found on the project site, including but not limited to native vegetation, the documented presence of species of greatest conservation need as defined by the Iowa Wildlife Action Plan developed by the department, which may be amended from time to time, or other uncommonly occurring but native resources.

2. Resource representation. The quality of the project site, including but not limited to the size and diversity of the project area and the vegetation and wildlife it supports.

3. Level of threat. Specific factors or immediate threats to the project area that constitute urgency for acquisition and development, including but not limited to urban expansion, residential development, agricultural activities, or clearing.

4. Relation to public land. Proximity to existing wildlife management areas, existing parks, other public recreation areas or other greenbelt areas already under public ownership and management.

(2) Quality of project. For construction projects, the committee shall consider plans that demonstrate the highest and best site-specific quality of design, including projects that use materials which incorporate energy savings and adhere to sustainable building principles, including waste minimizations and material reuse; plans for improvements that enhance the restoration or expansion of Iowa's natural resources or that use development principles which benefit the natural ecology of the proposed area; plans that include innovations or construction methods in the design and development of the project; and projects whose actual design and construction will exceed commonly accepted design and construction standards.

*c.* The committee shall use a multiplier of two for each of the following:

(1) Environmental benefits. Projects that demonstrate a benefit to the surrounding environment, including but not limited to incorporation of land improvements that may have a positive impact on the larger ecosystem, such as timber or prairie establishment or wetland or filter strip development.

(2) Public benefit. A realistic estimate of the number of users of the project area and consideration of secondary benefits such as impacts on local tourism, surrounding businesses and adjacent property owners.

(3) Local support. Demonstrated need for the project and increased public use of the project area as a result of the award, as documented through surveys and other testing methods, letters of support, and planning processes that consider social, demographic, ecological and economic considerations.

*d.* The committee shall use a multiplier of one for a communication plan that identifies the project sponsor's effort to inform and advise constituents and users about the importance of the proposed project and plans to promote the proposed project to expected user groups.

**33.40(6)** *Grant application schedule.* Rescinded IAB 12/26/90, effective 1/30/91.

**571—33.41** to **33.49** Reserved.

## Part 4
## PRIVATE GRANTS

**571—33.50(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.

**33.50(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 in the department of natural resources publication "Land Acquisition Programs and Priorities."

**33.50(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.

**33.50(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.

**33.50(4)** *Project review and selection committee.* The director shall appoint a committee to review and score projects. The committee shall include the following: three persons representing the private sector selected from a pool of potential names as submitted 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 forestry bureau and parks and preserves bureau or their designees. The committee shall elect its own chairperson from its members. The director shall request a list of candidates for the private sector members from groups eligible to participate in this program.

The committee will report to the director the order in which proposed projects were ranked using criteria as specified in 33.50(5).

**33.50(5)** *Project selection criteria.* The committee shall evaluate and rank the resource enhancement and protection (REAP) private cost-share grant applications, scoring each criterion from 1 to 10, low to high, and using the following multipliers for each criterion:

*a.* The committee shall use a multiplier of three for each of the following:

(1) Level of significance. The relative rarity of the natural resources found on the project site, including but not limited to native vegetation and the documented presence of species of greatest conservation need as defined by the Iowa Wildlife Action Plan developed by the department, which may be amended from time to time, or other uncommonly occurring but native resources.

(2) Resource representation. The quality of the project site, including but not limited to the size and diversity of the project area and the vegetation and wildlife it supports.

(3) Level of threat. Specific factors and immediate threats to the project area that constitute urgency for acquisition and development, including but not limited to urban expansion, residential development, agricultural activities, or clearing.

(4) Relation to public land. The proximity to existing wildlife management areas, existing parks, and other public recreation or greenbelt areas already under public ownership and management.

(5) Relationship to relevant regional and statewide programs. A demonstrated relationship to the state comprehensive outdoor recreation plan, the Iowa open spaces protection plan, or the county resource enhancement plan. The committee may evaluate other relevant local, state and federal plans at its discretion.

*b.* The committee shall use a multiplier of two for each of the following:

(1) Rare or unique species communities. The documented presence of species of greatest conservation need as defined by the Iowa Wildlife Action Plan developed by the department, which may be amended from time to time, in addition to subparagraph 33.50(5)*"a"*(1).

(2) Public benefits. A demonstrated benefit to the public, including but not limited to expanded recreational or educational opportunities and incorporation of land improvements that may have a positive impact on the ecosystem, such as bank stabilization, wetland development, or filter strips.

*c.* The committee shall use a multiplier of one for each of the following:

(1) Tourism and economic development potential. Impact on local tourism, including any enhancements to the economy in the vicinity of the project.

(2) Geographic distribution. Project site is located in a city or county that has not received a REAP grant.

(3) Multiple use potential. Project site provides more than one public use, e.g., the project provides hunting, fishing and hiking opportunities to the public.

(4) Additional funds. Level of funds obligated in excess of the minimum cost-share requirements.

(5) Quality of public communication plan. Project sponsor's effort to inform and advise constituents and users about the importance of the proposed project and plans to promote the proposed project to expected user groups.

**33.50(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 which may impose use restrictions or special tax assessments on the area, or lack of conformance with priorities established in the department's "Land Acquisition Programs and Priorities" document. Examples of use restrictions can include prohibitions on hunting, trapping, timber harvest, vegetation management, and easements which affect the range of public use and activities which could otherwise be allowed.

**33.50(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.

**33.50(8)** *Project submission.* Rescinded IAB 12/26/90, effective 1/30/91.

**33.50(9)** *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 commission 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.

These rules are intended to implement Iowa Code chapter 455A.

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# CHAPTER 34
# COMMUNITY FORESTRY
# GRANT PROGRAM (CFGP)

**571—34.1(461A) Purpose.** The purpose of this chapter is to define procedures for cost sharing between state and local public agencies or volunteer organizations to assist them in developing comprehensive community street and park tree programs or to establish community tree planting projects on public lands that benefit the citizens of the state of Iowa.

**571—34.2(461A) Definitions.**

*"Administrator"* means the administrator of the forestry division of the department, also known as the state forester.

*"CFGP"* means the community forestry grant program.

*"Community"* means an incorporated city, town or village within the state of Iowa.

*"Department"* means the Iowa department of natural resources.

*"Director"* means the director of the Iowa department of natural resources.

*"Division"* means the forestry division of the Iowa department of natural resources.

*"Iowa urban and community forestry council"* means the group of professionals and volunteer leaders selected by the forestry division administrator to advise the division on urban and community forestry programs, also known as the council.

*"Organization"* means governmental or nongovernmental agencies, formal groups such as service clubs and other volunteer groups.

*"Public lands"* means land owned by state, county or local governments.

*"Urban and community forestry"* means the planning, planting and maintenance of trees in communities or public recreation areas.

**571—34.3(461A) Availability of funds.** Funds to institute the CFGP program may be derived through federal allocations pursuant to Section 9 of the Cooperative Forestry Assistance Act (16 U.S.C. 2105), from state legislative allocations and other sources.

**571—34.4(461A) Eligibility of forestry development projects.** Forestry development grants (maximum $5,000) may include, but are not necessarily limited to, the following:

1. Hiring a new full- or part-time city forester.
2. Internships for forestry, horticulture or landscape architect to perform community forestry work.
3. Completing a 100 percent street and park tree inventory.
4. City tree ordinance development or revision.
5. City employee or volunteer community forestry training.
6. Development of community forestry master plans.
7. Community forestry youth and adult education programs.
8. City forestry planting site design development.

**571—34.5(461A) Eligibility of community tree planting projects.** A cost-share grant (maximum $5,000) is available for a community or organization for landscape and conservation tree planting projects.

**571—34.6(461A) Projects not eligible.** The following types of projects are not eligible for assistance from the CFGP:

1. Acquisition of land.
2. Replacement of normally allocated local government funds.
3. Any type of development or planting that will not improve public benefits or safety.
4. Projects with a total grant request of less than $500.
5. Any project or project costs incurred prior to notification of the sponsoring agency by the forestry division administrator that a grant has been approved.

**571—34.7(461A) Eligible applicants.** Eligible projects may be submitted by regional or local units of Iowa state, county or city government, local governmental departments, school districts, volunteer organizations and service clubs involved with local urban and community forestry resources. Eligible projects must occur within the state of Iowa.

**571—34.8(461A) Establishing project priorities.** The forestry division administrator shall appoint a minimum three-member ranking committee representing a cross section of the Iowa urban and community forestry council for the purpose of reviewing, establishing priorities for cost sharing and ranking applications for approval by the administrator. This committee will review and rank all proposals received on a competitive basis for demonstrated need, cash match, community involvement, new project, cost effectiveness, meeting Tree City USA requirements, storm damage documentation and other issues pertinent to urban forestry in Iowa.

**571—34.9(461A) Application procedures.** Announcements concerning the application procedures will be issued by the administrator each year. A maximum six-page proposal must be received by the Forestry Division Administrator, Wallace State Office Building, Des Moines, Iowa 50319-0034, no later than 4:30 p.m. on the last working day identified in the announcement. The proposal should briefly describe the eligible applicant and detail project request, total budget, source of match and completion date. For community tree planting projects, an 8″ × 11″ site map must be included in addition to the proposal.

This proposal must be signed by an authorized official of state, regional or local government under whose jurisdiction the project will occur, indicating that the project funds will be spent in accordance with the proposal and all applicable federal and state laws, rules and regulations. The applicant must sign a statement relinquishing the department or the Iowa urban and community forestry council from any liability associated with this project.

**571—34.10(461A) Requirements for funding.** In order to qualify for funding, state, regional or local units of government, school districts, volunteer organizations and service clubs must comply with the following requirements:

**34.10(1)** The project(s) must be on public land within the state of Iowa (for example, streets, boulevards, parks, schools, cemeteries).

**34.10(2)** A $1 for $1 minimum match of requested funds is required.

**34.10(3)** In-kind contributions are allowed for the forestry development projects only if specific for the proposed project. Tree planting projects require cash match $1 for $1 only. All in-kind costs for the forestry development projects must be documented. Allowable in-kind costs include, but are not limited to, the following:

*a.* Volunteer labor (reasonable local rates).

*b.* Value of locally purchased or donated trees to be planted on public areas.

*c.* Value of wood mulch and other tree protective devices (reasonable local rates).

**34.10(4)** Only plant materials, products and services purchased from Iowa firms are eligible for tree planting projects.

**571—34.11(461A) Project agreements.**

**34.11(1)** A cooperative agreement approved by the administrator 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 stated in the grant announcement, unless an extension approved by the administrator is authorized.

**34.11(2)** Cooperative agreements between the department and the local grant recipient 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 administrator before work is commenced or additional costs are incurred.

**571—34.12(461A) Reimbursement procedures.** Financial assistance from the community forestry grant program will 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 must be submitted by the grant recipient on project billing forms provided by the department at the completion of the project.

For forestry development projects and community tree planting projects, grant recipients shall provide documentation as required by the department to substantiate all project expenditures.

Tree planting grant recipient organizations must be willing to sign a ten-year maintenance agreement for trees planted on public lands before reimbursement of costs is approved.

These rules are intended to implement Iowa Code section 461A.2.

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# 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 department shall administer the fish habitat funds for the purposes as stated in the law at both the state and county levels.

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 shall 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 shall be apportioned to county conservation boards.

**35.2(2)** *Distribution.* After deduction of 5 percent to be held for contingencies, the remaining local share shall be available on an annual basis. The department shall divide fish habitat funds equally among the districts. The districts shall have two years to obligate fish habitat funds once the funds are made available. After two years, the department shall 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 shall not be 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 shall not be eligible for cost sharing unless public fishing is allowed; 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 shall 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" shall be 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 shall 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 shall be reviewed and selected for funding during January of each year. The district designee shall receive an original application and six copies in acceptable form by the close of business on the last business day of November of the previous year for consideration. The district shall forward a copy of all applications to the department's designee by December 15 of the previous year. 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.

**571—35.6(483A) Project review and selection.**

**35.6(1)** *Review and selection committee.* 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. Each district's committee shall determine which grant applications and amendment requests shall be 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.

**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 shall be reviewed only to determine eligibility.

**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 shall be granted only in case of extenuating circumstances.

**571—35.11(483A) Payments.**

**35.11(1)** *Grant amount.* Grant recipients shall 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 as required by the department documentation to substantiate all costs incurred on a project.

**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.

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TITLE IV
*RECREATIONAL VESSEL AND VEHICLE REGISTRATION AND SAFETY*

# CHAPTER 36
# GREEN VALLEY LAKE SPECIAL WATER ACTIVITY RULES

[Prior to 12/31/86, Conservation Commission[290] Ch 26]

**571—36.1(462A) General.** For experimental purposes as provided in chapter 1060, Acts of the Sixty-third General Assembly, these special rules shall apply to Green Valley Lake. [See Iowa Code section 462A.31.]

**571—36.2(462A) Inboard boats.** No inboard boats permitted.

**571—36.3(462A) Racing craft.** No racing-type craft permitted.

**571—36.4(462A) Wake.** For the purposes of these special rules, a wake means "any movement of water created by a vessel which adversely affects the activities of another person who is involved in activities approved for that area or which may adversely affect the natural features of the shoreline."

**571—36.5(462A) Speed.** All boats must maintain a no-wake speed on the entire lake between the hours of sunset and 10:30 p.m., also between 4 a.m. and 10 a.m.

**571—36.6(462A) Hours.** No boating is permitted on the lake between the hours of 10:30 p.m. and 4 a.m.

**571—36.7(462A) Ski zone.** A portion of the west arm of Green Valley Lake shall be designated as a ski zone and shall be marked by controlled area buoys as designated by Iowa's Uniform Waterway Marking System. This designated area shall be referred to as the "ski zone."

**36.7(1)** Water skiing and general boating are permitted in the designated ski zone between 10 a.m. and sunset.

**36.7(2)** All boats must maintain a no-wake speed when outside the ski zone between the hours of 10 a.m. and sunset.

**571—36.8(462A) Traffic pattern.** In the ski zone all boats must keep to the right of the "Center of the Channel" buoys which shall be identified by their black and white stripe design as designated by Iowa's Uniform Waterway Marking System.

**571—36.9(462A) Designated activities in ski zone.** No one shall be permitted in the water in the ski zone except those persons engaged in water skiing or similar activity.

**571—36.10(462A) Designated areas.** No person shall be in the water outside the ski zone except in the designated beach area and in accordance with the park rules.

**571—36.11(462A) Traffic.** All boats in the ski zone not engaged in water skiing or similar activity shall keep out of the general traffic pattern of the boats pulling skiers.

**571—36.12(462A) Lifesaving device.** All persons engaged in water skiing, including the use of surfboard-type devices, shall wear a coast guard-approved lifesaving device.

**571—36.13(462A) Speed.** In the ski zone no boat shall be operated at speeds greater than 5 miles per hour when within 50 feet of another craft or person.

**571—36.14(462A) Distance from shore.** No boat shall be operated within 100 feet of shore at speeds greater than 5 miles per hour.

**571—36.15(462A) Horsepower limitation.** There shall be no limitation on the horsepower of outboard motors on Green Valley Lake.

This rule is intended to implement Iowa Code section 462A.31. [See 63 GA, ch 1060]

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# CHAPTER 37
# BOATING SAFETY EQUIPMENT
[Prior to 12/31/86, Conservation Commission[290] Ch 27]

**571—37.1(462A) Fire extinguishers.** The number and type of fire extinguishers required for motorboats within the state of Iowa are as follows:

**37.1(1)** *Fire extinguishers.* Fire extinguishers shall be a U.S. Coast Guard-approved type as identified in the coast guard publication equipment list (CG-190) by manufacturer's model, number and size, or type bearing the labeling "marine type" by the Underwriters' Laboratories, Inc., which are U.S. Coast Guard-approved as per Federal Register 5, November 1960.

**37.1(2)** *Approved fire extinguishers.* Each fire extinguisher is classified, by letter and number, according to the type of fire it may be expected to extinguish, and the size of the extinguisher. The letter indicates the type of fire ("A" for fires in ordinary combustible materials; "B" for gasoline, oil and grease fires). Extinguishers approved for motorboats are hand-portable, of either B-I or B-II classification.

| Classification (type-size) | Foam (minimum gallons) | Carbon Dioxide (minimum pounds) | Dry Chemical (minimum pounds) |
|---|---|---|---|
| B-I. . . . . | 1¼ | 4 | 2 |
| B-II . . . . . | 2½ | 15 | 10 |

The number of approved extinguishers required depends upon the class (or length) of the motorboat. One B-II extinguisher may be substituted for two B-I extinguishers. When the engine compartment of the motorboat is equipped with a fixed (built-in) extinguishing system of an approved type, one less B-I extinguisher is required.

**37.1(3)** *Fire extinguishers required.*

| Class of motorboat | Without fixed fire extinguisher system in machinery space | With fixed fire extinguisher system in machinery space |
|---|---|---|
| I (less than 16 ft.) | 1 B-I | None |
| II (16 ft. to under 26 ft.) | 1 B-I | None |
| III (26 ft. to under 40 ft.) | 2 B-I or 1 B-II | 1 B-I |
| IV (40 ft. to 65 ft.) | 3 B-I or 1 B-II and 1 B-I | 2 B-I or 1 B-II |

**571—37.2(462A) Flame arrester required.** All motorboat engines, except outboard engines, shall be equipped with an efficient flame arrester, backfire trap or other similar device.

An acceptable flame arrester shall have one of the following markings:

1. U.S. Coast Guard approval number.
2. Complies with UL 1111 per tests by (name of testing facility).
3. Evidence of compliance with the standard shall be indicated by the marking SAE J-1928 with the word MARINE arranged in a suitable manner.

This rule is intended to implement Iowa Code section 462A.3.

**571—37.3** to **37.5** Reserved.

**571—37.6(462A) Lights on vessels.** The following lights shall be required on all vessels.

**37.6(1)** *Vessels at anchor.* A vessel at anchor shall exhibit between the hours of sunset and sunrise:

1. In the forepart, a white light to show 360 degrees around the horizon or one ball; and
2. At or near the stern and at a lower level than the light prescribed in paragraph "1" above, a white light to show 360 degrees around the horizon.

A vessel of less than 50 meters in length may exhibit a white light to show 360 degrees around the horizon instead of the lights prescribed in this subrule.

**37.6(2)** *Vessels not powered by motor or sail.* All vessels not powered by motor or sail and not at anchor shall exhibit a white light to show 360 degrees around the horizon that is visible from at least one mile under clear conditions between the hours of sunset and sunrise when operated on natural lakes, Corps of Engineers impoundments, border rivers excluding border portions of the Big Sioux and Des Moines rivers, and impoundments on inland rivers. If the white light is partially obscured due to the nature of the craft, an additional white light must be shown in sufficient time to prevent collision. When operated on bodies of water other than those listed in this subrule, all vessels not powered by motor or sail and not at anchor shall have in possession a white light to be used when necessary between the hours of sunset and sunrise.

This rule is intended to implement Iowa Code section 462A.3.

**571—37.7(462A) Lighting requirements for sailing vessels.** Vessels of all classes when propelled by sail alone shall exhibit one of the following lighting systems between sunset and sunrise and at all other times required by applicable laws:

**37.7(1)** While underway one of the following lighting systems is acceptable.

*a.* The international lighting system for the applicable class of vessel.

*b.* The combined lantern or separate side lights required for the applicable class of vessel plus a white light so placed as to illuminate the sail so the sail is visible at a distance of at least one-half mile.

**37.7(2)** While at anchor one of the following lighting systems is acceptable.

*a.* A white light which shows all around the horizon (360 degrees).

*b.* An illuminated sail to be visible all around the horizon (360 degrees) at a distance of one-half mile.

This rule is intended to implement Iowa Code section 462A.9.

**571—37.8(462A) Sailing vessels with auxiliary power.** A sailing vessel means any vessel whose sole source of propulsion is the natural element (i.e., wind). A sailing vessel using any auxiliary source of mechanical propulsion is a motorboat and must exhibit the lights required for the applicable class of motorboat.

This rule is intended to implement Iowa Code section 462A.9.

**571—37.9** to **37.12** Reserved.

**571—37.13(462A) Buoyant safety equipment.**

**37.13(1)** Personal flotation devices (PFD) such as life preservers, life belts, ring buoys, or other similar devices shall be United States Coast Guard approved. Registered American Power Boat Association (APBA) drivers shall wear an APBA-certified PFD while in competition or practice related to an APBA-sanctioned event.

**37.13(2)** Except as provided in subrule 37.13(6), no person may use a vessel less than 16 feet in length or a canoe or kayak of any length unless at least one personal flotation device of the following types or their equivalent is on board for each person:

*a.* Type I PFD

*b.* Type II PFD

*c.* Type III PFD

*d.* Type V PFD

**37.13(3)** No person may use a vessel 16 feet or more in length, except a canoe or kayak, unless at least one PFD of the following types or their equivalent is on board for each person:

*a.* Type I PFD

*b.* Type II PFD

*c.* Type III PFD

*d.* Type V PFD

**37.13(4)** No person may use a vessel 16 feet or more in length, except a canoe or kayak, unless at least one Type IV PFD or its equivalent is on board in addition to the PFDs required in subrule 37.13(3).

**37.13(5)** Types of personal flotation devices.

*a.* Type I PFD is a personal flotation device designed to turn an unconscious person from a face-down position in the water to a vertical or slightly backward position as determined by U.S. Coast Guard standards and labeling under CFR title 33 subchapter S part 175 and CFR title 46 subchapter Q part 160, as of July 1, 1979.

*b.* Type II PFD is a personal flotation device designed to turn an unconscious person from a face-down position to a face-up vertical or slightly backward position as determined by U.S. Coast Guard standards and labeling under CFR title 33 subchapter S part 175 and CFR title 46 subchapter Q part 160, as of July 1, 1979.

*c.* Type III PFD is a personal flotation device designed to keep a conscious person in a vertical or slightly backward position as determined by U.S. Coast Guard standards and labeling under CFR title 33 subchapter S part 175 and CFR title 46 subchapter Q part 160, as of July 1, 1979.

*d.* Type IV PFD is a personal flotation device designed to be thrown to a person in the water and not to be worn as determined by U.S. Coast Guard standards and labeling under CFR title 33 subchapter S part 175 and CFR title 46 subchapter Q part 160, as of July 1, 1979.

*e.* Type V PFD is a work vest or special purpose personal flotation device approved by the United States Coast Guard.

**37.13(6)** Exceptions.

*a.* A person using a canoe or kayak that is enclosed by a deck and spray skirt need not comply with subrule 37.13(2) if that person wears a vest-type lifesaving device that:

(1) Has no less than 150 separate permanently inflated air sacs made of not less than 12 mil polyvinylchloride film, and has not less than 13 pounds positive buoyancy in fresh water, if that person weighs more than 90 pounds; or

(2) Has no less than 120 separate permanently inflated air sacs made of not less than 12 mil polyvinylchloride film and has not less than 8½ pounds positive buoyancy in fresh water, if that person weighs 90 pounds or less.

*b.* A Type V PFD may be carried in lieu of any PFD required in 571—subrule 27.13(2) if that Type V PFD is approved by the United States Coast Guard for the activity in which the recreational boat is being used.

**37.13(7)** Nonapproved devices. Any PFD which has a torn or missing strap, punctured flotation bag, waterlogged flotation material, rotted material in straps or webbing or cover, missing laces, missing hardware, envelope torn or perforated, torn stitching or any other condition which impairs the operating efficiency, any PFD on which the U.S. Coast Guard approval tag is no longer easily legible, or any inflatable device which has a discharged or otherwise inoperable gas cartridge shall be deemed as not approved for use on board vessels as equipment required by law.

**37.13(8)** Appropriate sizing. Personal flotation devices carried on board vessels to comply with this regulation shall be of an appropriate size for the person for whom it is intended.

**37.13(9)** Water skis and surfboards. Any person engaged in water skiing, surfboarding, or other similar activity, except for vessels known as windsurfers, shall wear a Type I, II, III or any Type V personal flotation device approved by the U.S. Coast Guard. Inflatable devices are not approved for tow-behind activities. Skiers participating in a tournament or exhibition may be exempted from the personal flotation device requirement if the skiers are wearing wet suits with built-in flotation and granted a specific exemption in the special events permit issued by the natural resource commission. A flotation wet suit may include a full suit (top and bottom) or a form-fitting top as long as the top will float the wearer when air is expelled from the wearer's lungs. A special event may include practice sessions if all practice sessions for the season are listed on the special event application. In that case, the application shall include a specific location, date and time for each practice session.

**37.13(10)** No person shall operate a vessel on any waters of this state under the jurisdiction of the commission, towing a person or persons on water skis, surfboard, or similar device, nor shall any person

engage in water skiing, surfboarding, or similar activity at any time between the hours of one-half hour after sunset to sunrise.

**37.13(11)** Personal watercraft. All operators and passengers of personal watercraft must wear a U.S. Coast Guard-approved Type I, II, III, or V personal flotation device. Inflatable personal flotation devices are not approved for use on personal watercraft.

This rule is intended to implement Iowa Code sections 462A.9, 462A.15, 462A.16 and 456A.24.

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# CHAPTER 38
# BOAT REGISTRATION AND NUMBERING
[Prior to 12/31/86, Conservation Commission[290] Ch 28]

**571—38.1(462A) Emblem placed.** The current registration emblem shall be placed four inches toward the stern of the registration number on each side of the bow of the vessel. On the port side the emblem will be four inches behind the registration number, and on the starboard side four inches in front of the registration number.

On sailboats, when the registration number is placed on the mast as permitted by 571—paragraph 38.19(1)*"a,"* the registration emblem shall be placed four inches below the registration number on each side of the mast.

All newly registered boats or boats with renewed registrations will receive emblems with the registration certificate.

This rule shall apply to all registered vessels, including those being used by dealers in accordance with Iowa Code chapter 462A.

The requirements of this chapter pertaining to the display of registration decals, registration numbers and passenger capacity numbers do not apply to vessels that are exempt pursuant to Iowa Code section 462A.6A.

This rule is intended to implement Iowa Code sections 462A.5 and 462A.6A.

**571—38.2** to **38.5** Reserved.

**571—38.6(462A) Procedure for application for boat registration number—content.**

**38.6(1)** *Application.* The following information shall be submitted on DNR Forms 542-8067 and 542-2000:

*a.* Name and address of owner.

*b.* Present number (if any).

*c.* Hull material (wood, steel, aluminum, plastic, other).

*d.* Type of propulsion (outboard, inboard, other).

*e.* Length and width of boat.

*f.* Make and model year. For home-built vessels, the year that construction is started shall serve as the model year.

*g.* Statement as to use.

*h.* Signature.

*i.* From whom purchased (name and address).

**38.6(2)** *Vessels not previously registered.* If a person is making application for a boat registration number for a used vessel that has never before been registered or titled and the person does not have any satisfactory proof of ownership, the county recorder may issue a certificate of number for the used vessel if the applicant has provided the recorder with a signed and notarized affidavit, on DNR Form 542-8074, stating that the person making the application is the lawful owner of the vessel.

**571—38.7** to **38.9** Reserved.

**571—38.10(462A) Information on certificate.** The certificate of number (DNR Form 542-0540) shall show the following:

1. Name and address of boat owner.
2. Number issued.
3. Expiration date.
4. Make, or model, or type of boat.
5. Hull material (wood, steel, aluminum, plastic, other).
6. Length and width of vessel.
7. Propulsion (inboard, outboard, other).
8. Maximum capacity rating (number of persons).

9. Decal audit number.
10. If vessel is required to be bonded, date of bonding.

**571—38.11(462A) Registration applied for card.**

**38.11(1)** *Procedure for registration applied for card—content.* The following information shall be furnished, required and stated on the registration applied for card (DNR Form 542-0538):

*a.* Name and address of dealer.
*b.* Make and model of vessel.
*c.* Hull identification (or serial) number of vessel.
*d.* Present registration number (if any).
*e.* Date of purchase.
*f.* Name and address of purchaser.

The above information shall be legibly printed on the card by the dealer selling the vessel.

**38.11(2)** *Use.* The registration applied for card may be used only after an application for registration has been made to the county recorder. Placing a completed application for registration and required fee in the mail to the recorder shall constitute making an application.

**38.11(3)** *Placement on vessel.* The registration applied for card shall be placed on the forward half of the vessel in a position so as to be clearly visible at all times and shall be maintained in a legible manner.

**38.11(4)** *Proof of purchase.* The operator of any vessel displaying a registration applied for card shall carry and display upon request of any peace officer a valid bill of sale for said vessel.

This rule is intended to implement Iowa Code section 462A.49.

**571—38.12(462A) Vessels in storage.** If the owner of a currently registered vessel places the vessel in storage, the owner shall return the registration certificate to the county recorder with an affidavit on DNR Form 542-8048. The county recorder shall notify the department of each registered vessel placed in storage. When the owner of a stored vessel desires to renew the vessel's registration, the owner shall apply to the county recorder and pay the applicable fees.

**571—38.13** and **38.14** Reserved.

**571—38.15(462A) Numbering pattern to be used.**

**38.15(1)** *Identification number.* The identification numbers awarded under the Iowa system shall consist of three parts. The first part shall consist of the letters "IA" indicating this state. The second part shall consist of not more than four Arabic numerals. The third part shall consist of not more than two letters.

**38.15(2)** *Example.* The parts shall be separated by a hyphen or an equivalent space. As example:

IA-2500-C IA-9875-EA IA 7560 ZZ

**38.15(3)** *Unusable letters.* Since the letters "I," "O," and "Q" may be mistaken for Arabic numerals, they shall not be used in the suffix.

**571—38.16** to **38.18** Reserved.

**571—38.19(462A) Display of number on vessel, as to size, block type and contrasting color.**

**38.19(1)** *Application of number.* The identification number awarded to any vessel under the Iowa numbering system shall be displayed thereon by being:

*a.* Painted on, or attached to, each side of the bow (i.e., the forward half) of the vessel; read from left to right, and in such position as to provide maximum visibility.

*b.* In block characters of good proportion not less than three inches in height.

*c.* Of a color which will contrast with the color of the background (i.e., dark numbers on a light background, or light numbers on a dark background) and so maintained as to be clearly visible and legible.

*d.* On vessels propelled by sail only, the numbers may be placed in such a position as to provide maximum visibility, on each side of the bow or deck or on each side of the boom or mast. In all cases except placement on the mast, the numbers shall read from left to right and comply with *"b"* and *"c"* of this subrule. In placement on the mast the number shall read from top to bottom and comply with *"b"* and *"c"* of this subrule.

**38.19(2)** *Restriction.* No other number shall be carried on the bow of the vessel.

**38.19(3)** *Purchase of number.* Purchase and attachment of these letters and number is the responsibility of the boat owner.

This rule is intended to implement Iowa Code section 462A.5.

**571—38.20(462A) Special certificates for boat dealers or manufacturers.** A manufacturer or dealer may operate an unregistered vessel for purposes of transporting, testing, demonstrating, or selling the vessel after first obtaining a special certificate from the department. An application for a special certificate shall be submitted on DNR Form 542-0488. A manufacturer or dealer operating a vessel pursuant to the issuance of a special certificate shall file an annual report on DNR Form 542-8062.

**571—38.21(462A) Boat dealer's annual report of vessels with expired registrations.** Each boat dealer shall file, before May 5 of each year, an annual report on DNR Form 542-8063 listing all used vessels held by the dealer for sale or trade and for which the registration fee for the current year has not been paid.

**571—38.22** to **38.24** Reserved.

**571—38.25(462A) Number designating passenger capacity.** The passenger capacity of boats as assigned by the commission shall be painted or attached to the starboard side (the right side while in boat and facing the bow) of boat within nine inches of transom in three-inch or larger block numbers in a color contrasting to the boat color so that the numbers ride above the water line when boat is fully loaded.

**571—38.26(462A) Monthly reports by county recorders.** Each county recorder shall submit a monthly report to the department on DNR Form 542-0418 listing all boats registered in that county in the previous month. The applicable fees shall accompany the monthly report.

**571—38.27** to **38.29** Reserved.

**571—38.30(462A) Boats for hire.** Each commercial boat operator will be required to number the boat or boats used to operate for hire with block characters of good proportion not less than three inches in height, in the following manner.

Upon making application for a number for commercially operated vessels the following type number will be assigned:

Example IA-1555-E

To identify this vessel as a commercial vessel it will be required that the commercial operator affix an X as the final letter of the suffix:

Example IA-1555-EX

When a commercial operator transfers a vessel to another individual, unless it be to another commercial operator, it will be the operator's responsibility to remove the second letter from the suffix. (The letter X).

*Transferred to*

| *Commercial* | *Private Individual* |
|---|---|
| IA-1555-XX | IA-1555-X |
| IA-1555-EX | IA-1555-E |

*Transferred to*

| *Private* | *Commercial Operator* |
|---|---|
| IA-1555-A | IA-1555-AX |
| IA-1555-D | IA-1555-DX |

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# CHAPTER 39
# BOATING PASSENGER CAPACITY
[Prior to 12/31/86, Conservation Commission[290] Ch 29]

**571—39.1(462A) U.S. Coast Guard capacity rating.** In the registration of vessels for which a U.S. Coast Guard capacity rating in whole persons has been assigned as evidenced by a U.S. Coast Guard capacity plate affixed to the vessel, that capacity shall be recognized as the registration capacity.

**571—39.2(462A) Vessels assigned a capacity rating by the manufacturer.** In the registration of vessels for which a U.S. Coast Guard capacity rating in whole persons has not been assigned but a plate has been affixed to the vessel containing capacity information, in whole persons, furnished by the boating industry association, national marine manufacturer association or any similar organization, that capacity shall be recognized as the registration capacity.

**571—39.3(462A) Vessels not containing capacity rating information.** In the registration of vessels for which no passenger capacity information has been provided by the U.S. Coast Guard or the manufacturer, the passenger capacity designated on the registration shall be O.R., "Operators Responsibility." The responsibility for determining passenger capacity of a vessel so designated shall rest with the operator of the vessel. Such operation must comply with the provisions of Iowa Code section 462A.12(1).

**571—39.4(462A) Incorrect registration.** When information contained on the registration certificate of a vessel is found to be incorrect regarding vessel length, vessel width, or passenger capacity, officers appointed by the department of natural resources may, upon inspection of the vessel, or the county recorder, upon presentation of adequate documentation including, but not limited to, an affidavit by the owner, may change the information on the certificate.

The officer shall within four days notify the department of natural resources and the county recorder of the county in which the vessel is registered of the changes on DNR Form 542-8094.

These rules are intended to implement Iowa Code sections 462A.20 and 462A.24.

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# CHAPTER 40
# BOATING SPEED AND DISTANCE ZONING
[Prior to 12/31/86, Conservation Commission[290] Ch 30]

**571—40.1(462A) Restricted areas.** All vessels, except authorized emergency vessels, shall be operated in compliance with, and all persons engaged in water recreation activities, shall obey restrictions with posted areas marked with a uniform waterway buoy or official signs adopted by the natural resource commission.

**571—40.2(462A) Uniform buoy system.** All buoys placed shall be those of the uniform waterway marking system adopted by the natural resource commission and shall be constructed, placed, and maintained in accordance with Iowa Code chapter 462A and Iowa Administrative Code 571—Chapters 40 and 41.

**571—40.3(462A) Commission approval.** The placement of buoys or official signs that restrict speed and distance or involve special zoning restrictions shall be approved by the natural resource commission.

**571—40.4(462A) Right for aggrieved party to appeal.** Any finding or establishment of areas involving special speed and distance or zoning restrictions by the natural resource commission may be appealed by aggrieved party upon written notice. A hearing thereon shall be held by the natural resource commission within 30 days thereafter.

**571—40.5(462A) Rathbun Lake, Appanoose County—zoned areas.**

**40.5(1)** Areas may be specifically designated for swimming and wading.

**40.5(2)** Areas may be designated restricted speed areas.

**571—40.6(462A) Red Rock Lake, Marion County—zoned areas.**

**40.6(1)** Areas may be specifically designated for swimming and wading.

**40.6(2)** Areas may be designated restricted speed areas.

**40.6(3)** Areas may be designated as “no anchoring” areas.

**571—40.7(462A) Coralville Lake, Johnson County—zoned areas.**

**40.7(1)** Areas may be specifically designated for swimming and wading.

**40.7(2)** Areas may be designated restricted speed areas.

**571—40.8(462A) Saylorville Lake, Polk County—zoned areas.**

**40.8(1)** Areas may be specifically designated for swimming and wading.

**40.8(2)** Areas may be designated restricted speed areas.

**571—40.9(462A) Lake Odessa in Louisa County.**

**40.9(1)** Areas may be designated restricted speed areas.

**40.9(2)** All motorboats, except authorized emergency vessels, shall be operated at a speed not greater than 5 miles per hour year around, on that portion of Lake Odessa known as the Sand Run Chute, lying south of the main lake to a point 100 yards south of the Sand Run Chute boat ramp.

**40.9(3)** All motorboats, except authorized emergency vessels, shall be operated at a speed not greater than 5 miles per hour year around, on those portions of Lake Odessa known as the lateral ditch, between the main lake and Bebee Pond, and on the channel between Yankee Chute and Beaver Pond.

[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.10(462A) Mississippi River lock and dam safety zone.** A safety zone is hereby established in Iowa waters above and below all navigation lock and dam structures on the Mississippi River between the Iowa-Minnesota border and the Iowa-Missouri border. The established zone shall be 600 feet upstream and 150 feet downstream from the roller gate or tainter gate section of the structure.

**40.10(1)** The safety zone does not include the area directly above and below the navigation lock structure.

**40.10(2)** The safety zone does not include the area directly above and below the solid fill portion of the dam and structure.

**40.10(3)** The safety zone shall be recognized by the state of Iowa only when plainly marked as follows:

*a.* Upstream signs worded—Restricted area keep 600 feet from dam.

*b.* Downstream signs worded—Restricted area keep 150 feet from dam.

*c.* Flashing red lights will be used to make the outer limits of the restricted areas.

**40.10(4)** No boat or vessel of any type, except authorized vessels, shall enter the established safety zones recognized by the state of Iowa as described in this rule.

**571—40.11(462A) Joyce Slough Area.** The Joyce Slough Area, a portion of the Mississippi River within the city of Clinton, Iowa, is hereby zoned to be a harbor area and vessels traveling therein shall not travel at speeds in excess of five miles per hour.

**571—40.12(462A) Swan Slough, Camanche, Iowa.** A restricted speed zone of not greater than 5 miles per hour is hereby established in all or part of the main channel of Swan Slough (Mississippi River mile 510.2 to 511.3), Camanche, Iowa, as designated by buoys.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.13(462A) Massey Slough.** The operation of vessels in Massey Slough of the Mississippi River at Massey Station, Dubuque County, Iowa, extending from a northerly to southerly direction from the upper end to the lower end of the slough, encompassing the water in Section 14, Township 88N, Range 3E of the 5th P.M., tract number NFIA-26M, is restricted as follows:

**40.13(1)** All boats underway must maintain a speed of less than five miles per hour in said waters.

**40.13(2)** Reserved.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.14(462A) Black Hawk County waters.** Operation of vessels in Black Hawk County on the Cedar River and any connected backwaters shall be governed by this departmental rule as well as all applicable state laws and regulations.

**40.14(1)** No vessel, except authorized emergency vessels, shall be operated in marked areas at a speed greater than the limit designated by buoys, signs, or other approved uniform waterway marking devices marking the area.

**40.14(2)** All vessels, except authorized emergency vessels, shall be operated at a speed not greater than 5 miles per hour when within 600 feet of the Franklin Street bridge. This 600-foot zone shall be designated by buoys, signs, or other approved uniform waterway marking devices.

**40.14(3)** No vessel shall tow skiers, surfboard riders, or other towable devices within the zone established by 40.14(2).
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.15(462A) Mitchell County waters.** Operation of vessels in Mitchell County is restricted to speeds not greater than 5 miles per hour where a speed zone is designated by buoys on the following impounded waters:

Cedar River from Mitchell Dam, thence upriver to the County "S" bridge.

Cedar River from the St. Ansgar Mill Dam, thence upriver to the Newberg Bridge crossing Highway 105.

Cedar River from the Otranto Dam upriver to the Great Western Railway Bridge crossing the Cedar River.

The Stacyville Pool, on the Little Cedar River at Stacyville, Iowa.

**40.15(1)** Water recreation activities as restricted within posted areas which are marked with approved buoys shall be obeyed.

**40.15(2)** Reserved.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.16(462A) Maquoketa River.** Operation of vessels of the impoundment of the Maquoketa River in Delaware County, Iowa, extending westerly and northerly from the line between Sections 29 and 30 in Delhi Township in said county, to the line between Sections 10 and 15 in Milo Township in said county which impoundment is sometimes known and referred to as Hartwick Lake or Lake Delhi.

**40.16(1)** Water recreation activity restrictions shall be obeyed, including restrictions within posted areas which are marked with approved buoys.

**40.16(2)** No motorboat shall be operated at speeds greater than ten miles per hour at any time between the hours from one hour after sunset to one hour before sunrise.

**571—40.17(462A) Zoning of off-channel waters of the Wapsipinicon River in Pinicon Ridge Park in Linn County.** No motorboat shall be operated at a speed greater than 5 miles per hour within the zoned area designated by regulatory buoys or signs on the off-channel waters of the Wapsipinicon River above the dam at Central City, Linn County, Iowa.

The zoned area will be the off-channel waters created in and adjacent to the developed recreation areas of the Pinicon Ridge Park on the west and south bank of the Wapsipinicon River above the dam at Central City, Linn County.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.18(462A) Speed restrictions on Lake Manawa.** No motorboat shall be operated at a speed greater than five miles per hour within the zoned areas 300 feet from shore around Lake Manawa in Pottawattamie County.

**571—40.19(462A) Zoning of Little Wall Lake.** No motorboat shall be operated at a speed greater than 5 miles per hour within the zoned area designated by regulatory buoys on Little Wall Lake in Hamilton County.

The zoned area will not exceed approximately 20 acres in the northeast portion of the lake identified by a line from a point on the high-water mark approximately 296.6 feet west of the southeast corner of the southwest quarter of Section 10, Township 86 North, Range 24 West; thence northwest to the high-water mark which is 775 feet south and 319 feet west of the northeast corner of the northwest quarter of the southwest quarter of Section 10, Township 86 North, Range 24 West.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.20(462A) Lake Icaria, Adams County—watercraft use.** Motorboats of outboard or inboard-outdrive type shall be permitted on Lake Icaria. The following rules shall govern vessel operation on Lake Icaria in Adams County.

**40.20(1)** All vessels shall be operated at a speed not greater than 5 miles per hour when within 50 feet of another vessel which is not underway or is operating at a no-wake speed.

**40.20(2)** Zoned areas.

*a.* No vessel, except authorized emergency vessels, shall be permitted in areas specifically designated for swimming and wading which are plainly marked by the use of buoys or signs in accordance with 571—Chapter 41.

*b.* No motorboats, except authorized emergency vessels, shall be operated in marked bay areas at a speed greater than the limit designated by buoys or signs marking said bay. Said buoys or signs shall be in accordance with 571—Chapter 41.

*c.* No motorboats, except authorized emergency vessels, shall be operated in restricted speed areas between the nearest shore and a line designated by uniform marker buoys or signs at a speed greater than the limit designated on the buoys or signs marking the area. Such zoned areas shall be not less than 50 feet nor more than 400 feet from shore. Said buoys or signs shall be in accordance with 571—Chapter 41.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.21(462A) Zoning of the Des Moines River.** Vessel operation on the Des Moines River from its confluence with the Mississippi River in Lee County to the northerly meander lines of both the East and West Branches, shall be governed by this departmental rule as well as all applicable state laws and regulations.

**40.21(1)** No vessel, except authorized emergency vessels, shall be operated in marked areas at a speed greater than the limit designated by buoys marking said areas.

**40.21(2)** No vessel, except authorized emergency vessels, shall be permitted in areas specifically designated for swimming and wading which are plainly marked by the use of buoys.

**571—40.22(462A) Upper Gar Lake, Dickinson County.** Operation of vessels on Upper Gar Lake is restricted to a speed not greater than 5 miles per hour between the Henshaw Bridge at the north end of Upper Gar and south end of East Lake and the Old Sawmill Bridge at the south end of Upper Gar and the north end of Minnewashta.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.23(462A) Zoning of the Mississippi River, Guttenberg river mile 616, Clayton County.**

**40.23(1)** All vessels operated between the ice dike and Bussey Lake access shall be operated at a speed not greater than 5 miles per hour.

**40.23(2)** The city will designate the 5-mile-per-hour speed zone with buoys approved by the natural resource commission.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.24(462A) Mt. Ayr City Lake (Loch Ayr).** A motorboat shall not be operated within 100 feet of shore at a speed greater than 5 miles per hour.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.25(462A) Iowa River in Iowa City, Johnson County.** No person shall operate any vessel towing persons on water skis, surfboards, or similar devices on the Iowa River in the area bounded by the Coralville Mill Dam and the Burlington Street Dam, except during regattas, races, marine parades, tournaments, or exhibitions authorized by the natural resource commission to be held in such area.

**571—40.26(462A) Zoning of the Mississippi River, Dubuque, Dubuque County.**

**40.26(1)** All vessels shall be limited to no more than five miles per hour in Lake Peosta Cut south and east of the Hawthorn Street municipal boat launching ramp.

**40.26(2)** A restricted speed zone of no more than 5 miles per hour is established in the vicinity of Chaplain Schmitt Memorial Island in proximity to the Schmitt Island municipal launching ramp and in waters adjacent to the southerly shoreline in the area of the Dubuque Yacht Basin.

**40.26(3)** A restricted speed zone of five miles per hour for the northern portion of Shawondassee Slough. Marker buoys shall be placed at a point approximately 750 feet upstream from the existing speed zone.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.27(462A) Zoning Harpers Slough, Harpers Ferry, Allamakee County.**

**40.27(1)** All vessels operated in Harpers Slough between a point 200 feet above the state ramp and 200 feet out from the west shore extending downstream to a point known as Sandy Point Road Dead-End shall operate at a speed not greater than 5 miles per hour.

**40.27(2)** The city of Harpers Ferry will designate the 5-mile-per-hour speed zone with buoys approved by the natural resource commission.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.28(462A) Black Hawk Lake, Sac County—zoned areas.**

**40.28(1)** No motorboat shall be operated at a speed greater than 5 miles per hour within the zoned area marked by the regulatory buoys. The zoned area shall be the area commonly known as Town Bay on the northwest corner of Black Hawk Lake in Sac County.

**40.28(2)** Areas may be specifically designated for swimming by the use of regulatory buoys.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.29(462A) Speed and other restrictions on Brown's Lake, Woodbury County.** All vessels shall be operated at a speed not greater than 5 miles per hour within the two zoned areas designated by regulatory buoys or other approved uniform waterway markers.

**40.29(1)** *Zone 1.* Zone 1 shall extend 570 yards from the boat ramp east to the regulatory buoys and 150 yards west from the boat ramp.

**40.29(2)** *Zone 2.* Zone 2 shall begin at the regulatory buoys located at the 24-inch steel pipe and shall extend west.

**40.29(3)** *Swimming.* Areas may be specifically designated for swimming by the use of regulatory buoys.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.30(462A) Speed and other restrictions on Snyder Bend Lake, Woodbury County.** All vessels shall be operated at a speed not greater than 5 miles per hour within the zoned area 400 yards from the boat ramp south to the regulatory sign and buoys.

Areas may be specifically designated for swimming by the use of regulatory buoys.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.31(462A) Speed restrictions on East Okoboji and West Okoboji Lakes in Dickinson County.** No motorboat shall be operated at a speed greater than 5 miles per hour within the three zoned areas designated by regulatory buoys on East Okoboji and West Okoboji Lakes in Dickinson County.

**40.31(1)** Zone 1. Zone 1 shall be a line from the east side of Givens Point to the south end of Arnolds Park City Beach on West Okoboji. Also, a line 150 yards east from the north end of the railroad trestle bridge at Clair Wilson State Park south to the shoreline of East Okoboji.

**40.31(2)** Zone 2. Zone 2 shall be the area which is 300 feet north of the area commonly known as the Narrows on East Okoboji and 200 feet south of the area commonly known as the Narrows on East Okoboji.

**40.31(3)** Zone 3. Zone 3 shall be the area 50 feet east of the bridge between East Okoboji and Upper Gar on the East Okoboji side running in a northwesterly direction toward the end of the island from Gingles Point then west toward the shoreline.

**40.31(4)** Areas may be specifically designated for swimming by the use of regulatory buoys.

**40.31(5)** The following areas are zoned 5 miles per hour on West Okoboji.

*a.* Zone 1. Zone 1 shall be the area commonly known as Okoboji Harbor at the northwest corner of West Okoboji.

*b.* Zone 2. Zone 2 shall be the area commonly known as the canals in the city of Wahpeton including Turtle Lake.

*c.* Zone 3. Zone 3 shall be the area commonly known as Lazy Lagoon located in the Triboji Area on West Okoboji.

*d.* Zone 4. Zone 4 shall be the area commonly known as Little Millers Bay. The zone shall start at Pinkies Point and extend southeasterly (160 degrees) approximately 370 yards until bisecting the southern shoreline of Little Millers Bay.

*e.* Zone 5. Zone 5 shall be the area commonly known as Little Emmerson Bay. The zone shall start at Breezy Point and extend southwesterly (235 degrees) approximately 330 yards until bisecting the west shoreline of Little Emmerson Bay.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.32(462A) Spirit Lake, Dickinson County—zoned areas.**

**40.32(1)** Areas may be specifically designated for swimming by the use of regulatory buoys.

**40.32(2)** The following areas are zoned 5 miles per hour on Spirit Lake, Dickinson County:

*a.* Zone 1 shall be the area commonly known as Templar Park Lagoon located midlake on the west shore of Spirit Lake.

*b.* Reserved.

**571—40.33(462A) Speed restrictions on the Mississippi River, Jackson County, at Spruce Creek County Park.** No motorboat shall operate at a speed to exceed 5 miles per hour within the area designated by buoys or other approved uniform waterway markers, beginning at the entrance of Spruce Creek harbor and extending southeast 550 feet and extending east 150 feet from shore. The Jackson County conservation board will designate the speed zone with uniform waterway markers (buoys) approved by the natural resource commission.

**571—40.34(462A) Speed restrictions on the Mississippi River, Jackson County, at the city of Sabula.** No motorboat shall operate at a speed to exceed five miles per hour within the four zoned areas designated by buoys or other approved uniform waterway markers.

**40.34(1)** *Zone 1.* Zone 1 shall extend 200 feet from shore and begin at a point 250 feet upstream of the north Sabula city boat ramp and ending at a point downstream where Bank Street intersects the river bank.

**40.34(2)** *Zone 2.* Zone 2 shall extend 200 feet from shore and extend 100 feet upstream and 100 feet downstream from the entrance to the Island City Harbor.

**40.34(3)** *Zone 3.* Zone 3 shall extend 200 feet into South Sabula Lake from the county boat ramp and 100 feet to the west of the ramp and 600 feet to the east of the ramp.

**40.34(4)** *Zone 4.* Zone 4 shall extend 200 feet in all directions beginning at the center of the "cut" into Lower Sabula Lake.

The city of Sabula shall designate the speed zones with uniform waterway markers (buoys) approved by the natural resource commission.

**571—40.35(462A) Speed restrictions on the Greene Impoundment of the Shell Rock River.** No motorboat shall be operated at a speed exceeding five miles per hour in the two zoned areas of the Greene Impoundment designated by buoys or other approved uniform waterway markers. The first zoned area extends from the dam in the city of Greene, upstream approximately one-quarter mile to the north boundary of the city park in which the lower boat ramp is located. The second zoned area extends from the county bridge over the Shell Rock River on the north side of section 28 of Union Township in Floyd County, downstream approximately one-quarter mile to the south boundary of Gates Bridge County Park. The city of Greene and Floyd County shall designate their respective speed zones with uniform waterway markers (buoys) approved by the natural resource commission.

**571—40.36(462A) Zoning of the Iowa River, Iowa Falls, Hardin County.**

**40.36(1)** All vessels operated in a designated zone between the River Street Bridge and the dock at Dougan's Landing shall be operated at a speed not greater than 5 miles per hour.

**40.36(2)** The city of Iowa Falls shall designate and maintain the 5-mile-per-hour speed zone with marker buoys approved by the natural resource commission.

[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.37(462A) Zoning of Crystal Lake.** No motorboat shall be operated at a speed greater than 5 miles per hour within the 25-acre zoned area designated by regulatory buoys on Crystal Lake in Hancock County.

[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.38(462A) Five Island Lake, Palo Alto County.**

**40.38(1)** Areas may be specifically designated for swimming by the use of regulatory buoys.

**40.38(2)** Reserved.

**571—40.39(462A) Lost Island Lake, Palo Alto and Clay Counties.**

**40.39(1)** Areas may be specifically designated for swimming by the use of regulatory buoys.

**40.39(2)** Reserved.

**571—40.40(462A) Ingham Lake, Emmet County.**

**40.40(1)** Areas may be specifically designated for swimming by the use of regulatory buoys.

**40.40(2)** Reserved.

**571—40.41(462A) Storm Lake, Buena Vista County.**

**40.41(1)** Areas may be specifically designated for swimming by the use of regulatory buoys.

**40.41(2)** Reserved.

**571—40.42(462A) Raccoon River Regional Park Lake, Polk County.**

**40.42(1)** All vessels shall be operated at a speed not greater than 5 miles per hour.

**40.42(2)** A 40-acre body of water located in the southeast corner, and separate from the main lake, shall be designated for nonmotorized and electric motors only. The city of West Des Moines will designate the area with regulatory buoys and signs.

**40.42(3)** Areas may be specifically designated for swimming by the use of regulatory buoys.

[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.43(462A) Zoning of the Mississippi River, Bellevue, Jackson County.**

**40.43(1)** All vessels shall be operated at a speed not greater than 5 miles per hour within the area designated by buoys or other approved uniform waterway markers beginning at the mouth of Mill Creek and extending upstream 900 feet, and extending 200 feet perpendicular from shore. The area shall be designated by a minimum of four approved buoys to be uniformly placed along the 900-foot length of the zone parallel to the shore.

**40.43(2)** The city of Bellevue will designate the 5-mile-per-hour speed zone with buoys approved by the natural resource commission.

[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.44(462A) Three Mile Lake, Union County—watercraft use.** Motorboats of outboard or inboard-outdrive type shall be permitted on Three Mile Lake. The following rules shall govern vessel operation on Three Mile Lake in Union County.

**40.44(1)** All vessels shall be operated at a speed not greater than 5 miles per hour when within 50 feet of another vessel which is not underway or is operating at a speed not greater than 5 miles per hour.

**40.44(2)** Zoned areas.

*a.* No vessel, except authorized emergency vessels, shall be permitted in areas specifically designated for swimming and wading which are plainly marked by use of regulatory buoys in accordance with Iowa Administrative Code 571—Chapter 41. The Union County conservation board shall designate and maintain a swimming area(s) by the use of regulatory buoys approved by the natural resource commission.

*b.* No motorboats, except authorized emergency vessels, shall be operated in marked bay areas at a speed greater than the limit designated by buoys or signs marking said bay. No motorboats, except authorized emergency vessels, shall be operated other than at a speed not greater than 5 miles per hour above a line of buoys placed across the lake at the point where County Road H33 intersects the lake. All buoys or signs shall be in accordance with 571—Chapter 41.

*c.* No motorboats, except authorized emergency vessels, shall be operated in restricted speed areas between the nearest shore and a line designated by regulatory buoys or signs at a speed greater than the limit designated on the buoys or signs marking the area. Such zoned areas shall be not less than 50 feet nor more than 400 feet from shore. Said buoys or signs shall be in accordance with 571—Chapter 41.

[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.45(462A) Zoning of the Cedar River.**

**40.45(1)** *Nashua, Chickasaw County.* All vessels operated in a designated zone extending east 150 feet from the intersection of Wabash Street and Charles City Road and north 380 feet shall be operated at a speed not greater than 5 miles per hour. The city of Nashua shall designate and maintain the 5-mile-per-hour speed zone with marker buoys approved by the natural resource commission.

**40.45(2)** *Nashua, Chickasaw County.* All vessels operated in a designated zone extending north 131 feet from the intersection of Wabash Street and the north entrance to Cedar View Circle and east 80 feet and west 80 feet from this point along the shoreline and extending 110 feet north into the lake shall be operated at a speed not greater than 5 miles per hour. The city of Nashua shall designate and maintain the 5-mile-per-hour speed zone with marker buoys approved by the natural resource commission.

**40.45(3)** *Charles City, Floyd County.* All vessels operated in a designated zone extending 300 feet upstream from the upper dam shall be operated at a speed not greater than five miles per hour. The city of Charles City shall designate and maintain the five miles per hour speed zone with marker buoys approved by the natural resource commission.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.46(462A) Zoning of Carter Lake, Pottawattamie County.**

**40.46(1)** All vessels operated in a designated zone known as Shoal Pointe Canal shall be operated at a speed not greater than 5 miles per hour.

**40.46(2)** The city of Carter Lake shall designate and maintain the 5-mile-per-hour speed zone with marker buoys approved by the natural resource commission.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.47(462A) Zoning of the Mississippi River, McGregor, Clayton County.**

**40.47(1)** All vessels, except commercial barge traffic, shall be operated at a speed not greater than 5 miles per hour within the area of river mile markers 634 and 633.4 and designated by buoys or other approved uniform waterway markers.

**40.47(2)** The city of McGregor will designate the 5-mile-per-hour speed zone with buoys approved by the natural resource commission.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.48(462A) Zoning of the Mississippi River, Marquette, Clayton County.**

**40.48(1)** All vessels, except commercial barge traffic, shall be operated at a speed not greater than 5 miles per hour within the area of river mile markers 634.5 and 634.9 and designated by buoys or other approved uniform waterway markers.

**40.48(2)** The city of Marquette will designate and maintain the 5-mile-per-hour speed zone with buoys approved by the natural resource commission.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.49(462A) Zoning of Green Island, Jackson County.** All motorboats except authorized emergency vessels shall be operated at a speed no greater than 5 miles per hour year around on boat channels adjacent to the interior channel 4 levee at the Green Island State Wildlife area. Both channels begin at the Green Island county road parking lot and proceed north 7920 feet along each side of the channel 4 levee to an intersection with the Snag Slough complex.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.50(462A) Mooring of vessels on riparian property of the state of Iowa.** Where the state of Iowa owns riparian property adjacent to sovereign land or water, mooring of vessels is prohibited between sunset and sunrise on those riparian or sovereign lands or waters where posted by either official buoys or official signs of the department of natural resources.

**571—40.51(462A) Little River Lake, Decatur County.** Motorboats of outboard or inboard-outdrive type shall be permitted on Little River Lake. Vessels operating within a designated area beginning at the dam and extending north approximately to the mouth of "Bait Shop Bay" shall be operated at a speed no greater than 5 miles per hour. The Decatur County conservation board shall designate the speed zone with marker buoys approved by the natural resource commission.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.52(462A) Zoning of the Mississippi River, Johnson Slough, Clayton County.** All vessels shall be operated at a speed not greater than 5 miles per hour within the area of river mile markers 627

and 629.8, in a backwater known as Johnson Slough and designated by marker buoys approved by the natural resource commission.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.53(462A) Zoning of the Mississippi River, Mud Lake, Dubuque County.** All vessels shall be operated at a speed not greater than 5 miles per hour within the area of river mile markers 587.6 to 589.3, in a backwater known as Mud Lake and designated by marker buoys approved by the natural resource commission.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.54(462A) Nighttime speed limit, Dickinson County.** No vessels, except authorized emergency vessels, shall be operated at speeds greater than 25 miles per hour at any time between one-half hour after sunset and sunrise on all lakes located in Dickinson County.

**571—40.55(462A) Zoning of Clear Lake, Cerro Gordo County.**

**40.55(1)** Areas may be specifically designated for swimming with the use of regulatory buoys.

**40.55(2)** Areas within close proximity of dredging operations may be designated as areas where the speed of vessels is restricted to not greater than 5 miles per hour.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.56(462A) Zoning of Mississippi River, Des Moines County, city of Burlington.** All vessels shall be operated at a speed no greater than five miles per hour within the area designated by marker buoys or other approved uniform waterway markers beginning at the north city boat ramp and public dock and extending downstream to the south city boat ramp and public dock. The zoned area shall extend no farther than 150 feet from the shore and approximately 150 feet west of the west edge of the barge channel. The city of Burlington shall designate the five-mile-per-hour speed zone with buoys approved by the natural resource commission.
[**ARC 7532B**, IAB 1/28/09, effective 3/6/09]

**571—40.57(462A) Zoning of Catfish Creek, Mines of Spain State Recreation Area, Dubuque County.** All vessels shall be operated at a speed not greater than 5 miles per hour within the area beginning at the mouth of Catfish Creek and extending upstream to the confluence of Catfish Creek and Granger Creek and designated by uniform marker buoys approved by the natural resource commission.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.58(462A) Zoning of Lake Cornelia, Wright County.** All vessels shall be operated at a speed not greater than 5 miles per hour in the boat harbor and at the boat harbor entrance within the zoned area extending 300 feet from two points on shore and 100 feet in width, equidistant from either side of the harbor entrance. The Wright County conservation board shall designate the boat harbor entrance and the public swimming area with uniform marker buoys approved by the natural resource commission.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

**571—40.59(462A) Zoning of lakes in Dickinson County.** All vessels shall be operated at a speed not greater than 5 miles per hour within 300 feet of shore on all lakes in Dickinson County.
[**ARC 8877B**, IAB 6/30/10, effective 8/4/10]

These rules are intended to implement the provisions of Iowa Code sections 462A.17, 462A.26, and 462A.31.

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# CHAPTER 41
# BOATING NAVIGATION AIDS
[Prior to 12/31/86, Conservation Commission[290] Ch 31]

**571—41.1(462A) Definitions.**

*"A display area"* is the area on a sign or buoy needed for display of a waterway marker symbol.

*"Buoy"* is any device designed to float which is anchored in the water and which is used to convey a message.

*"Regulatory marker"* is a waterway marker which has no equivalent in the U.S. Coast Guard system of navigational aids.

*"Sign"* is any device for carrying a message which is attached to another object such as a piling, buoy, structure or the land itself.

*"State aid to navigation"* is a waterway marker which is the equivalent of a U.S. Coast Guard aid to navigation.

*"Symbols"* are geometric figures such as a diamond, circle, rectangle, etc., used to convey a basic message.

*"Waterway marker"* is any device designed to be placed in, on, or near the water to convey an official message to a boat operator on matters which may affect health, safety, or well being, except that such devices of the U.S. or any agency of the United States are excluded from the meaning of this definition.

**571—41.2(462A) Waterway markers.** Waterway markers used on the waters of this state shall be as follows:

**41.2(1)** *State aids to navigation.*

*a.* A red-topped white buoy, red buoy or sign shall indicate that side of the channel to be kept to the right side of the vessel when entering the channel from the main water body or when proceeding upstream.

*b.* A green-topped white buoy, green buoy or sign shall indicate that side of the channel to be kept to the left of a vessel when entering the channel from the main water body or when proceeding upstream.

*c.* Buoys or signs described in *"a"* and *"b"* above shall normally be used in pairs and only for the purpose of marking a clearly defined channel.

*d.* State aids to navigation shall be numbered or lettered for identification. Red buoys and signs marking channels shall be identified with even numbers, and green buoys and signs marking channels shall be identified with odd numbers, the numbers increasing from the main water body or proceeding upstream. Buoys and signs indicating the center of a waterway will be identified by letters of the alphabet. All numbers and letters used to identify state aids to navigation shall be preceded by the letters "IA".

*e.* Letters and numerals used with state aids to navigation shall be white, in block characters of good proportion, and spaced in a manner which will provide maximum legibility. Such letters and numerals shall be at least six inches in height.

*f.* The shapes of state aids to navigation shall be compatible with the shapes established by U.S. Coast Guard regulations for the equivalent U.S. Coast Guard aids to navigation.

*g.* Where reflectorized materials are used, a red reflector will be used on a red buoy, and a green reflector on a green buoy.

**41.2(2)** *Regulatory markers.*

*a.* A diamond shape of international orange with white center shall indicate danger. The nature of the danger may be indicated by words or well-known abbreviations in black letters inside the diamond shape, or above or below it, or both, on white background.

*b.* A diamond shape of international orange with a cross of the same color within it against a white center without qualifying explanation shall indicate a zone from which all vessels are excluded.

*c.* A circle of international orange with white center will indicate a control or restriction. The nature of the control or restriction shall be indicated by words, numerals, or well-known abbreviations in black letters inside the circle. Additional explanation may be given above or below it in black letters on white background.

*d.* A rectangular shape of international orange with white center will indicate information, other than a danger, control or restriction, which may contribute to health, safety or well-being. The message will be presented within the rectangle in black letters.

*e.* Letters or numerals used with regulatory markers shall be black, in block characters of good proportion, spaced in a manner which will provide maximum legibility, and of a size which will provide the necessary degree of visibility.

**571—41.3(462A) Authority to place markers.**

**41.3(1)** No waterway marker shall be placed on, in, or near the waters of the state unless such placement is authorized by the agency or political subdivision of the state exercising jurisdiction, with respect to regulation of boating, over the area where placed, except that the provisions of this section shall not apply to private aids to navigation under the jurisdiction of the U.S. Coast Guard.

**41.3(2)** Such agency or political subdivision of the state will, prior to authorizing placement, obtain the necessary clearances of federal and state agencies exercising regulatory authority over the area concerned.

**41.3(3)** The agency or political subdivision of the state authorizing the placement of a waterway marker will inform the department of natural resources of the following:

*a.* Exact location of the marker, expressed in distance and direction from one or more fixed objects whose precise location is known.

*b.* The description and purpose of the marker including its identifying number, if any.

**571—41.4(462A) Maintenance of waterway markers.**

**41.4(1)** Waterway markers will be maintained in proper condition or be replaced or removed.

**41.4(2)** Zoned areas shall extend not less than 50 feet nor more than 400 feet from shore.

**41.4(3)** Buoys delineating the restricted speed zone shall be placed no more than 400 feet apart through the length of the affected portion of the channel.

This rule is intended to implement the provisions of Iowa Code sections 462A.17, 462A.26, 462A.31, and 462A.32.

**571—41.5** and **41.6** Reserved.

**571—41.7(462A) Display of waterway markers.**

**41.7(1)** A waterway marker may be displayed as a sign or a fixed support, as a buoy bearing a symbol on its surface, or as a sign mounted on a buoy.

**41.7(2)** When a buoy is used to carry a symbol on its surface, it will be white, with bands of international orange on the top, and at the bottom above the water line.

**41.7(3)** A buoy whose sole purpose is to carry a sign above it will be marked with three bands of international orange alternating with two bands of white, each band occupying approximately one-fifth of the total area of the buoy above the water line, except where the sign itself carries orange bands; however, nothing in these rules shall be construed to prohibit the mounting of a sign on a buoy which has been placed for a purpose other than that of carrying a sign.

**41.7(4)** When symbols are placed on signs, a suitable white background may be used outside the symbol.

**571—41.8(462A) Specifications for waterway markers.**

**41.8(1)** The size of a display area shall be as required by circumstances, except that no display area shall be smaller than 1 foot in height. The size shall increase in increments of 6 inches; provided, however, that this specification for increase in increments shall not apply to markers in existence prior to the adoption of this rule.

**41.8(2)** The thickness of the symbol outline shall be one-tenth of the height of the display area.

**41.8(3)** The outside width of the diamond, the inner diameter of the circle, and the average of the inside and outside widths of a square shall be two-thirds of the display area height.

**41.8(4)** The sides of the diamond shall slope at a 35 degree angle from the vertical on a plane surface. Appropriate adjustments for curvature may be made when applied to a cylindrical surface.

**41.8(5)** Materials. Waterway markers shall be made of materials which will retain, despite weather and other exposures, the characteristics essential to their basic significance, such as color, shape, legibility and position. Reflectorized materials may be used.

**571—41.9(462A) Waterway marking devices.** All waters under the jurisdiction of the natural resource commission.

**41.9(1)** Mooring buoys shall be white with a 2-inch blue reflectorized band clearly visible above the water; the buoy shall extend a minimum of 12 inches above the surface of the water, and shall have at least 1 square foot of surface visible from any direction.

**41.9(2)** Placement of mooring buoys shall be within 250 feet of shore, except under certain circumstances the natural resource commission may require them to be placed at a lesser distance. Requirements for mooring buoys may be waived by the director under special circumstances.

**41.9(3)** Permanent race course marker buoys shall be white with a ball of international orange, of at least 12 inches in diameter. The buoy shall extend a minimum of 2 feet above the surface of the water and shall be at least 16 inches in diameter, and shall be lighted during periods of low visibility, and during the hours of darkness.

**41.9(4)** Markers such as mooring buoys and race course markers will be processed in the same manner as waterway markers, and authorization for their placement will be obtained from the agency or political subdivision of the state exercising jurisdiction with respect to regulation of boating, and such agency or political subdivision will ensure that proper clearances for their placement are obtained from state and federal agencies exercising regulatory authority over the area concerned.

**41.9(5)** Such markers shall not be of a color, shape, configuration or marking which could result in their confusion with any federal or state aid to navigation or any state regulatory marker, and shall not be placed where they will obstruct navigation, cause confusion or constitute a hazard.

**571—41.10(462A) The diver's flag.**

**41.10(1)** A red flag with a white diagonal running from the upper left hand corner to the lower right hand corner (from mast head to lower outside corner) and known as the "diver's flag" shall, when displayed on the water, indicate the presence of a diver in the water in the immediate area.

**41.10(2)** Recognition of this flag by regulation will not be construed as conferring any rights or privileges on its users, and its presence in a water area will not be construed in itself as restricting the use of the water area so marked.

**41.10(3)** Operators of vessels will, however, exercise precaution commensurate with conditions indicated.

**41.10(4)** This flag shall be displayed only when diver activities are in progress, and its display in a water area when no diver activities are in progress in that area will constitute a violation of this rule and of Iowa Code chapter 462A.

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# CHAPTER 42
# BOATING ACCIDENT REPORTS

[Prior to 12/31/86, Conservation Commission[290] Ch 32]

**571—42.1(462A) Accident report.** In addition to provisions in Iowa Code section 462A.7(2), a written report is required in the case of loss of consciousness, disability in excess of 24 hours, and the disappearance of any person from on board a vessel under circumstances which suggest any possibility of death or injury.

**571—42.2(462A) Procedure.** These reports shall be filed in writing within 48 hours of the accident with the department of natural resources using forms provided by the department.

**571—42.3(462A) Contents.** The report shall include the following information:

1. The number or names of the vessels involved, or both.
2. The locality where the accident occurred.
3. The date and time where the accident occurred.
4. The weather and lake or river conditions at time of accident.
5. The name, address, age, and boating experience of the operator of the reporting vessel.
6. The name and address of the operator of the other vessel involved.
7. The names and addresses of the owners of vessels or other property involved.
8. The names and addresses of any person or persons involved or killed.
9. The nature and extent of injury to any person or persons.
10. A description of damage to any property (including vessels) and estimated cost of repairs.
11. A description of the accident (including opinions as to the causes).
12. The length, width, depth, year built, propulsion, horsepower, fuel and construction of the reporting vessel.
13. Names and addresses and telephone numbers of known witnesses.
14. The specific number of persons on board the reporting vessel at the time of the accident.
15. The date of birth, cause of death and swimming ability of any victim.
16. The date of birth of any injured person(s).
17. Manufacturer's hull identification number.
18. Whether the vessel was a rented craft.
19. The type, accessibility and use of personal flotation devices.
20. If fire extinguishers were used, the type and number used.
21. Signature of person making report.

This rule is intended to implement Iowa Code section 462A.7.

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# CHAPTER 43
# MOTORBOAT NOISE

[Prior to 12/31/86, Conservation Commission[290] Ch 36]

**571—43.1(462A) Definitions.**

*"A scale"* means the physical scale marked "A" graduated in decibels on a sound level meter which meets the requirements of the American National Standards Institute, Incorporated, publication S1.4 — 1983 General Purpose Sound Level Meters.

**571—43.2(462A) Sound level limitation.** No person shall operate or give permission for the operation of any motorboat in or upon the waters of this state under the jurisdiction of the natural resource commission, in such a manner as to exceed the following noise levels:

**43.2(1)** *Stationary sound level test.* For engines manufactured before January 1, 1993, a motorboat engine shall not exceed a noise level of 90dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005. For engines manufactured on or after January 1, 1993, a motorboat engine shall not exceed a noise level of 88dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005.

**43.2(2)** *Shoreline sound level test.* A motorboat engine shall not exceed a noise level of 75dB(A) when measured as specified in SAE J1970. Compliance with the requirement of this subrule is required in addition to, and shall not preclude the application of, subrule 43.2(1).

**571—43.3(462A) Serviceability.** All muffling devices used on motorboats shall be in good working order and in constant operation to prevent excessive or unusual noise.

This rule is intended to implement Iowa Code section 462A.11.

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# CHAPTER 45
# BOAT MOTOR REGULATIONS
[Prior to 12/31/86, Conservation Commission[290] Ch 40]

**571—45.1(462A) Horsepower rating.** The horsepower rating of an outboard motor permitted on artificial lakes under the authority of Iowa Code chapter 462A, and these rules, shall be as determined by the manufacturer when the motor was originally produced.

**571—45.2(462A) Alteration of horsepower rating.** An outboard motor which has been altered to increase its horsepower in excess of ten as rated by the original manufacturer shall not be permitted on artificial lakes.

**571—45.3(462A) Propulsion mechanism not in use.** Any power unit mounted or carried aboard a vessel, while not being used or operated as a source of propulsion, shall be lawful on artificial lakes, so long as the auxiliary power unit being used or operated as a source of propulsion is within the lawful horsepower limitation established for that lake.

**571—45.4(462A) Horsepower limitations on artificial lakes.**

**45.4(1)** *General horsepower limitation.* On artificial lakes of 100 acres or less, a vessel shall only be operated with an electric motor or with an outboard motor where permitted by subrule 45.4(2).

**45.4(2)** *Horsepower limitation exceptions for artificial lakes of 100 acres or less.* Motors larger than 1½ horsepower may be operated on the following lakes as designated:

Avenue of the Saints Lake, Bremer County—unrestricted horsepower at a speed not greater than 5 miles per hour.

Banner Lakes at Summerset State Park, Warren County—motorboats of outboard or inboard/outdrive type and unrestricted horsepower at a speed not greater than 5 miles per hour.

Beaver Lake, Dallas County—unrestricted horsepower operated at a speed not greater than 5 miles per hour.

Beeds Lake, Franklin County—unrestricted horsepower operated at a speed not greater than 5 miles per hour.

Black Hawk Pits, Sac County—unrestricted horsepower operated at a speed not greater than 5 miles per hour.

Crawford Creek Recreation Area Lake, Ida County—unrestricted horsepower operated at a speed not greater than 5 miles per hour.

Deer Creek Lake, Plymouth County—unrestricted horsepower operated at a speed not greater than 5 miles per hour.

Fogle Lake, Ringgold County—unrestricted horsepower operated at a speed not greater than 5 miles per hour.

George Wyth Lake, Black Hawk County—unrestricted horsepower operated at a speed not greater than 5 miles per hour.

Lake Iowa, Iowa County—unrestricted horsepower operated at a speed not greater than 5 miles per hour.

Lake of Three Fires, Taylor County—unrestricted horsepower operated at a speed not greater than 5 miles per hour.

Loch Ayr, Ringgold County—outboard motors not greater than 100 horsepower.

Meadow Lake, Adair County—unrestricted horsepower operated at a speed not greater than 5 miles per hour.

Otter Creek Lake, Tama County—unrestricted horsepower operated at a speed not greater than 5 miles per hour.

Silver Lake, Delaware County—unrestricted horsepower operated at a speed not greater than 5 miles per hour.

Thayer Lake, Union County—unrestricted horsepower operated at a speed not greater than 5 miles per hour.

Williamson Pond, Lucas County—unrestricted horsepower operated at a speed not greater than 5 miles per hour.

**45.4(3)** *Horsepower limitations for artificial lakes of more than 100 acres in size.* On artificial lakes of more than 100 acres, vessels may be operated with unrestricted horsepower at a speed not greater than 5 miles per hour except as otherwise permitted by subrule 45.4(2). The following artificial lakes have special horsepower restrictions:

*a.* Green Valley Lake, Union County—no inboard or racing-type craft are permitted. Vessels must be operated at a speed not greater than 5 miles per hour except in designated ski areas as established in 571—36.7(462A).

*b.* Lake Icaria, Adams County—motorboats of outboard or inboard/outdrive type. Vessels must be operated at a speed not greater than 5 miles per hour when within 50 feet of another vessel which is not underway or is operating at a speed not greater than 5 miles per hour. Additional speed and distance regulations apply as established in 571—40.20(462A).

*c.* Lake Macbride, Johnson County—unrestricted horsepower operated at a speed not greater than 5 miles per hour only from September 8 through May 20 of each year. A motorboat with a power unit exceeding 10 horsepower shall not be permitted the remainder of the year.

*d.* Three Mile Lake, Union County—motorboats of outboard or inboard/outdrive type with power not to exceed 200 horsepower. Vessels must be operated at a speed not greater than 5 miles per hour when within 50 feet of another vessel which is not underway or is operating at a speed not greater than 5 miles per hour. Additional speed and distance regulations apply as established in 571—40.44(462A).

[**ARC 9446B**, IAB 4/6/11, effective 5/11/11]

**571—45.5(462A) Artificial marshes.** A motorboat equipped with any power unit mounted or carried aboard the vessel may be operated on the following listed artificial marshes under the jurisdiction of the department of natural resources at a speed not greater than 5 miles per hour between January 1 and August 31 and with no speed restrictions between September 1 and December 31.

Bays Branch, Guthrie County
Big Marsh, Butler County
Brown's Slough, Lucas County
Cardinal Marsh, Winneshiek County
Dudgeon Lake, Benton County
Elk Creek Marsh, Worth County
Green Island, Jackson County
Hendrickson Marsh, Story County
Hooper Pond, Warren County
North Colyn, Lucas County
Otter Creek Marsh, Tama County
Princeton Area, Scott County
Riverton, Fremont County
Round Pond, Johnson County
South Colyn, Lucas County
Sweet Marsh, Bremer County
Walnut Creek Marsh, Ringgold County
Willow Slough, Mills County
Woodpecker Marsh, Wayne County

Nothing in this rule is to be construed as limiting motorboat horsepower on natural marshes under the jurisdiction of the department of natural resources.

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These rules are intended to implement Iowa Code sections 462A.3, 462A.9, 462A.26, and 462A.31.

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# CHAPTER 46
# ALL-TERRAIN VEHICLES, OFF-ROAD MOTORCYCLES AND OFF-ROAD UTILITY VEHICLES

## DIVISION I
## REGISTRATION, RENEWAL, TITLING, DECAL PLACEMENT AND ACCIDENT REPORTS

**571—46.1(321I) Definitions.** For purposes of this chapter, the following definitions shall apply:

*"All-terrain vehicle"* means a motorized flotation-tire vehicle with not less than three and not more than six low-pressure tires that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,000 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

*"A scale"* means the physical scale marked "A" and graduated in decibels on a sound level meter which meets the requirements of the American National Standards Institute, Incorporated, publication S1.4-1983, General Purpose Sound Level Meters.

*"Commission"* means the natural resource commission established in Iowa Code section 455A.5.

*"Department"* means the department of natural resources established in Iowa Code section 455A.2.

*"Designated riding area"* means an off-highway vehicle riding area on any public land or ice under the jurisdiction of the department that has been designated by the commission under Iowa Code chapter 321I for such use.

*"Designated riding trail"* means an off-highway vehicle riding trail on any public land or ice under the jurisdiction of the department that has been designated by the department for all-terrain vehicle use.

*"Off-road motorcycle"* means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. "Off-road motorcycle" includes a motorcycle that was originally issued a certificate of title and registered for highway use under Iowa Code chapter 321, but which contains design features that enable operation over natural terrain.

*"Off-road utility vehicle"* means a motorized flotation-tire vehicle with not less than four and not more than eight low-pressure tires that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. A motorized vehicle that was previously titled or is currently titled under Iowa Code chapter 321 shall not be registered or operated as an off-road utility vehicle.

*"Operator"* means a person who operates or is in actual physical control of a regulated vehicle.

*"Owner"* means a person, other than a lienholder, having the property right in or title to an all-terrain vehicle. "Owner" includes a person entitled to the use or possession of an all-terrain vehicle subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation. "Owner" excludes a lessee under a lease not intended as security.

*"Public land"* means land owned by the federal government, the state of Iowa, or a political subdivision of the state and land acquired or developed for public recreation pursuant to Iowa Code section 321I.8.

*"Regulated vehicle"* means all-terrain vehicles, off-road motorcycles, and off-road utility vehicles, either collectively or individually.

*"Roadway"* means that portion of a highway improved, designed, or ordinarily used for vehicular travel.

[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.2(321I) Off-road motorcycles.**

**46.2(1)** Off-road motorcycles shall be considered all-terrain vehicles for the purpose of:

*a.* Registration requirements of this chapter; and

*b.* Titling requirements of this chapter, if a title has not previously been issued under Iowa Code chapter 321.

**46.2(2)** An operator of an off-road motorcycle is subject to the provisions of Iowa Code chapter 321I and this chapter, except that the operator is exempt from the safety instruction and certification program requirements of Iowa Code chapter 321I.
[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.3(321I) Off-road utility vehicles.**

**46.3(1)** An owner of an off-road utility vehicle operating the off-road utility vehicle on public land or ice, a designated riding area, or a designated riding trail shall register the off-road utility vehicle in accordance with Iowa Code chapter 321I and this chapter.

**46.3(2)** An operator of an off-road utility vehicle is subject to the provisions of Iowa Code section 321.234A and chapter 321I and this chapter, except that the operator is exempt from the safety instruction and certification program requirements of Iowa Code chapter 321I.

**46.3(3)** An operator of an off-road utility vehicle shall not operate the vehicle on a designated riding area or designated riding trail unless the department has posted signage indicating the riding area or trail is open to the operation of off-road utility vehicles.

**46.3(4)** Off-road utility vehicles are exempt from the dealer registration and dealer titling requirements of Iowa Code chapter 321I and this chapter.
[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.4(321I) Operation on roadways, highways, streets, and snowmobile trails.** A person shall not operate a regulated vehicle upon roadways, highways, streets, or snowmobile trails except as provided in Iowa Code section 321.234A and 2009 Iowa Code Supplement section 321I.10.

NOTE: Additional driving and operation limitations are listed in Iowa Code section 321I.14.
[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.5(321I) Registration for all-terrain vehicles and off-road motorcycles.**

**46.5(1)** *General.* A person shall not operate, maintain, or give permission for the operation or maintenance of an all-terrain vehicle or off-road motorcycle on public land, a designated riding area, a designated riding trail, or ice unless the all-terrain vehicle or off-road motorcycle:

*a.* Is registered in accordance with the requirements of Iowa Code chapter 321I and this chapter;

*b.* Displays a current annual nonresident user permit decal issued as provided in rule 571—46.6(321I); or

*c.* Is exempt from registration pursuant to Iowa Code section 321I.9.

**46.5(2)** *Registration requirements.*

*a.* The owner of each all-terrain vehicle or off-road motorcycle required to be registered shall file an application for registration with the department through a county recorder and pay all applicable fees pursuant to Iowa Code section 321I.4 and these rules, except that an all-terrain vehicle dealer shall make application and pay all applicable registration and title fees on behalf of a purchaser of an all-terrain vehicle or off-road motorcycle.

(1) Application forms. The applicant shall use DNR Form 542-8067 in making application for registration. In the event the applicant does not have documentation required by DNR Form 542-8067, the applicant shall use DNR Form 542-8065 and may be required to secure a bond consistent with the requirements of 571—Chapter 50.

(2) Fees. The applicant shall pay the following fees: $15 for the permit fee; $1 for the writing fee; and $1.50 for the administrative fee. In addition, a county recorder may collect an additional 25 cents for the writing fee if the county recorder issues the registration.

*b.* At such time the department or the county recorder is satisfied with the application and has received the required fees, the department or county recorder shall issue to the applicant a registration certificate and registration decal.

**46.5(3)** *Preregistration grace period.*

*a.* *Dealer purchases.* An unregistered all-terrain vehicle or off-road motorcycle sold by a dealer to an Iowa resident for use in Iowa shall bear a card made of pasteboard or other similar material that includes the words "registration applied for" and the date of purchase. Such card shall entitle the

purchaser to operate the all-terrain vehicle or off-road motorcycle for 45 days immediately following the purchase. The purchaser shall place this card on the rear of the all-terrain vehicle and the steering yoke of an off-road motorcycle in a position so as to be clearly visible at all times and maintained in a legible manner. The operator of any all-terrain vehicle or off-road motorcycle displaying a "registration applied for" card described in this paragraph shall carry and provide upon request to any peace officer a valid bill of sale for the all-terrain vehicle or off-road motorcycle.

*b.* *Nondealer purchases.* All-terrain vehicles and off-road motorcycles may be sold by nondealers, and the registration grace period may apply depending on the current registration of the vehicle.

(1) An all-terrain vehicle or off-road motorcycle that is currently registered in the state of Iowa may be legally operated for 30 days before it is registered under the purchaser's name.

(2) An all-terrain vehicle or off-road motorcycle not currently registered in the state of Iowa shall not be operated until it is titled and registered in the purchaser's name. Valid registration in another state does not authorize preregistration operation.

**46.5(4)** *Registration—renewals.* Every all-terrain vehicle and off-road motorcycle registration certificate and registration decal expires at midnight December 31 of the year issued or at the time specified on the registration decal. Applications for renewal shall be completed pursuant to Iowa Code section 321I.7.

[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.6(321I) Nonresident user permits.**

**46.6(1)** A nonresident wishing to operate a regulated vehicle, other than such vehicle owned by a resident and registered pursuant to Iowa Code chapter 321I, on public land, a designated riding area, a designated riding trail, or ice of this state must first obtain a user permit from the department.

**46.6(2)** The department, a county recorder or license agent designated by the director may issue nonresident user permits. The applicant shall pay the following fees for a user permit: $15 for the permit fee; $1 for a writing fee; and $1.50 for an administrative fee. In the event the county recorder issues such a permit, the county recorder may charge an additional 25 cents for the writing fee.

**46.6(3)** A nonresident user permit issued under this rule shall be valid for the calendar year or time period specified in the permit and be limited to the vehicle specified at the time of application.

**46.6(4)** Nonresident user permits are issued to a vehicle and are not transferable.

[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.7(321I) Display of registration and user permit decals.** The owner shall display the registration decal or nonresident user permit decal as follows:

**46.7(1)** *All-terrain vehicle.* The decal shall be affixed to the rear of the all-terrain vehicle so that the decal is clearly visible.

**46.7(2)** *Off-road motorcycle.* The decal shall be affixed to the steering yoke in such a manner that the decal does not cover up the vehicle identification number and is clearly visible.

**46.7(3)** *Off-road utility vehicle.* The decal shall be affixed to the rear of the vehicle so that the decal is clearly visible.

[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.8(321I) Registration certificate.**

**46.8(1)** An operator of a regulated vehicle shall carry the registration certificate either in such vehicle or on the person of the operator when the regulated vehicle is in use.

**46.8(2)** The operator of a regulated vehicle shall exhibit the registration certificate to all of the following:

*a.* To a peace officer or department personnel upon request;

*b.* To a person injured in an accident involving the regulated vehicle, or that person's agent;

*c.* To the owner or operator of another regulated vehicle when the regulated vehicle is involved in a collision or accident of any nature with the other regulated vehicle, or that person's agent;

*d.* To the owner of personal or real property when the regulated vehicle is involved in a collision or accident of any nature with the property of the other person, or that person's agent; and

*e.* To the property owner or tenant when the regulated vehicle is being operated on private property without permission from the property owner or tenant, or that person's agent.
[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.9(321I) Owner's certificate of title.**

**46.9(1)** The owner of an all-terrain vehicle or off-road motorcycle acquired on or after January 1, 2000, other than an all-terrain vehicle used exclusively as a farm implement or an off-road motorcycle previously issued a title pursuant to Iowa Code chapter 321, shall apply to the county recorder of the county in which the owner resides for a certificate of title for the all-terrain vehicle or off-road motorcycle. The owner shall make application within 30 days after acquisition of the all-terrain vehicle or off-road motorcycle, using DNR Form 542-8067, and shall include the required fees set out in Iowa Code section 321I.32.

**46.9(2)** A certificate of title issued by the county recorder shall be on DNR Form 542-0974.
[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.10(321I) Procedures for application and for issuance of a vehicle identification number (VIN) for homebuilt regulated vehicles.**

**46.10(1)** A person, other than a manufacturer, who constructs or rebuilds a regulated vehicle for which there is no legible VIN may make application to the department on DNR Form 542-8065 for the issuance of a new VIN. The application process shall include an inspection of the regulated vehicle by the department. If the application is approved, the VIN shall be affixed to the vehicle by a conservation officer. The completed application shall then be surrendered to the county recorder.

**46.10(2)** The conservation officer shall permanently affix the VIN as follows:

*a.* *All-terrain vehicle.* The VIN shall be affixed to the frame under the seat.

*b.* *Off-road motorcycle.* The VIN shall be affixed to the steering yoke.

*c.* *Off-road utility vehicle.* The VIN shall be affixed to the frame under the seat.
[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.11(321I) Accident report.**

**46.11(1)** Whenever any regulated vehicle is involved in an accident resulting in injury or death to any person or property damage amounting to $1,000 or more, the operator or a person acting for the operator shall immediately notify the county sheriff or another law enforcement agency in the state.

**46.11(2)** If the accident occurred on public land, a designated riding area, a designated riding trail, or ice under the jurisdiction of the commission, the operator shall file a report of the accident with the department within 72 hours. The report shall be on DNR Form 542-8093, Off-Highway Vehicle Incident Report Form.

**46.11(3)** Accidents other than those specified in 46.11(2) shall be reported as required in Iowa Code section 321.266.
[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.12(321I) Sound level limitation.**

**46.12(1)** No person shall operate an all-terrain vehicle or off-road motorcycle that is constructed or altered in a manner that noise emitted from the all-terrain vehicle or off-road motorcycle exceeds 96 decibels on the A scale when measured in the manner prescribed in the revised 2008-05, Society of Automotive Engineers Standard J1287, titled "Measurement of Exhaust Sound Pressure Levels of Stationary Motorcycles."

**46.12(2)** The Society of Automotive Engineers Standard J1287, titled "Measurement of Exhaust Sound Pressure Levels of Stationary Motorcycles," is available for inspection at the following locations:

*a.* Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319.

*b.* State Law Library, Capitol Building, 1007 East Grand Avenue, Des Moines, Iowa 50319.
[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.13** to **46.20** Reserved.

DIVISION II
ALL-TERRAIN VEHICLE DEALERS

**571—46.21(321I) Purpose.** The rules in this division apply to registered all-terrain vehicle dealers, manufacturers, and distributors. These rules establish minimum standards for all-terrain vehicle dealers as authorized under 2009 Iowa Code Supplement section 321I.22(9).
[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.22(321I) Definitions.** For purposes of this division, the following definitions shall apply:

*"Consumer use"* means use of an all-terrain vehicle for business or pleasure, not for sale at retail, by a person who has obtained a certificate of title and has registered the vehicle in conformance with Iowa Code chapter 321I.

*"Dealer"* means a person engaged in the business of buying, selling, or exchanging all-terrain vehicles required to be registered under Iowa Code chapter 321I and this chapter and who has an established place of business for that purpose in this state.

*"Designated location"* means the primary place of business of the dealer or a building actually occupied by a dealer where the public and the department may contact the dealer during regular business hours.

*"Distributor"* means a person, resident or nonresident, who sells or distributes all-terrain vehicles to all-terrain vehicle dealers in this state or who maintains distributor representatives.

*"Engaged in the business,"* or similar wording, means doing any of the following acts for the purpose of selling all-terrain vehicles at retail: acquiring, selling, exchanging, holding, offering, displaying, brokering, accepting on consignment or conducting a retail auction, or acting as an agent for the purpose of doing any of these acts. A person selling at retail more than five all-terrain vehicles during a 12-month period may be presumed to be engaged in the business.

*"Established place of business"* means the place actually occupied either continuously or at regular periods by a dealer or manufacturer where the books and records are kept and the dealer's or manufacturer's business is primarily transacted.

*"Manufacturer"* means a person engaged in the business of constructing or assembling all-terrain vehicles required to be registered under Iowa Code chapter 321I and this chapter and who has an established place of business for that purpose in this state.

*"Manufacturer's certificate of origin"* means a certification signed by the manufacturer, distributor or importer that the all-terrain vehicle described has been transferred to the person or dealer named, and that the transfer is the first transfer of the vehicle in ordinary trade and commerce. A manufacturer's certificate of origin may also be referred to as a manufacturer's statement of origin.
[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.23(321I) Dealer's established place of business.** A dealer's established place of business shall include landline telephone service and an adequate office area for keeping business records, manufacturers' certificates of origin, certificates of title or other evidence of ownership for all-terrain vehicles offered for sale.
[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.24(321I) Zoning.** Dealers licensed under these rules must comply with applicable local zoning ordinances. Upon request by the department, a dealer shall provide to the department written evidence, issued by the office responsible for the enforcement of zoning ordinances in the city or county where the dealer's established place of business is located, that the dealer's established place of business complies with all applicable zoning provisions.
[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.25(321I) Sales tax permit.** A dealer shall provide to the department written evidence that the dealer has obtained a sales tax permit issued by the department of revenue.
[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.26(321I) Special registration certificates for manufacturers, distributors, and dealers.**

**46.26(1)** A manufacturer, distributor, or dealer owning an all-terrain vehicle required to be registered under Iowa Code chapter 321I and this chapter may operate the unregistered all-terrain vehicle for purposes of transporting, testing, demonstrating, or selling it if both of the following requirements are met:

*a.* The manufacturer, distributor, or dealer obtains from the department a special registration certificate containing a general identification number in accordance with Iowa Code section 321I.22. An application for a special registration certificate shall be submitted on DNR Form 542-0846; and

*b.* The manufacturer, distributor, or dealer has the assigned identification number printed upon or attached to a removable sign which is temporarily but firmly attached to the all-terrain vehicle being used.

**46.26(2)** If a manufacturer, distributor, or dealer has an established place of business in more than one location, the manufacturer, distributor, or dealer shall obtain from the department a separate and distinct special registration certificate and general identification number for each place of business.

**46.26(3)** Duplicate special registration certificates may be obtained pursuant to the conditions set forth in Iowa Code section 321I.22.

[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.27(321I) Information provided to purchaser.** At the time of sale, a dealer shall provide all purchasers of all-terrain vehicles with both (1) a copy of current all-terrain vehicle laws and regulations governing the usage of all-terrain vehicles in the state of Iowa, and (2) the most up-to-date list of public places open for all-terrain vehicle usage. The department shall provide this required information on its Web site, www.iowadnr.gov. Information provided on the department's Web site shall be deemed current and the most up-to-date information for purposes of this rule.

[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.28(321I) Right of inspection.** The department or any peace officer has the authority to inspect the following at any dealer location: (1) all-terrain vehicles or component parts of vehicles, (2) business records, and (3) manufacturers' certificates of origin, certificates of title and other evidence of ownership for all-terrain vehicles offered for sale. The department has the right at any time to verify compliance with all statutory and regulatory requirements by a dealer registered under Iowa Code chapter 321I.

[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.29(321I) Denial or revocation.** The department may deny a dealer application or revoke a dealer registration certificate when the director determines the applicant or dealer has violated any rule of this chapter or Iowa Code chapter 321I or when continuation of the permit is not in the public interest. Such denial or revocation shall become effective upon a date specified in the notice. The notice shall state the extent of the denial or revocation and the reasons for the action. Within 30 days following receipt of the notice of a revocation or denial, the applicant or dealer, whichever is applicable, may file a notice of appeal, requesting a contested case pursuant to 561—Chapter 7. The notice of appeal shall specify the basis for requesting that the permit be issued or reinstated.

[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.30** to **46.50** Reserved.

DIVISION III
REGULATION OF DESIGNATED RIDING AREAS

**571—46.51(321I) Definitions.** In addition to the definitions in division I and division II of this chapter, the following definitions shall apply:

*"Direct supervision"* means to provide supervision of another person while maintaining visual and verbal contact at all times.

*"Local sponsor"* means the entity that owns the designated riding area or is otherwise responsible for the day-to-day operations of the designated riding area. A local sponsor may or may not be a unit of government.

*"Operate"* means to ride in or on, other than as a passenger, use, or control the operation of a regulated vehicle in any manner, whether or not the regulated vehicle is moving.

*"Regulated vehicle"* means all-terrain vehicles, off-road motorcycles, and off-road utility vehicles, either collectively or individually.

[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.52(321I) Designated riding areas.**

**46.52(1)** Designated off-highway vehicle (OHV) riding areas shall be considered to be public land, available and open to the public to use and enjoy consistent with these rules.

**46.52(2)** The following areas are hereby established as designated riding areas:

*a.* Bluff Creek OHV Park, Mahaska County.

*b.* Lakeview OHV Park, Johnson County.

*c.* Gypsum City OHV Park, Webster County.

*d.* Nicholson-Ford OHV Park, Marshall County.

*e.* Rathbun OHV Park, Appanoose County.

*f.* River Valley OHV Park, Pottawattamie County.

*g.* Riverview OHV Park, Black Hawk County.

*h.* Tama County OHV Park, Tama County.

**46.52(3)** A local sponsor may request that the commission adopt the local sponsor's riding area as a designated riding area by contacting the chief of the department's law enforcement bureau in writing and providing information, as requested by the department, that demonstrates that the local sponsor's proposed designated riding area meets the minimum qualifications described in these rules. All studies or surveys required by these rules shall be at the local sponsor's expense. The department may require additional surveys or studies and conduct an on-site evaluation for each proposed designated riding area to determine whether the department should recommend that the commission adopt the proposed area as a designated riding area. The commission may adopt additional designated riding areas that meet the following minimum qualifications:

*a.* The site and plan for development and management is suitable for off-highway vehicle recreation. The department shall give greater consideration to sites that were previously disturbed areas, such as agricultural lands, mining operations, road surfaces or other intensive land uses that have resulted in the elimination of high-quality natural areas, native plant communities, critical habitats and cultural resources. Soil survey reports for the trail portions of the proposed designated riding area shall indicate the general soil classification of the riding areas and must indicate that those soils are of moderate risk or less for path or trail development.

*b.* There is demand for the proposed designated riding area. Consideration shall be given to nearby populations, distance to other OHV facilities, partnership possibilities and local support.

*c.* The local sponsor demonstrates a willingness and ability to maintain the proposed designated riding area consistent with these rules.

*d.* There is evidence that adjacent property owners, including those within the viewshed and within earshot of the proposed designated riding area, that exist at the time of establishment have been notified of the plan and their concerns have been addressed.

*e.* The proposed development and management of the proposed designated riding area comply with local, state or federal laws, including without limitation zoning ordinances and accommodation laws.

*f.* Any federal- or state-listed threatened or endangered species are identified and a plan to ensure that the development and management of the proposed designated riding area would not negatively impact those species is included.

*g.* Any cultural, historical or high-quality natural resources on the site are identified and a plan to ensure that the development and management of the proposed designated riding area would not

negatively impact those resources is included. High-quality areas include those areas of high-quality native plant communities, highly restorable native plant communities or other areas which provide critical wildlife habitat. In addition, if a site contains fragments of high-quality areas, but has been determined by the commission as suitable for use as a designated riding area, the local sponsor shall include in the plan how it will protect and enhance those fragments.

**46.52(4)** Designated riding areas approved by the commission shall be subject to these rules and shall be managed according to the plan approved by the commission. Major modifications to the plan, including expansions, must be approved by the commission for the designated riding area to continue to be a recognized designated riding area under these rules.

[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.53(321I) Department law enforcement at designated riding areas.** A local sponsor may request that the department provide law enforcement and other management assistance and oversight at the designated riding area, including adjacent parking and unloading areas, and at camping areas if applicable. The department, in its sole discretion, may provide such law enforcement and other management assistance and oversight it deems appropriate, provided that the local sponsor and the department enter into a written agreement describing what role and responsibilities department personnel shall have at the park and affording the department the right to terminate such agreement at any time, for any reason.

[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.54(321I) General rules for regulated vehicle operation in designated riding areas.** Operation on designated riding areas is limited to regulated vehicles as defined in this chapter and as described below:

**46.54(1)** *Allowable vehicles.* Persons shall operate only the vehicles allowed at a designated riding area that is signed as open for the specified vehicle.

**46.54(2)** *Compliance with signs.* Persons at designated riding areas shall comply with all signs erected and maintained by the local sponsor or the department consistent with its relationship to the local sponsor under rule 571—46.53(321I).

**46.54(3)** *Hours of operation.* Designated riding areas shall be open from sunrise to sunset, unless signed by the local sponsor, or the department consistent with its relationship to the local sponsor under rule 571—46.53(321I), as open for operation during other hours as approved by the department. There may be instances when operating regulated vehicles in dark conditions is permissible. In those instances, persons operating regulated vehicles between sunset and sunrise, or in otherwise dark conditions, in designated riding areas must equip their regulated vehicles with a headlight and a taillight and use such lights.

**46.54(4)** *Registration required.* A person shall not operate, maintain, or give permission for the operation or maintenance of a regulated vehicle in a designated riding area unless the regulated vehicle is registered and such registration is displayed in accordance with Iowa Code chapter 321I and these rules. This requirement includes nonresidents operating regulated vehicles in a designated riding area who are required to have nonresident user permits for their regulated vehicles.

**46.54(5)** *Safety equipment required.* All operators and their passengers shall wear helmets while operating a regulated vehicle on a designated riding area, including parking and unloading areas. The local sponsor, or the department consistent with its relationship to the local sponsor under rule 571—46.53(321I), may post signs that require operators to wear additional safety gear depending on conditions.

**46.54(6)** *Working brakes.* Every regulated vehicle operated in a designated riding area, including parking and unloading areas, shall be equipped with working brakes.

**46.54(7)** *Minors—supervision.* A person under 12 years of age shall not operate an all-terrain vehicle or an off-road motorcycle on a designated riding area unless one of the following applies:

*a.* The person is taking a prescribed education training course and the operation of the vehicle is under the direct supervision of a certified education instructor.

*b.* The operation of the vehicle is under the direct supervision of a responsible parent or guardian of at least 18 years of age who is experienced in all-terrain vehicle or off-road motorcycle operation and who possesses a valid driver's license as defined in Iowa Code section 321.1.
[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.55(321I) Unauthorized vehicles.** The local sponsor, or the department consistent with its relationship to the local sponsor under rule 571—46.53(321I), may tow unauthorized vehicles, including hauling equipment. Towing shall be at the owner's expense.
[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.56(321I) Parking and unloading areas.** All vehicles, other than regulated vehicles, and trailers shall be parked in designated parking areas. No such vehicles, other than regulated vehicles, shall be left unattended in any park drive access point, unloading area, road or highway, except in the case of an emergency.
[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.57(321I) Operation with passengers.**

**46.57(1)** Persons shall not operate regulated vehicles on designated riding areas with a passenger unless the regulated vehicle is designed and constructed according to the manufacturer's specifications to carry a passenger. Passengers shall not ride on regulated vehicles that have been modified from the manufacturer's original design and construction to carry a passenger.

**46.57(2)** A person shall not operate a regulated vehicle in a designated riding area with a passenger without possession of a valid driver's license as defined in Iowa Code section 321.1.

**46.57(3)** The number of passengers on a regulated vehicle in a designated riding area shall not exceed the manufacturer's capacity recommendation and shall not exceed the number of passenger restraints originally installed by the manufacturer.

**46.57(4)** A passenger on an all-terrain vehicle or off-road motorcycle must be seated behind the operator and have the physical ability to securely hold on to the operator or passenger handles.

**46.57(5)** Passengers on an off-road utility vehicle must be able to place both feet flat on the floor boards with their backs resting against the seat back.
[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.58(321I) Off-road utility vehicle requirements.** The following additional restrictions apply to the operation of off-road utility vehicle operation in designated riding areas signed open to such use:

**46.58(1)** Driver's license required. A person shall not operate an off-road utility vehicle in a designated riding area without possession of a valid driver's license as defined in Iowa Code section 321.1.

**46.58(2)** Vehicles shall not be homebuilt or substantially modified from the manufacturer's specifications in the sole opinion of the director or the director's designee.

**46.58(3)** Vehicles must be equipped with a roll-over protection system (ROPS) installed by the manufacturer.

**46.58(4)** Vehicles must be equipped with manufacturer seat belts or equivalent that are in good working order. The operator and all passengers must wear seat belts at all times the vehicle is in motion.

**46.58(5)** The operator and all passengers must keep their hands, arms, legs, and feet inside the vehicle at all times the vehicle is in motion.

**46.58(6)** The vehicle must be no wider than 62 inches.
[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.59(321I) Youth operational areas.** The local sponsor, or the department consistent with its relationship to the local sponsor under rule 571—46.53(321I), may establish areas for youth all-terrain vehicle and off-road motorcycle operation on designated riding areas; may restrict the age of the operator and the size of the all-terrain vehicle; may limit the engine displacement for both all-terrain vehicles and off-road motorcycles; and shall post such restrictions.
[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.60(321I) Unlawful operation.** A person shall not operate a regulated vehicle in any of the following instances:

**46.60(1)** At a rate of speed greater than reasonable or proper under all existing circumstances or greater than the posted speed, whichever is less. In no event shall a person operate any vehicle in a parking area of or adjacent to a designated riding area in excess of 5 miles per hour.

**46.60(2)** In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.

**46.60(3)** While under the influence of intoxicating substances or narcotics or habit-forming drugs.

**46.60(4)** Without a lighted headlight and taillight from sunset to sunrise and at such other times when conditions provide insufficient lighting to render clearly discernible persons and vehicles at a distance of 500 feet ahead.

**46.60(5)** Off established or marked trails or in prohibited areas.

**46.60(6)** In violation of official signs posted by the local sponsor or by the department consistent with its relationship to the local sponsor under rule 571—46.53(321I).

**46.60(7)** If the person's license to operate a motor vehicle is under suspension, revocation, bar, disqualification, cancellation or denial by this state or any other state.

[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.61(321I) Alcohol prohibited.** Persons shall not consume or possess alcohol in designated riding areas, except that the consumption and possession of alcohol shall be permitted at designated camping areas.

[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.62(321I) Pets.** Pets shall not be permitted in designated riding areas, except for parking and camping areas, if any.

[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

**571—46.63(321I) Camping.** Camping shall not be permitted in designated riding areas, except for areas specifically designed for and identified by the local sponsor, or the department consistent with its relationship to the local sponsor under rule 571—46.53(321I), for such use. In such instances, camping rules shall be posted in such areas.

[**ARC 8878B**, IAB 6/30/10, effective 8/4/10]

These rules are intended to implement Iowa Code chapter 321I.

[Filed ARC 8878B (Notice ARC 8730B, IAB 5/5/10), IAB 6/30/10, effective 8/4/10]

# CHAPTER 47
# SNOWMOBILES

## DIVISION I
## REGISTRATION, RENEWAL, TITLING, DECAL PLACEMENT AND ACCIDENT REPORTS

**571—47.1(321G) Definitions.** For purposes of this chapter, the following definitions shall apply:

*"Commission"* means the natural resource commission established in Iowa Code section 455A.5.

*"Department"* means the department of natural resources established in Iowa Code section 455A.2.

*"Operator"* means a person who operates or is in actual physical control of a snowmobile.

*"Owner"* means a person, other than a lienholder, having the property right in or title to a snowmobile. "Owner" includes a person entitled to the use or possession of a snowmobile subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation. "Owner" does not include a lessee under a lease not intended as security.

*"Public land"* means land owned by the federal government, the state of Iowa, or a political subdivision of the state and land acquired or developed for public recreation pursuant to Iowa Code section 321G.7.

*"Roadway"* means that portion of a highway improved, designed, or ordinarily used for vehicular travel.

*"Snowmobile"* means a motorized vehicle weighing less than 1,000 pounds which uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or less, or any combination of runners, skis, or tread and is designed for travel on snow or ice. "Snowmobile" does not include an all-terrain vehicle, as defined in Iowa Code section 321I.1, which has been altered or equipped with runners, skis, belt-type tracks, or treads.

[**ARC 8879B**, IAB 6/30/10, effective 8/4/10]

**571—47.2(321G) Operation on roadways, highways, streets and snowmobile trails.** A person shall not operate a snowmobile upon roadways, highways, streets, or designated snowmobile trails except as provided in Iowa Code section 321G.9.

NOTE: Additional driving and operation limitations are listed in Iowa Code section 321G.13.

[**ARC 8879B**, IAB 6/30/10, effective 8/4/10]

**571—47.3(321G) Registration for snowmobiles.**

**47.3(1)** *General.* A person shall not operate, maintain, or give permission for the operation or maintenance of a snowmobile on public land, a designated snowmobile trail, or ice unless the snowmobile:

*a.* Is registered in accordance with the requirements of Iowa Code chapter 321G and this chapter;

*b.* Displays a current annual nonresident user permit decal issued as provided in rule 571—47.4(321G); or

*c.* Is exempt from registration pursuant to Iowa Code section 321G.8.

**47.3(2)** *Registration requirements.*

*a.* The owner of each snowmobile required to be registered shall file an application for registration with the department through a county recorder and pay all applicable fees pursuant to Iowa Code section 321G.4 and these rules, except that a snowmobile dealer shall make application and pay all applicable registration and title fees on behalf of a purchaser of a snowmobile.

(1) Application forms. The applicant shall use DNR Form 542-8067 in making application for registration. In the event the applicant does not have the documentation required by DNR Form 542-8067, the applicant shall use DNR Form 542-8065 and may be required to secure a bond consistent with the requirements of 571—Chapter 50.

(2) Fees. The applicant shall pay the following fees: $15 for the permit fee; $1 for the writing fee; and $1.50 for the administrative fee. In addition, a county recorder may collect an additional 25 cents for the writing fee if the county recorder issues the registration.

*b.* At such time the department or the county recorder is satisfied with the application and has received the required fees, the department or county recorder shall issue to the applicant a registration certificate and registration decal.

**47.3(3)** *Preregistration grace period.*

*a.* *Dealer purchases.* An unregistered snowmobile sold by a dealer to an Iowa resident for use in Iowa shall bear a card made of pasteboard or other similar material that includes the words "registration applied for" and the date of purchase. Such card shall entitle the purchaser to operate the snowmobile for 45 days immediately following the purchase. The purchaser shall place this card on the windshield area of the snowmobile in a position so as to be clearly visible at all times and maintained in a legible manner. The operator of any snowmobile displaying a "registration applied for" card described in this paragraph shall carry and provide upon request to any peace officer a valid bill of sale for the snowmobile.

*b.* *Nondealer purchases.* Snowmobiles may be sold by nondealers, and the registration grace period may apply depending on the current registration of the vehicle.

(1) A snowmobile that is currently registered in the state of Iowa may be legally operated for 30 days before it is registered under the purchaser's name.

(2) A snowmobile not currently registered in the state of Iowa shall not be operated until it is titled and registered in the purchaser's name. Valid registration in another state does not authorize preregistration operation.

**47.3(4)** *Registration—renewals.* Every snowmobile registration certificate and registration decal expires at midnight December 31 of the year issued or at the time specified on the registration decal. Applications for renewal shall be completed pursuant to Iowa Code section 321G.6.

[**ARC 8879B**, IAB 6/30/10, effective 8/4/10]

**571—47.4(321G) Nonresident user permits.**

**47.4(1)** A nonresident wishing to operate a snowmobile, other than such vehicle owned by a resident and registered pursuant to Iowa Code chapter 321G, on public land, a designated snowmobile trail, or ice of this state must first obtain a user permit from the department.

**47.4(2)** The department, a county recorder or license agent designated by the director may issue nonresident user permits. The applicant shall pay the following fees for a user permit: $15 for the permit fee; $1 for a writing fee; and $1.50 for an administrative fee. In the event the county recorder issues such a permit, the county recorder may charge an additional 25 cents for the writing fee.

**47.4(3)** A user permit issued under this rule shall be valid for the calendar year or time period specified in the permit and shall be limited to the vehicle specified at the time of application.

**47.4(4)** Nonresident user permits are issued to a vehicle and are not transferable.

[**ARC 8879B**, IAB 6/30/10, effective 8/4/10]

**571—47.5(321G) Display of registration and user permit decals.** The owner of a snowmobile shall display the registration decal or nonresident user permit decal on the windshield of the snowmobile so that the decal is clearly visible. If the snowmobile does not have a windshield, then the decal shall be affixed to the area of the hood near the headlamp so that the decal is clearly visible.

[**ARC 8879B**, IAB 6/30/10, effective 8/4/10]

**571—47.6(321G) Registration certificate.**

**47.6(1)** An operator of a snowmobile shall carry the registration certificate either in such vehicle or on the person of the operator when the snowmobile is in use.

**47.6(2)** The operator of a snowmobile shall exhibit the registration certificate to all of the following:

*a.* To a peace officer or department personnel upon request;

*b.* To a person injured in an accident involving the snowmobile, or that person's agent;

*c.* To the owner or operator of another snowmobile when the snowmobile is involved in a collision or accident of any nature with the other snowmobile, or that person's agent;

*d.* To the owner of personal or real property when the snowmobile is involved in a collision or accident of any nature with the property of the other person, or that person's agent; and

*e.* To the property owner or tenant when the snowmobile is being operated on private property without permission from the property owner or tenant, or that person's agent.
[**ARC 8879B**, IAB 6/30/10, effective 8/4/10]

**571—47.7(321G) Owner's certificate of title.**

**47.7(1)** The owner of a snowmobile acquired on or after January 28, 1998, other than a snowmobile used exclusively as a farm implement or a previously registered snowmobile that is more than 30 years old, shall apply to the county recorder of the county in which the owner resides for a certificate of title for the snowmobile. The owner shall make application within 30 days after acquisition of the snowmobile, using DNR Form 542-8067, and shall include the required fees set out in Iowa Code section 321G.30.

**47.7(2)** A certificate of title issued by the county recorder shall be on DNR Form 542-0974.
[**ARC 8879B**, IAB 6/30/10, effective 8/4/10]

**571—47.8(321G) Procedures for application and for issuance of a vehicle identification number (VIN) for homebuilt snowmobiles.**

**47.8(1)** A person, other than a manufacturer, who constructs or rebuilds a snowmobile for which there is no legible VIN may make application to the department on DNR Form 542-8065 for the issuance of a new VIN. The application process shall include an inspection of the snowmobile by the department. If the application is approved, the VIN shall be affixed to the vehicle by a conservation officer. The completed application shall then be surrendered to the county recorder.

**47.8(2)** The conservation officer shall permanently affix the VIN to the frame under the seat of the snowmobile.
[**ARC 8879B**, IAB 6/30/10, effective 8/4/10]

**571—47.9(321G) Accident report.**

**47.9(1)** Whenever any snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to $1,000 or more, the operator or someone acting for the operator shall immediately notify the county sheriff or another law enforcement agency of the state.

**47.9(2)** If the accident occurred on public land, a designated snowmobile trail, or ice under the jurisdiction of the commission, the operator shall file a report of the accident with the department within 72 hours. The report shall be on DNR Form 542-8093, Off-Highway Vehicle Incident Report Form.

**47.9(3)** Accidents other than those specified in 47.9(2) shall be reported as required in Iowa Code section 321.266.
[**ARC 8879B**, IAB 6/30/10, effective 8/4/10]

**571—47.10** to **47.20** Reserved.

DIVISION II
SNOWMOBILE DEALERS

**571—47.21(321G) Purpose.** The rules in this division apply to registered snowmobile dealers, manufacturers, and distributors. These rules establish minimal standards for snowmobile dealers as authorized under Iowa Code Supplement section 321G.21.
[**ARC 8879B**, IAB 6/30/10, effective 8/4/10]

**571—47.22(321G) Definitions.** For purposes of this division, the following definitions shall apply:

*"Consumer use"* means use of a snowmobile for business or pleasure, not for sale at retail, by a person who has obtained a certificate of title and has registered the vehicle in conformance with Iowa Code chapter 321G.

*"Dealer"* means a person engaged in the business of buying, selling, or exchanging snowmobiles required to be registered under Iowa Code chapter 321G and this chapter and who has an established place of business for that purpose in this state.

*"Designated location"* means the primary place of business of the dealer or a building actually occupied by a dealer where the public and the department may contact the dealer during regular business hours.

*"Distributor"* means a person, resident or nonresident, who sells or distributes snowmobiles to snowmobile dealers in this state or who maintains distributor representatives.

*"Engaged in the business,"* or similar wording, means doing any of the following acts for the purpose of selling snowmobiles at retail: acquiring, selling, exchanging, holding, offering, displaying, brokering, accepting on consignment or conducting a retail auction, or acting as an agent for the purpose of doing any of these acts. A person selling at retail more than five snowmobiles during a 12-month period may be presumed to be engaged in the business.

*"Established place of business"* means the place actually occupied either continuously or at regular periods by a dealer or manufacturer where the books and records are kept and the dealer's or manufacturer's business is primarily transacted.

*"Manufacturer"* means a person engaged in the business of constructing or assembling snowmobiles required to be registered under Iowa Code chapter 321G and this chapter and who has an established place of business for that purpose in this state.

*"Manufacturer's certificate of origin"* means a certification signed by the manufacturer, distributor or importer that the snowmobile described has been transferred to the person or dealer named, and that the transfer is the first transfer of the vehicle in ordinary trade and commerce. A manufacturer's certificate of origin may also be referred to as a manufacturer's statement of origin.
[**ARC 8879B**, IAB 6/30/10, effective 8/4/10]

**571—47.23(321G) Dealer's established place of business.** A dealer's established place of business shall include landline telephone service and an adequate office area for keeping business records, manufacturers' certificates of origin, certificates of title or other evidence of ownership for all snowmobiles offered for sale.
[**ARC 8879B**, IAB 6/30/10, effective 8/4/10]

**571—47.24(321G) Zoning.** Dealers licensed under these rules must comply with applicable local zoning ordinances. Upon request by the department, a dealer shall provide to the department written evidence issued by the office responsible for the enforcement of zoning ordinances in the city or county where the dealer's established place of business is located that the dealer's established place of business complies with all applicable zoning provisions.
[**ARC 8879B**, IAB 6/30/10, effective 8/4/10]

**571—47.25(321G) Sales tax permit.** A dealer shall provide to the department written evidence that the dealer has obtained a sales tax permit issued by the department of revenue.
[**ARC 8879B**, IAB 6/30/10, effective 8/4/10]

**571—47.26(321G) Special registration certificates for manufacturers, distributors and dealers.**

**47.26(1)** A manufacturer, distributor, or dealer owning a snowmobile required to be registered under Iowa Code chapter 321G and this chapter may operate the unregistered snowmobile for purposes of transporting, testing, demonstrating, or selling it if both of the following requirements are met:

*a.* The manufacturer, distributor, or dealer obtains from the department a special registration certificate and decal containing a general identification number in accordance with Iowa Code section 321G.21. An application for a special registration certificate shall be submitted on DNR Form 542-0846; and

*b.* The manufacturer, distributor, or dealer has the assigned decal attached to a removable sign which is temporarily but firmly attached to the snowmobile being used.

**47.26(2)** If a manufacturer, distributor, or dealer has an established place of business in more than one location, the manufacturer, distributor, or dealer shall obtain from the department a separate and distinct special registration certificate, decal and general identification number for each place of business.

**47.26(3)** Duplicate special registration certificates and decals may be obtained pursuant to the conditions set forth in Iowa Code section 321G.21.
[**ARC 8879B**, IAB 6/30/10, effective 8/4/10]

**571—47.27(321G) Information provided to purchasers.** At the time of sale, a dealer shall provide all purchasers of snowmobiles with both (1) a copy of current snowmobile laws and regulations governing the usage of snowmobiles in the state of Iowa, and (2) the most up-to-date list of public places open for snowmobile usage. The department shall provide this required information on its Web site, www.iowadnr.gov. Information provided on the department's Web site shall be deemed current and the most up-to-date information for purposes of this rule.
[**ARC 8879B**, IAB 6/30/10, effective 8/4/10]

**571—47.28(321G) Right of inspection.** The department or any peace officer has the authority to inspect the following at any dealer location: (1) snowmobiles or component parts of vehicles, (2) business records, and (3) manufacturers' certificates of origin, certificates of title and other evidence of ownership for snowmobiles offered for sale. The department has the right at any time to verify compliance with all statutory and regulatory requirements by a dealer registered under Iowa Code chapter 321G.
[**ARC 8879B**, IAB 6/30/10, effective 8/4/10]

**571—47.29(321G) Denial or revocation.** The department may deny a dealer application or revoke a dealer registration certificate when the director determines the applicant or dealer has violated any rule of this chapter or Iowa Code chapter 321G or when continuation of the permit is not in the public interest. Such denial or revocation shall become effective upon a date specified in the notice. The notice shall state the extent of the denial or revocation and the reasons for the action. Within 30 days following receipt of the notice of a revocation or denial, the applicant or dealer, whichever is applicable, may file a notice of appeal, requesting a contested case pursuant to 561—Chapter 7. The notice of appeal shall specify the basis for requesting that the permit be issued or reinstated.
[**ARC 8879B**, IAB 6/30/10, effective 8/4/10]

These rules are intended to implement Iowa Code chapter 321G.

[Filed ARC 8879B (Notice ARC 8731B, IAB 5/5/10), IAB 6/30/10, effective 8/4/10]

# CHAPTER 48
# INSPECTION OF PERMANENTLY MOORED VESSELS

**571—48.1(462A) Purpose.** This chapter is intended to establish the procedures for compliance with the inspection requirements of Iowa Code sections 99F.7(14) and 462A.20 for the inspection of excursion boats used for gambling that have been removed from navigation and designated as permanently moored vessels by the United States Coast Guard.

**571—48.2(462A) Definitions.**

*"Commission"* means the Iowa racing and gaming commission.

*"Correction report"* means a written requirement issued by, or on behalf of, the department and directing a PMV operator to correct a safety or maritime security deficiency within a specified period of time.

*"Critical systems"* on a PMV means fire safety systems, systems that protect against flooding and progressive flooding, emergency power systems, emergency lighting systems, emergency ventilation shutdown systems, and fuel and sewage discharge prevention systems.

*"Department"* means the Iowa department of natural resources.

*"Inspection program coordinator"* means a third-party contractor retained pursuant to 567—48.5(462A) to conduct inspections on PMVs and administer the PMV inspection program.

*"Permanently moored vessel"* or *"PMV"* means an excursion boat used for gambling, which is removed from navigation and defined as a vessel under Title 46, Code of Federal Regulations, Subchapter K or H, that would have previously required a United States Coast Guard Certificate of Inspection.

**571—48.3(462A) Inspection requirements.** All PMVs shall be inspected by a qualified inspector to determine compliance with the "State of Iowa Permanently Moored Vessel Inspection Requirements," 2005, as adopted by reference herein.

**571—48.4(462A) Inspectors.** Inspections of PMVs shall be conducted by a person or persons meeting the criteria set forth in this rule.

**48.4(1)** *Qualifications.* An inspector shall:

*a.* Have prior experience as a U.S. Coast Guard marine inspector or as a classification society (recognized by the U.S. Coast Guard) surveyor; or

*b.* Be a classification surveyor acting on behalf of a classification society; or

*c.* Be a professional engineer licensed by one of the 50 states; or

*d.* Be a professional naval architect or marine engineer.

**48.4(2)** *Minimum documented work experience.* An inspector shall:

*a.* Have obtained three years' experience in the examination of steel or aluminum vessels of similar design; and

*b.* Be familiar with the regulations and standards under which the PMV was built; and

*c.* Be familiar with permanent mooring arrangements and ship structures supporting the same; and

*d.* Have experience in marine emergency response operations and planning that is sufficient for the individual to competently review emergency action plans required by these rules; and

*e.* Have experience in the investigation of reportable occurrences as described in the "State of Iowa Permanently Moored Vessel Inspection Requirements," 2005.

**571—48.5(462A) Statewide inspection contract.** If the department determines that the administration of this chapter could best be effectuated through a contract with one or more third parties, the state may award such a contract or contracts pursuant to the provisions of 561—Chapter 8, as adopted by reference in rule 571—8.1(17A).

**48.5(1)** A statewide inspection contract shall authorize an inspection program coordinator to conduct the inspections required by this chapter, prepare and submit the required reports, and engage in such other activities as may be necessary for the administration of the PMV inspection program.

**48.5(2)** A contract entered into pursuant to this rule shall establish fees to be paid by PMV operators to the inspection program coordinator for the inspection of PMVs. There shall be a fixed fee established by contract for inspections and administration of the program by the inspection program coordinator. The contract may establish additional fees to be charged by the inspection program coordinator for work related to addressing deficiencies or other noncompliance by a PMV operator. Said fees shall be the sole source of payment to the inspection program coordinator.

**48.5(3)** In the event that a statewide inspection contract is executed by the department, all submissions required by these rules shall be sent to the inspection program coordinator established by the contract.

**571—48.6(462A) Submission.** Any person making application to the commission for the licensing of a PMV shall submit proof to the department that the PMV has been inspected by a qualified inspector and that the PMV satisfies all of the requirements of the "State of Iowa Permanently Moored Vessel Inspection Requirements," 2005. All PMVs licensed pursuant to Iowa Code chapter 99F shall submit to the department quarterly and annual reports in compliance with all of the requirements of the "State of Iowa Permanently Moored Vessel Inspection Requirements," 2005.

**571—48.7(462A) Notification to the commission.** If a PMV operator fails to cure an inadequacy in a required inspection report or to comply with a correction report for a critical system or maritime security deficiency within the applicable time period, a determination of inadequacy shall be forwarded to the commission and shall be subject to the appeal and contested case procedures of the department as established by 561—Chapter 7 and adopted by reference at 571—7.1(17A).

**48.7(1)** *Inspection reports.* The department shall, within 60 days of receipt of an initial inspection, quarterly or annual report, determine the adequacy of the report and shall notify the submitting party of such determination. The submitting party shall be given a minimum of 60 days to cure any inadequacy not involving critical systems or maritime security.

**48.7(2)** *Correction reports.* To minimize safety and maritime security risks to the public, the environment and the PMV itself, deficiencies found in critical systems or security systems shall be immediately reported to the department. After consulting with the PMV operator, the department may issue a correction report if the deficiency was not immediately corrected. The correction report will direct the PMV operator to take corrective action within a specific period of time that is based on the nature and severity of the deficiency.

These rules are intended to implement Iowa Code sections 99F.7(14) and 462A.20.

[Filed emergency 5/13/05 after Notice 3/2/05—published 6/8/05, effective 5/13/05]

# CHAPTER 49
# OPERATION OF MOTOR VEHICLES IN MEANDERED STREAMS, NAVIGABLE STREAMS AND TROUT STREAMS

**571—49.1(462A) Purpose and intent.** This chapter implements Iowa Code section 462A.34A and identifies meandered streams, trout streams, and navigable streams in which motor vehicles may not be operated.

**571—49.2(462A) Definitions.**

*"Department"* means the department of natural resources.

*"Meandered stream"* means a lake or stream which at the time of the original government survey was so surveyed as to mark, plat and compute acreage of adjacent fractional sections.

*"Motor vehicle"* means a vehicle which is self-propelled, but not including vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires and are not operated upon rails. A motor vehicle is not a watercraft as defined in Iowa Code section 462A.2(32).

*"Navigable stream"* means all streams which can support a vessel capable of carrying one or more persons during a total of a six-month period in one out of every ten years.

*"Trout stream"* means a cold-water stream which, by natural or artificial methods, supports trout fish species.

**571—49.3(462A) Stream identification process.**

**49.3(1)** The names and locations of trout streams and navigable streams shall be provided by the department's district fisheries supervisors to the administrator of the parks, recreation and preserves division and the administrator of the fish and wildlife division.

**49.3(2)** The division administrators of the fish and wildlife division and the parks, recreation and preserves division will provide a list of navigable streams and trout streams to the director for review.

**49.3(3)** The director will approve a list of navigable streams and trout streams for the purpose of this rule.

**49.3(4)** As per Iowa Code subsection 17A.6(3), the department will provide upon request a complete list of meandered streams, navigable streams and trout streams which are included as a part of this rule.

**571—49.4(462A) Motor vehicle prohibition in meandered streams, trout streams and navigable streams.** Motor vehicles shall not be operated in any portion of a meandered stream, trout stream, or navigable stream when covered by water except as provided for in Iowa Code section 462A.34A(2). A vessel operating on any of the streams listed in this rule must be operating by floating on the water as a result of the buoyant force of the water. A vessel propelled by tires in contact with the bed of the stream is not a watercraft for the purpose of this rule. For the purpose of this rule, meandered streams, trout streams and navigable streams include the following:

| COUNTY | RIVER/STREAM | LOCATION |
|---|---|---|
| Adair | Middle Nodaway River | Adams/Adair line to Hwy. 92 |
| | Middle River | All |
| | West Fork-Middle Nodaway | Mouth to County Road N51 |
| Adams | East Nodaway River | Adams/Taylor line to County Road H24 |
| | Middle Nodaway River | All |
| Allamakee | Bear Creek | Mouth, S1,T99N,R6W to West Line S30,T100N,R6W |
| | Clear Creek | Mouth, S35,T100,R5W to North Line S15,T100N,R5W |
| | Clear Creek | Mouth, S29,T99N,R3W to West Line S25,T99N,R4W |
| | Cota Creek | Mouth, S26,T97N,R3W to West Line S10,T97N,R3W |
| | Dousman Creek | Mouth, S33,T96N,R3W to South Line S36,T96N,R3W |
| | French Creek | Mouth, S1,T99N,R5W to East Line S23,T99N,R5W |
| | Hickory Creek | Mouth, S23,R96N,R5W to South Line S28,T96N,R5W |

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|---|---|---|
| | Irish Hollow Creek | Mouth, S21,T100N,R4W to North Line S17,T100N,R4W |
| | Little Paint Creek | Mouth, S32,T97N,R3W to North Line S30,T97N,R3W |
| | Mississippi River | All |
| | Norfolk Creek | Mouth, S6,T96,R5W to Conf. w/Teeple Creek, S24,T97N,R6W |
| | Paint Creek | Conf. w/Little Paint Creek, S32,T97N,R3W to Road Crossing, S18,T97N,R4W |
| | Patterson Creek | Mouth, S29,T99N,R6W to East Line S3,T98N,R6W |
| | Silver Creek | Mouth, S4,T99N,R5W to South Line S31,T99N,R5W |
| | Suttle Creek | Mouth, S18,T96N,R4W to South Line S31,T96N,R4W |
| | Teeple Creek | Mouth, S24,T97N,R6W to West Line S11,T97N,R6W |
| | Trout Run a/k/a Erickson's Brook | Mouth, S16,T98N,R4W to North Line S8,T98N,R4W |
| | Unnamed Creek | Mouth, S12,T99N,R4W to West Line S12,T99N,R4W |
| | Unnamed Tributary to Village Creek | Mouth, S23,T98N,R4W to West Line S23,T98N,R4W |
| | Unnamed Tributary to Yellow River | Mouth, S13,T96N,R5W to North Line S12,T96N,R5W |
| | Upper Iowa River | Mouth, S36,T100N,R4W to West Line S31,T100N,R6W |
| | Village Creek | Mouth, S33,T99N,R3W to West Line S19,T98N,R4W |
| | Waterloo Creek | Conf. w/Bear Creek, S35,T100N,R6W to North Line S8,T100N,R6W |
| | Wexford Creek | Mouth, S5,T98N,R2W to West Line S25,T98N,R3W |
| | Yellow River | Mouth, S34,T96N,R3W to West Line S24,T96N,R5W |
| Appanoose | Chariton River | Missouri Line to Rathbun Dam |
| | North Chariton River | Rathbun Lake to Hwy. 14 |
| | South Chariton River | Appanoose/Wayne Line to Rathbun Lake |
| Benton | Bear Creek | Benton County Line to Mouth at Cedar River |
| | Cedar River | All |
| | Iowa River | All |
| | Mud Creek | Road Crossing W½ S13,T84N,R11W to Mouth at Cedar River |
| | Opossum Creek | SE¼ S5,T84N,R9W to Benton/Linn Line |
| | Prairie Creek 2 | Road Crossing N½ S24,T83N,R12W to Benton/Linn Line |
| | Wolf Creek | All |
| Black Hawk | Beaver Creek | Mouth, S34,T90N,R14W to West County Line, S31,T90N,R14W |
| | Black Hawk Creek | Mouth, S22,T89N,R13W to West County Line, S6,T87N,R14W |
| | Cedar River | All |
| | Shell Rock River | Mouth, S4,T90N,R14W to North County Line, S4,T90N,R14W |
| | Wapsipinicon River | All |
| | West Fork Cedar River | All |
| | Wolf Creek | Mouth, S19,T87N,R11W to South County Line |
| Boone | Beaver Creek | West Line of S10,T82N,R28W to South County Line |
| | Des Moines River | All |
| Bremer | Cedar River | All |
| | Shell Rock River | All |
| | Wapsipinicon River | All |
| Buchanan | Wapsipinicon River | All |

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|---|---|---|
| Buena Vista | Little Sioux River | All |
| | North Raccoon River | South County Line to North Line of S15,T91N,R36W |
| | Beaver Creek | All |
| | Hartgraves Creek | West County Line to Mouth at West Fork of Cedar River |
| Butler | Maynes Creek | West County Line to Mouth at West Fork of Cedar River |
| | Shell Rock River | All |
| | West Fork Cedar River | All |
| Calhoun | Cedar Creek | South County Line to S31,T87N,R31W |
| | North Raccoon River | All |
| Carroll | Middle Raccoon River | South County Line to West Line of S23,T84N,R35W |
| | North Raccoon River | All |
| Cass | East Nishnabotna River | All |
| Cedar | Cedar River | All |
| | Clear Creek | East Line of S21,T82N,R4W to Mouth at Cedar River |
| | Rock Creek | Road Crossing North Line Section 1, T81N,R3W to Mouth at Cedar River |
| | Sugar Creek | Road Crossing North Line Section 29, T81N,R2W to South County Line |
| | Wapsipinicon River | All |
| Cerro Gordo | Beaverdam Creek | I-35 to Franklin County Line |
| | E Branch-Beaverdam Creek | Hwy. 65 to Mouth at Beaverdam Creek |
| | Shell Rock River | All |
| | Spring Creek | County Road B15 to Mouth at Winnebago River |
| | Willow Creek | Hwy. 18 to Mouth at Winnebago River |
| | Winnebago River | All |
| Cherokee | Grey Creek | North Line of S22,T93N,R40W to Mouth at Mill Creek |
| | Little Sioux River | All |
| | Maple River | North Line of S5,T90N,R39W to Ida County Line |
| | Mill Creek | North Line S13,T93N,R41W to Mouth at Little Sioux River |
| | Perry Creek | North Line of S5,T91N,R40W to Mouth at Little Sioux River |
| | Rock Creek | East Line of S4,T91N,R41W to Mouth at Little Sioux River |
| | West Fork, Little Sioux River | North Line of S12,T92N,R42W to Plymouth County Line |
| | Willow Creek | North Line S30,T91N,R41W to Mouth at Little Sioux River |
| Chickasaw | Cedar River | All |
| | Little Cedar River | All |
| | Little Turkey River | All |
| | Wapsipinicon River | All |
| Clay | Little Sioux River | All |
| | Ocheyedan River | All |
| Clayton | Bear Creek | South Line S18,T91N,R4W to South Line S26,T91N,R5W |
| | Bloody Run Creek | Mouth, S15,T95N,R3W to South Line S21,T95N,R4W |
| | Brownfield Creek | Mouth, S25,T91N,R4W to Source, S31,T91N,R3W |
| | Buck Creek | Mouth, S32,T92N,R2W to West Line S9,T93N,R3W |
| | Cox Creek | Conf. w/Spring Creek, S25,T92N,R6W to South Line S12,T91N,R6W |
| | Dry Mill Creek | Mouth, S25,T93N,R5W to West Line S9,T93N,R4W |
| | Hewett Creek | Mouth, S11,T92N,R6W to South Line S29,T92N,R6W |
| | Maquoketa River | South Line S32,T91N,R6W to West Line S19,T91N,R6W |

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| | Miners Creek | Mouth, S20,T92N,R2W to West Line S1,T92N,R3W |
| | Mink Creek | Mouth, S30,T93N,R6W to West Line S19,T93N,R6W |
| | Mossy Glen Creek | Mouth, S3,T91N,R5W to South Line S3,T91N,R5W |
| | Mississippi River | All |
| | North Cedar Creek | Mouth, S8,T94N,R3W to Source, S24,T94N,R4W |
| | Pecks Creek | Mouth, S1,T91N,R3W to South Line S15,T91N,R3W |
| | Pine Creek | Mouth, S26,T91N,R4W to Conf. w/Brownfield Creek, S25,T91N,R4W |
| | Sny-Magill Creek a/k/a Magill | Mouth, S23,T94N,R3W to West Line S6,T94N,R3W |
| | South Cedar Creek a/k/a Cedar | North Line S7,T92N,R3W to North Line S24,T93N,R4W |
| | Spring Creek a/k/a Kleinlein Creek | Mouth, S25,T92N,R6W to Source, S10,T91N,R6W |
| | Steeles Brook | Mouth, S26,T91N,R4W to South Line S34,T91N,R4W |
| | Turkey River | All |
| | Unnamed Tributary to Sny-Magill a/k/a West Fork | Mouth, S7,T94N,R3W to West Line S7,T94N,R3W |
| | Volga River | All |
| Clinton | Brophys Creek | South Line of S4,T81N,R5E to Mouth at the Wapsipinicon River |
| | Drainage Ditch 12 | South Line of S30,T82N,R2E to Mouth at the Wapsipinicon River |
| | Elk River | South Line of S5,T83N,R6E to Mouth at the Mississippi River |
| | Harts Mill Creek | South Line of S8,T81N,R6E to Mouth at Mill Creek |
| | Mill Creek | South Line of S14,T81N,R6E to Mouth with Mississippi River |
| | Mississippi River | All |
| | Silver Creek | South Line of S22,T82N,R3E to S6,T80N,R4E |
| | Wapsipinicon River | All |
| Crawford | Boyer River | All |
| | Soldier River | All |
| Dallas | Beaver Creek | All |
| | Des Moines River | All |
| | Middle Raccoon River | All |
| | Raccoon River | All |
| | South Raccoon River | All |
| Davis | Des Moines River | All |
| Decatur | Long Creek | DeKalb Wildlife Area to Mouth at the Thompson River |
| | Thompson River | All |
| | Weldon River | Missouri Border to Hwy. 2 |
| Delaware | Fenchel Creek | Mouth, S5,T90N,R6W to Richmond Springs, S4,T90N,R6W |
| | Fountain Spring Creek a/k/a Odell Branch | Mouth, S10,T90N,R4W to West Line S9,T90N,R4W |
| | Little Turkey River | North County Line, S1,T90N,R3W to South Line S11,T90N,R3W |
| | Maquoketa River | All |
| | Schechtman Branch | Mouth, S14,T90N,R4W to South Line S14,T90N,R4W |
| | South Branch Fountain Spring Creek | Mouth, S10,T90N,R4W to West Line S16,T90N,R4W |
| | Spring Branch | Mouth, S10,T88N,R5W to Spring Source, S35,T89N,R5W |

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| | Steeles Branch | North County Line, S4,T90N,R4W to West Line S5,T90N,R4W |
| | Twin Springs Creek | Mouth, S2,T90N,R4W to Spring Source S12,T90N,R4W |
| Des Moines | Brush Creek | South Line of S5,T69N,R3W to Mouth at the Skunk River |
| | Cedar Fork Creek | West Line of S31,T72N,R3W to Mouth at the Flint River |
| | Dolbee Creek | East Line of S24,T72N,R2W to S31,T71N,R1W |
| | Flint River | County Line to Mouth at the Mississippi River |
| | Hawkeye Creek | North Line of S30,T72N,R3W to Mouth at the Mississippi River |
| | Knotty Creek | East Line of S25,T71N,R3W to the Mouth at the Flint River |
| | Long Creek | South Line of S3,T69N,R4W to the Mouth at the Skunk River |
| | Mississippi River | All |
| | Skunk River | All |
| | Spring Creek | South Line of S15,T69N,R3W to Mouth at the Mississippi River |
| | Tributary to Flint River | South Line of S27,T71N,R3W to Mouth at the Flint River |
| Dickinson | Little Sioux River | All |
| | Milford Creek | S12,T98N,R37W to Mouth at Little Sioux River |
| | West Branch, Little Sioux River | South Line of S27,T100N,R38W to Mouth at West Fork of Little Sioux River |
| | West Fork, Little Sioux River | South Line of S24,T100N,R38W to Mouth at Little Sioux River |
| Dubuque | Bloody Run | Mouth, S34,T90N,R2E to West Line S21,T90N,R2E |
| | Catfish Creek | South Line S9,T88N,R2E to Source S36,T88N,R1E |
| | Cloie Branch | Mouth, S5,T89N,R2E to West Line S5,T89N,R2E |
| | Hogans Branch | Mouth, S35,T89N,R1W to Gravel Road West Line S9,T88N,R1W |
| | Little Maquoketa River | S5,T88N,R1W to Mouth at Mississippi River |
| | Middle Fork, Little Maquoketa River a/k/a Bankston Creek | West Line S31,T90N,R1E to North Line S33,T90N,R1W |
| | Mississippi River | All |
| | North Fork, Maquoketa River | All |
| | Paint Hollow Creek a/k/a White Pine Creek | North County Line, S6,T90N,R2W to Spring Source S8,T90N,R2W |
| Emmet | East Fork, Des Moines River | Tuttle Lake Outlet to East County Line |
| | West Fork, Des Moines River | All |
| Fayette | Bass Creek a/k/a Turners | Mouth, S3,T95N,R9W to West Line S3,T95N,R9W |
| | Bear Creek | Mouth, S25,T93N,R7W to West Line S6,T92N,R7W |
| | Bell Creek | Mouth, S10,T94N,R7W to West Line S8,T94N,R7W |
| | Brush Creek | Mouth, S8,T92N,R7W to Road Crossing S20,T92N,R7W |
| | Little Turkey River | Mouth, S18,T95N,R8W to North Line S5,T95N,R10W |
| | Maquoketa River | East Line S24,T91N,R7W to Conf. w/Hwy. 3 |
| | Mink Creek | East Line S24,T93N,R7W to West Line S15,T93N,R7W |
| | Otter Creek | Mouth, S13,T94N,R7W to S22,T94N,R8W |
| | Turkey River | All |
| | Unnamed Creek a/k/a Glovers Creek | Mouth, S22,T94N,R8W to West Line S15,T94N,R8W |

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| | Unnamed Creek a/k/a Grannis Creek | Mouth, S30,T93N,R7W to Source, E¼ S36,T93N,R8W |
| | Volga River | East County Line to South Line S22,T93N,R8W |
| Floyd | Cedar River | All |
| | Little Cedar River | All |
| | Shell Rock River | All |
| | Winnebago River | All |
| Franklin | Bailey Creek | South Line of S13,T93N,R20W to Mouth at the West Fork, Cedar River |
| | Beaverdam Creek | North County Line to Mouth at the West Fork, Cedar River |
| | Hartgraves Creek | South Line of S28,T92N,R19W to East County Line |
| | Iowa River | All |
| | Maynes Creek | East Line of S30,T91N,R20W to East County Line |
| | Otter Creek | East Line of S31,T93N,R20W to Mouth at Hartgraves Creek |
| | Spring Creek | Beeds Lake Outlet to Mouth at Otter Creek |
| | West Fork, Cedar River | East Line of S19,T93N,R19W to East County Line |
| Fremont | East Nishnabotna River | Mouth at Nishnabotna River to East County Line |
| | Missouri River | All |
| | Nishnabotna River | Missouri/Iowa Line to South Line of S25,T68N,R41W |
| | West Nishnabotna River | Mouth at Nishnabotna River to North County Line |
| Greene | Cedar Creek | Mouth at North Raccoon River to North County Line |
| | North Raccoon River | All |
| Grundy | Black Hawk Creek | East Line of S35,T88N,R17W to Black Hawk County Line |
| | North Black Hawk Creek | NE¼ S8,T88N,R15W to Black Hawk County Line |
| | South Beaver Creek | E½ S3,T88N,R18W to Butler County Line |
| | Wolf Creek | N½ of S31,T86N,R17W to Black Hawk County Line |
| Guthrie | Middle Raccoon River | All |
| | South Raccoon River | East County Line to County Road F32 |
| Hamilton | Boone River | All |
| | Brewers Creek | Mouth at Boone River to County Road R27 |
| | Eagle Creek | Mouth at Boone River to Wright County Line |
| | Skunk River | County Line to Hwy. 175 |
| | White Fox Creek | Mouth at Boone River to Wright County Line |
| Hancock | East Fork, Iowa River | South County Line to Hwy. 18 |
| | West Fork, Iowa River | South County Line to County Road B55 |
| | Winnebago River | All |
| Hardin | Elk Creek | Mouth at Iowa River to County Road D35 |
| | Honey Creek | South County Line to County Road D65 |
| | Iowa River | All |
| | South Fork, Iowa River | Mouth at Iowa River to Hwy. 359 |
| Harrison | Boyer River | All |
| | Little Sioux River | All |
| | Missouri River | All |
| | Soldier River | All |
| Henry | Big Creek | North Line of S31,T72N,R5W to S19,T70N,R5W |
| | Cedar Creek | County Line to Mouth at the Skunk River |
| | Crooked Creek | Mouth at S31,T73N,R7W to East Section Line |
| | East Fork, Crooked Creek | All |

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| | Little Cedar Creek | South County Line to Mouth at Cedar Creek |
| | Mud Creek | South Line of S15,T70N,R5W to Mouth at the Skunk River |
| | Skunk River | All |
| Howard | Beaver Creek | Mouth, S19,T100N,R12W to County Road A23 |
| | Bohemian Creek | East Line S13,T97N,R11W to West Line S2,T97N,R11W |
| | Chialk Creek | Mouth, S1,T98N,R11W to Road Crossing, S36,T99N,R11W |
| | Nichols Creek | East Line S13,T100N,R11W to County Road V58 |
| | Staff Creek | Mouth, S7,T100N,R13W to County Road V10 |
| | Turkey River | East Line S12,T98N,R11W to Hwy. 9 |
| | Upper Iowa River | East Line S12,T100N,R11W to North Line S11,T100N,R14W |
| | Wapsipinicon River | South Line S17,T97N,R14W to West Line S19,T98N,R14W |
| Humboldt | Des Moines River | South County Line to Conf. of East and West Fork of Des Moines River |
| | East Fork, Des Moines River | Mouth at the Des Moines River to North County Line |
| | West Fork, Des Moines River | Mouth at the Des Moines River to West County Line |
| Ida | Little Sioux River | All |
| | Maple River | All |
| Iowa | Bear Creek | West County Line to Mouth at the Iowa River |
| | Iowa River | All |
| | North Fork, English River | All |
| | Old Man Creek | West Line of S35,T79N,R10W to East County Line |
| Jackson | Brush Creek | North Line S23,T85N,R3E to North Line S1,T85N,R3E |
| | Cedar Creek | Mouth, S30,T85N,R3E to East Line S29,T85N,R3E |
| | Little Mill Creek | Mouth, S13,T86N,R4E to West Line S29,T86N,R4E |
| | Maquoketa River | All |
| | Mill Creek a/k/a Big Mill Creek | Conf. w/Little Mill Creek S13,T86N,R4E to West Line S1,T86N,R3E |
| | Mississippi River | All |
| | North Fork, Maquoketa River | West County Line to Mouth at the Maquoketa River |
| | Ozark Spring Run | Mouth, S32,T86N,R1E to Spring Source S32,T86N,R1E |
| | Pleasant Creek | East Line S11,T85N,R4E to West Line S15,T85N,R4E |
| | Unnamed Creek | Mouth, S7,T86N,R2E to West Line S11,T86N,R1E |
| | South Fork, Big Mill | Mouth, S8,T86N,R4E to West Line S17,T86N,R4E |
| | Storybook Hollow | Mouth, S7,T86N,R4E to South Line S12,T86N,R3E |
| | Unnamed Creek | Mouth, S1,T86N,R3E to West Line S2,T86N,R3E |
| Jasper | Indian Creek | All |
| | North Skunk River | All |
| | South Skunk River | All |
| Jefferson | Brush Creek | South Line of S18,T72N,R8W to the East County Line |
| | Cedar Creek | All |
| | Competine Creek | West County Line to Mouth at Cedar Creek |
| | Skunk River | All |
| | Walnut Creek | East Line of S22,T73N,R9W to the Mouth at the Skunk River |
| Johnson | Cedar River | All |
| | Clear Creek | West County Line to Mouth at the Iowa River |
| | Iowa River | All |

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| | Old Mans Creek | West County Line to Mouth at the Iowa River |
| Jones | Buffalo Creek | West County Line to Mouth at the Wapsipinicon River |
| | Maquoketa River | All |
| | North Fork, Maquoketa River | All |
| | Wapsipinicon River | All |
| Keokuk | Bridge Creek | South Line of S23,T76N,R12W to the Mouth at the North Skunk River |
| | Cedar Creek | East Line of S19,T76N,R13W to the Mouth at the North Skunk River |
| | North Skunk River | West County Line to Mouth at the Skunk River |
| | Rock Creek | South Line of S21,T76N,R12W to Mouth at Cedar Creek |
| | South Fork, English River | West County Line to Mouth at the English River |
| | Skunk River | All |
| | South Skunk River | West County Line to Mouth at the Skunk River |
| Kossuth | Buffalo Creek | West Line of S4,T97N,R27W to Mouth at the East Fork, Des Moines River |
| | East Fork, Des Moines River | All |
| Lee | Big Sugar Creek | South Line of S26,T69N,R6W to Mouth at the Mississippi River |
| | Des Moines River | All |
| | Little Sugar Creek | South Line of S24,T68N,R7W to Mouth at the Des Moines River |
| | Lost Creek | South Line of S32,T69N,R4W to Mouth at the Mississippi River |
| | Mississippi River | All |
| | Pitman Creek | South Line of S10,T68N,R5W to Mouth at the Mississippi River |
| | Skunk River | All |
| Linn | Cedar River | All |
| | Prairie Creek | West County Line to Mouth at Cedar River |
| | Wapsipinicon River | All |
| Louisa | Big Slough Creek | East Line of S7,T74N,R5W to Mouth at Long Creek |
| | Cedar River | All |
| | Goose Creek | West County Line to Mouth at the Iowa River |
| | Iowa River | All |
| | Long Creek | South Line of S30,T75N,R5W to the Mouth at the Iowa River |
| | Mississippi River | All |
| | Muscatine Slough | North County Line to County Road Bridge in S31,T75N,R3W |
| | Muskrat Lake | S16,T74N,R3W to Mouth at the Iowa River |
| Lucas | Chariton River | Rathbun Lake to Hwy. 14 |
| Lyon | Big Sioux River | All |
| | Little Rock River | East County Line to Mouth at Rock River |
| | Rock River | All |
| Madison | Clanton Creek | South Line of S32,T75N,R26W to the East County Line |
| | Middle River | All |
| | Thompson River | All |
| Mahaska | Cedar Creek | West County Line to Mouth at Des Moines River |
| | Des Moines River | All |

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| | North Skunk River | All |
| | Skunk River | All |
| Marion | Des Moines River | All |
| | Skunk River | All |
| | Whitebreast Creek | West County Line to Mouth at Des Moines River |
| Marshall | Honey Creek | North County Line to Mouth at Iowa River |
| | Iowa River | All |
| | Minerva Creek | NW¼ S9,T85N,R20W to Mouth at Iowa River |
| | Timber Creek | County Road Bridge in S24,T83N,R18W to Mouth at Iowa River |
| Mills | Missouri River | All |
| | West Nishnabotna River | All |
| Mitchell | Beaver Creek | Mouth at S1,T98N,R16W to North Line S8,T99N,R15W |
| | Burr Oak Creek | County Road T46 to North Line S5,T98N,R16W |
| | Cedar River | South Line S13,T97N,R17W to North Line S8,T100N,R18W |
| | Little Cedar River | South Line S13,T97N,R15W to North Line S7,T100N,R16W |
| | Otter Creek | Mouth at S21,T100N,R18W to North Line S11,T100N,R18W |
| | Rock Creek | Conf. w/Goose Creek S35,T98N,R18W to Hwy. 9 |
| | Spring Creek | Mouth at S13,T97N,R17W to North Line S8,T97N,R16W |
| | Turtle Creek | Mouth at S23,T99N,R18W to East Line S7,T99N,R17W |
| | Wapsipinicon River | East County Line to North Line of S20,T100N,R15W |
| Monona | Little Sioux River | All |
| | Maple River | Mouth at Little Sioux River to North County Line |
| | Missouri River | All |
| | Soldier River | All |
| | West Fork, Little Sioux River | Mouth at Little Sioux River to North County Line |
| Montgomery | East Nishnabotna River | All |
| | Middle Nodaway River | Mouth at Nodaway River to East County Line |
| | Nodaway River | All |
| Muscatine | Cedar River | All |
| | Mississippi River | All |
| | Mud Creek | West Line of S5,T78N,R1E to Mouth at Mississippi River |
| | Muscatine Slough | South Line of S4,T76N,R2W to South County Line |
| | Pike Run | South Line of S34,T78N,R3W to S19,T77N,R3W |
| | Pine Creek | Wildcat Den State Park to Mouth at Mississippi River |
| | Sugar Creek | North County Line to Mouth at the Cedar River |
| | Wapsinonoc Creek | North County Line to Mouth at the Cedar River |
| | Weise Slough | S19,T78N,R3W |
| O'Brien | Little Sioux River | All |
| Osceola | Little Rock River | All |
| | Ocheyedan River | All |
| Page | East Nishnabotna River | All |
| | East Nodaway River | East County Line to Mouth at the Nodaway River |
| | Nodaway River | All |
| | Tarkio River | Hwy. 2 to South County Line |
| Palo Alto | West Fork, Des Moines River | All |
| Plymouth | Big Sioux River | All |

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| | Floyd River | All |
| | West Fork, Little Sioux River | All |
| Pocahontas | Lizard Creek | West Line of S2,T90N,R31W to East County Line |
| | North Branch, Lizard Creek | North Line of S6,T91N,R31W to Mouth with Lizard Creek |
| | Pilot Creek | West Line of S9,T92N,R31W to Mouth with the West Fork, Des Moines River |
| | West Fork, Des Moines River | All |
| Polk | Beaver Creek | All |
| | Des Moines River | All |
| | North River | All |
| | Raccoon River | All |
| | South Skunk River | All |
| | Walnut Creek | All |
| Pottawattamie | East Nishnabotna River | All |
| | Missouri River | All |
| | West Nishnabotna River | All |
| Poweshiek | Bear Creek | NW¼ S8,T80N,R14W to the East County Line |
| | North Fork, English River | North Line of S23,T79N,R14W to East County Line |
| | North Skunk River | All |
| Ringgold | East Fork, Grand River | South County Line to Hwy. 2 |
| | Grand River | South County Line to Hwy. 66 |
| | Platte River | All |
| | Thompson River | All |
| Sac | Big Cedar Creek | West Line of S10,T88N,R35W to the Mouth at the North Raccoon River |
| | Boyer River | West Line of S5,T89N,R37W to South County Line |
| | Indian Creek | North Line of S7,T87N,R36W to Mouth at the North Raccoon River |
| | North Raccoon River | All |
| | Outlet Creek | East Line of S35,T87N,R36W to Mouth at Indian Creek |
| Scott | Lost Creek | North Line of S32,T80N,R5E to Mouth at the Wapsipinicon River |
| | Mississippi River | All |
| | Mud Creek | County Road Bridge in S11,T79N,R1E to Mouth at the Wapsipinicon River |
| | Wapsipinicon River | All |
| Sioux | Big Sioux River | All |
| | Floyd River | Hwy. 18 to South County Line |
| | Rock River | All |
| Story | Skunk River | All |
| Tama | Iowa River | All |
| | Salt Creek | West Line of S28,T84N,R13W to Mouth at the Iowa River |
| | Wolf Creek | All |
| Taylor | East Fork, 102 River | Hwy. 49 to South County Line |
| | Platte River | All |
| | West Fork, 102 River | Hwy. 2 to South County Line |
| Union | Platte River | All |

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| | Thompson River | All |
| Van Buren | Cedar Creek | All |
| | Des Moines River | All |
| Wapello | Des Moines River | All |
| Warren | Clanton Creek | West County Line to Mouth at Des Moines River |
| | Middle River | West County Line to Mouth at Des Moines River |
| | North River | All |
| | South River | All |
| | Whitebreast Creek | All |
| Washington | Camp Creek | North Line of S33,T77N,R7W to the Mouth at English River |
| | Clemons Creek | West Line of S9,T75N,R8W to the South Line S14,T75N,R8W |
| | Crooked Creek | East Line of S28,T76N,R9W to Henry County Line |
| | Dutch Creek | South Line of S21,T75N,R9W to the Mouth at the Skunk River |
| | East Fork, Crooked Creek | All |
| | English River | All |
| | Goose Creek | East County Line to East Line of S22,T76N,R6W |
| | Honey Creek | Lake Darling to Mouth at the Skunk River |
| | Iowa River | All |
| | Long Creek | East County Line to West Line of S26,T75N,R6W |
| | North Fork, Long Creek | East Line of S3,T75N,R7W to Mouth at Long Creek |
| | Skunk River | All |
| | Smith Creek | West County Line to Mouth at the English River |
| | South Fork, Long Creek | County Road W61 to Mouth at Long Creek |
| | Williams Creek | South County Line to Mouth at East Fork, Crooked Creek |
| Wayne | North Chariton River | Rathbun Lake to Hwy. 14 |
| | South Chariton River | Rathbun Lake to County Road S56 |
| Webster | Brushy Creek | North Line of S8,T88N,R27W to Mouth at the Des Moines River |
| | Deer Creek | North Line of S16,T90N,R29W to Mouth at the Des Moines River |
| | Des Moines River | All |
| | North Branch, Lizard Creek | West County Line to Mouth at Des Moines River |
| | Prairie Creek | West Line of S29,T88N,R28W to Mouth at the Des Moines River |
| Winnebago | Winnebago River | All |
| Winneshiek | Bear Creek | East Line, S25,T100N,R7W to East Line of S29,T100N,R7W |
| | Bohemian Creek | Mouth at Turkey River to West Line S18,T97N,R10W |
| | Canoe Creek | County Road W38 to West Line S8,T99N,R8W |
| | Casey Spring | Mouth in S25,T99N,R9W to West line S26,T99N,R9W |
| | Coldwater Creek | Mouth S32,T100N,R9W to North Line S11,T100N,R10W |
| | Coon Creek | Mouth S2,T98N,R7W to NW¼ S13,T98N,R7W |
| | Dry Run Creek | Mouth S17,T98N,R8W to West Line S36,T98N,R9W |
| | East Pine Creek | Mouth S28,T100N,R9W to North Line of S9,T100N,R9W |
| | Martha Creek | Mouth S6,T99N,R9W to West Line of S13,T99N,R10W |
| | Middle Bear Creek | Mouth S14,T100N,R7W to North Line S16,T100N,R7W |
| | Nichols Creek | Mouth S18,T100N,R10W to West Line S18,T100N,R10W |

| | | |
|---|---|---|
| | North Bear Creek | Conf. w/South Bear Creek, S25,T100N,R7W to East Line of S10,T100N,R7W |
| | North Canoe Creek | Mouth S22,T99N,R8W to North Line S1,T99N,R8W |
| | Pine Creek | Mouth at Upper Iowa River to the North Line S7,T100N,R9W |
| | Pine Creek | Mouth at Canoe Creek to the North Line S21,T99N,R7W |
| | Paint Creek | East Line S13,T99N,R7W to West Line S11,T99N,R7W |
| | Silver Creek | Mouth at Upper Iowa River to North Line S26,T100N,R9W |
| | Smith Creek | Conf. w/Trout Creek in S21,T98N,R7W to South Line S33,T98N,R7W |
| | Ten Mile Creek | Mouth at Upper Iowa River to Conf. w/Walnut Creek at S18,T98N,R9W |
| | Trout Creek | Mouth at Upper Iowa River to Conf. w/Smith Creek at S21,T98N,R7W |
| | Trout Creek | Mouth at Upper Iowa River to East Line of S27,T98N,R8W |
| | Trout Run Creek | Road Crossing at NW¼ S1,T97N,R8W to Mouth at Trout Creek |
| | Twin Springs Creek | West Line of S17,T98N,R8W to Mouth at Upper Iowa River |
| | Upper Iowa River | All |
| Woodbury | Big Sioux River | All |
| | Floyd River | All |
| | Little Sioux River | All |
| | Maple River | All |
| | Missouri River | All |
| | West Fork, Little Sioux River | All |
| Worth | Beaver Creek | Hwy. 9 to Mouth at Winnebago River |
| | Deer Creek | County Road S56 to East County Line |
| | Elk Creek | Hwy. 105 to Mouth at Shell Rock River |
| | Shell Rock River | All |
| | Willow Creek | Hwy. 9 to Mouth at Winnebago River |
| | Winans Creek | Hwy. 9 to Mouth at Winnebago River |
| Wright | Boone River | All |
| | Eagle Creek | County Road R33 to South County Line |
| | East Fork, Iowa River | North County Line to Mouth at Iowa River |
| | Iowa River | South Line of S19,T93N,R23W to East County Line |
| | West Fork, Iowa River | North County Line to Mouth at Iowa River |
| | White Fox Creek | County Road R38 to South County Line |

**571—49.5(462A) Motor vehicle prohibition in meandered streams.** Motor vehicles shall not be operated in any part of the beds of meandered streams, including dry sandbars. Meandered streams are the following:

1. Des Moines River. From Mississippi River to west line of T95N, R32W, Palo Alto County, west branch, and north line of T95N, R29W, Kossuth County, east branch at a point near Algona.
2. Iowa River. From Mississippi River to west line T81N, R11W, Iowa County, due north of Ladora.
3. Cedar River. From Iowa River to west line T89N, R13W, Black Hawk County, at the east edge of Cedar Falls.
4. Raccoon River. From Des Moines River to west line of Polk County.
5. Wapsipinicon River. From Mississippi River to west line T86N, R6W, Linn County, northwest of Central City.

6. Maquoketa River. From Mississippi River to west line T84N, R3E, Jackson County, due north of Maquoketa.

7. Skunk River. From Mississippi River to north line of Jefferson County, at the southwest edge of Coppock.

8. Turkey River. From Mississippi River to west line T95N, R7W, Fayette County, northwest of Clermont.

9. Nishnabotna River. From Missouri River to north line T67N, R42W, Fremont County, northeast of Hamburg.

10. Upper Iowa River. From Mississippi River to west line Section 28, T100N, R4W, Allamakee County, about two and one-half miles upstream from its mouth.

11. Little Maquoketa River. From Mississippi River to west line Section 35, T90N, R2E, Dubuque County, about one mile upstream from its mouth.

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# CHAPTER 50
# ALL-TERRAIN VEHICLE, OFF-ROAD MOTORCYCLE, OFF-ROAD UTILITY VEHICLE, SNOWMOBILE AND VESSEL BONDING

[Prior to 12/31/86, Conservation Commission[290] Ch 50]

**571—50.1(321G,321I) Definitions.**

*"All-terrain vehicle"* means a motorized flotation-tire vehicle with not less than three and not more than six low-pressure tires that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,000 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

*"Off-road motorcycle"* means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. "Off-road motorcycle" includes a motorcycle that was originally issued a certificate of title and registered for highway use under Iowa Code chapter 321, but which contains design features that enable operation over natural terrain.

*"Off-road utility vehicle"* means a motorized flotation-tire vehicle with not less than four and not more than eight low-pressure tires that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. A motorized vehicle that was previously titled or is currently titled under Iowa Code chapter 321 shall not be registered or operated as an off-road utility vehicle.

*"Regulated vehicle"* means all-terrain vehicles, off-road motorcycles, and off-road utility vehicles, either collectively or individually. For purposes of this chapter only, "regulated vehicle" shall also include a snowmobile.

*"Snowmobile"* means a motorized vehicle weighing less than 1,000 pounds which uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. "Snowmobile" does not include an all-terrain vehicle which has been altered or equipped with runners, skis, belt-type tracks, or treads.

*"Vessel"* means every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on water or ice. Ice boats are watercraft.

*"Watercraft"* means any vessel which through the buoyant force of water floats upon the water and is capable of carrying one or more persons. Docks, defined and regulated by 571—Chapter 16, are not watercraft.

[**ARC 8880B**, IAB 6/30/10, effective 8/4/10]

## DIVISION I
## ALL-TERRAIN VEHICLES, OFF-ROAD MOTORCYCLES, OFF-ROAD UTILITY VEHICLES AND SNOWMOBILES

**571—50.2(321G,321I) Bond required before issuance of title or registration.** If the county recorder or the department is not satisfied as to the ownership of the regulated vehicle or that there are no undisclosed security interests in the regulated vehicle, the recorder or the department shall require completion of the following procedures prior to issuing title and registration:

**50.2(1)** *Identification.* The applicant shall contact the department and provide identifying information in regard to the regulated vehicle. The required identifying information shall include the identification number and such additional information about the regulated vehicle as may be requested by the department. If no identification number is currently affixed to the regulated vehicle, the applicant shall complete the department's procedure for obtaining such number, and the assigned number shall be affixed before the applicant may proceed with the application process set forth in this chapter.

**50.2(2)** *Records search.* Upon receipt of sufficient identifying information from an applicant, the department shall:

*a.* Search the department's registration records to determine if there is an owner of record for the regulated vehicle and if the regulated vehicle has been reported stolen; and

*b.* Notify the applicant, orally or in writing, in regard to whether a record of prior ownership has been located and, if so, provide the name and last-known address of the owner of record.

**50.2(3)** *Examination.* At any time after being contacted by the applicant and before approval of an application, the department may examine the regulated vehicle.

**50.2(4)** *Notice to owner of record.* If the department finds a record of prior ownership in the department's registration records, the department shall provide the applicant with a bonding packet containing instructions that describe how to complete the bonding process. The packet shall include a notice to the owner of record and a certified mail envelope, return receipt requested, with a return address of the department. The notice shall state that the owner of record may assert the owner's right to claim the regulated vehicle. If neither the applicant nor the department receives a response from the owner of record within ten days after receipt of notice or the post office returns the notice to the applicant or the department as undeliverable or unclaimed, the department will continue processing the bond application.

**50.2(5)** *Submission of application.* To register the regulated vehicle, the applicant must submit the appropriate forms and fees described in 571—Chapter 46. In addition, the application shall include a statement obtained from an Iowa-registered dealer for the same type of regulated vehicle for which the value is being sought or documentation from the North American Dealers' Association indicating the current value of the regulated vehicle. In addition to the appropriate application form required under 571—Chapter 46, the following documents shall be submitted with the application form:

*a.* Photographs of the regulated vehicle which show the front, rear, and one side of the regulated vehicle.

*b.* The written ownership document received at the time that the regulated vehicle was acquired.

*c.* Satisfactory proof of the regulated vehicle identification number or DNR Form 542-8065. Examples of what constitutes satisfactory proof include, without limitation, corresponding photographs of the vehicle identification number and the vehicle or a readable pencil rubbing of the vehicle identification number.

*d.* The undeliverable or unclaimed certified letter and envelope addressed to the previous owner or the signed certified mail receipt, if available, if a record of prior ownership was located by the department.

*e.* A surety bond on DNR Form 542-8092 in an amount equal to one and one-half times the current value of the regulated vehicle, if required.

**50.2(6)** *Approval.* If the department determines that the applicant has complied with this rule, that there is sufficient evidence to indicate that the applicant is the rightful owner, and that there is no known unsatisfied security interest, the department shall forward the original application to the county recorder and notify the applicant that the regulated vehicle may be registered and titled in Iowa.

**50.2(7)** *Disapproval.* If the department determines that the applicant has not complied with this rule, that there is sufficient evidence to indicate that the applicant may not be the rightful owner, that there is an unsatisfied security interest, or that the owner of record asserts a claim for the regulated vehicle, the department shall not authorize issuance of a certificate of title or registration receipt and shall notify the applicant in writing of the reason(s).

[**ARC 8880B**, IAB 6/30/10, effective 8/4/10]

**571—50.3** to **50.9** Reserved.

DIVISION II
VESSELS

**571—50.10(462A) Bond required before issuance of title or registration.** In the event the county recorder or the department is not satisfied as to the ownership of a vessel or that there are no undisclosed security interests in the vessel, the recorder or the department shall require completion of the following procedures prior to issuing title or registration:

**50.10(1)** *Identification.* The applicant shall contact the department and provide the department with identifying information in regard to the vessel. The required identifying information shall include the hull identification number, if applicable, and such additional information as may be requested by the

department. If no hull identification number is currently affixed on a vessel otherwise required by law to have a hull identification number, the applicant shall complete the department's procedure for obtaining such number, and the assigned number shall be affixed after the applicant has completed the registration and bonding process set forth in this chapter.

**50.10(2)** *Records search.* Upon receipt of sufficient identifying information from an applicant, the department shall:

*a.* Search the department registration records to determine if there is an owner of record for the vessel and if the vessel has been reported stolen; and

*b.* Notify the applicant, orally or in writing, in regard to whether a record of prior ownership has been located and, if so, provide the name and last-known address of the owner of record.

**50.10(3)** *Examination.* At any time after being contacted by the applicant and before approval of an application, the department may examine the vessel.

**50.10(4)** *Notice to owner of record.* If the department finds a record of prior ownership in the department's registration records, the department shall provide the applicant with a bonding packet containing instructions that describe how to complete the bonding process. The packet shall include a notice to the owner of record and a certified mail envelope, return receipt requested, with a return address of the department. The notice shall state that the owner of record may assert the owner's right to claim the vessel. If neither the applicant nor the department receives a response from the owner of record within ten days after receipt of notice or the post office returns the notice to the applicant or the department as undeliverable or unclaimed, the department will continue processing the bond application.

**50.10(5)** *Submission of application.* The applicant shall submit an application on DNR Form 542-8067. The form shall include a statement obtained from an Iowa-registered dealer for vessels or documentation from the North American Dealers' Association indicating the current value of the vessel. The following documents shall be submitted with the application form:

*a.* Photographs of the vessel which show the front, rear, and one side of the vessel.

*b.* The written ownership document received at the time that the vessel was acquired.

*c.* Satisfactory proof of the hull identification number or DNR Form 542-2000. Examples of what constitutes satisfactory proof include, without limitation, corresponding photographs of the hull identification number and the vessel or a readable pencil rubbing of the hull identification number.

*d.* The undeliverable or unclaimed certified letter and envelope addressed to the previous owner or the signed certified mail receipt, if available, if a record of prior ownership was located by the department.

*e.* A surety bond on DNR Form 542-8092 in an amount equal to one and one-half times the current value of the vessel.

**50.10(6)** *Approval.* If the department determines that the applicant has complied with this rule, that there is sufficient evidence to indicate that the applicant is the rightful owner, and that there is no known unsatisfied security interest, the department shall forward the original application to the county recorder and notify the applicant that the vessel may be registered and titled in Iowa.

**50.10(7)** *Disapproval.* If the department determines that the applicant has not complied with this rule, that there is sufficient evidence to indicate that the applicant may not be the rightful owner, that there is an unsatisfied security interest, or that the owner of record asserts a claim for the vessel, the department shall not authorize issuance of a certificate of title or registration receipt and shall notify the applicant in writing of the reason(s).

[**ARC 8880B**, IAB 6/30/10, effective 8/4/10]

These rules are intended to implement Iowa Code sections 321G.21, 321G.29, 321I.22, 321I.31 and 462A.5A.

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TITLE V
*MANAGEMENT AREAS AND PRACTICES*

# CHAPTER 51
# GAME MANAGEMENT AREAS

[Prior to 12/31/86, Conservation Commission[290] Chs 1,2,4,8,9,24]

**571—51.1(481A) Definitions.**

*"Blind"* means a constructed place of ambush or concealment for the purpose of hunting, observing, or photographing any species of wildlife.

*"Commission"* means the natural resource commission.

*"Decoy"* means a bird, or animal, or a likeness of one, used to lure game within shooting range.

*"Department"* means the department of natural resources.

*"Director"* means the director of the department of natural resources or a designee.

*"Handicapped person"* means 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 simple or double amputee of the legs; or a person with any other physical affliction which makes it impossible to ambulate successfully without the use of a motor vehicle.

*"Horse"* means any equine animal, including horses, mules, burros, donkeys, and all llamas or alpacalike animals.

**571—51.2(481A) Jurisdiction.** All lands and waters under the jurisdiction of the department are established as game management areas under the provisions of Iowa Code section 481A.6.

**571—51.3(481A) Use of firearms.**

**51.3(1)** *Restrictions.* The use or possession of firearms on certain game management areas is restricted.

*a.* Target shooting, for the purposes of this rule, is defined as the discharge of a firearm for any reason other than the taking of, or attempting to take, any game birds, game animals, or furbearers. Target shooting with shotguns shooting shot is not restricted to a specific range, except as otherwise provided. Target shooters using shotguns with lead shot cannot discharge the shot over water.

*b.* Target shooting shall occur only on the designated and posted shooting range.

*c.* Any person target shooting with any type of handgun or any type of rifle, or shooting shotgun slugs through a shotgun, must fire through one of the firing tubes, if provided, or at the firing points on the rifle or pistol range.

*d.* It is a violation of these rules to place any target on the top of the earthen backstop or to fire at any target placed on top of the backstop.

*e.* The shotgun range, if provided, is restricted to the use of shotguns and the shooting of shotshells only.

*f.* Target shooting shall occur only between the hours of sunrise and sunset.

*g.* No alcoholic beverages are allowed on the shooting range or adjacent parking area.

*h.* Target shooting is restricted to legal firearms and shall not be done with any fully automatic pistol, rifle, or shotgun of any kind. No armor-piercing ammunition is permitted.

*i.* Targets are restricted to paper or cardboard targets or metal silhouette-type targets. No glass, plastic containers, appliances, or other materials may be used. Targets must be removed from the area after use or must be disposed of in trash receptacles if provided.

*j.* All requirements listed in this subrule shall apply to the following shooting ranges:

(1) Banner Mine Area – Warren County.
(2) Bays Branch Area – Guthrie County.
(3) Brushy Creek Area – Webster County.
(4) Hawkeye Wildlife Area – Johnson County.
(5) Hull Wildlife Area – Mahaska County.
(6) Mines of Spain – Dubuque County.

(7) Ocheyedan Wildlife Area – Clay County.
(8) Princeton Wildlife Area – Scott County.
(9) Spring Run Wildlife Area – Dickinson County.

*k.* In addition to the requirements listed, the following shooting range has specific restrictions.

Oyens Shooting Range – Plymouth County. The range is closed to the public except between 9 a.m. and sunset. Law enforcement firearms training and qualification of local, county, state or federal officers shall have priority over general public use of the range. Shotguns shooting birdshot may be fired outside the firing tubes, but within the designated range area. General shooting by the public shall take place on a first-come, first-served basis.

*l.* McIntosh Wildlife Area - Cerro Gordo County. The use or possession of firearms, except shotguns shooting shot only, is prohibited.

**51.3(2)** *Use of paintball guns.* The use of any item generally referred to as a paintball gun is prohibited on all game management areas.

**571—51.4(481A) Use of horses on game management areas.**

**51.4(1)** *Prohibition.* Horses are prohibited on all game management areas unless allowed by exception. This rule does not apply to state forests or state recreation areas.

**51.4(2)** *Exception for hunting and field trials.* Horses may be used on all game management areas for training raccoon hunting dogs from October 1 to February 1 and for hunting raccoons during open hunting seasons. Horses may be used for participating in authorized field trials, unless this activity is posted as prohibited.

**51.4(3)** *Exception for horseback riding.* Horseback riding is allowed on the following game management areas from May 25 to September 30 and is confined to existing roads or trails as posted:

*a.* Elk Grove Wildlife Area – Guthrie County.
*b.* Lennon Mills Wildlife Area – Guthrie County.
*c.* Marlow Ray Wildlife Area – Guthrie County.
*d.* Middle Raccoon River Wildlife Area – Guthrie County.
*e.* Sand Creek Wildlife Area – Decatur and Ringgold Counties.
*f.* Cardinal Marsh – Winneshiek County.
*g.* Hawkeye Wildlife Area – Johnson County.
*h.* Black Hawk Wildlife Area – Sac County.
*i.* Turkey River Wildlife Area – Howard County.

**571—51.5(481A) Dogs prohibited—exception.** Dogs shall be prohibited on all state-owned game management areas, as established under authority of Iowa Code section 481A.6, between the dates of March 15 and July 15 each year; except that, training of dogs shall be permitted on designated training areas. Field and retriever meets shall be conducted at designated sites. A permit as provided in Iowa Code section 481A.22 must be secured for field and retriever meets.

The permit shall show the exact designated site of said meet and all dogs shall be confined to that site.

**571—51.6(481A) Use of blinds and decoys on game management areas.**

**51.6(1)** *Stationary blinds.* The construction and use of stationary blinds on all game management areas, except on Pool 14 downstream of the Upper Mississippi River National Wildlife and Fish Refuge (River Mile 502) near Princeton, Iowa, and on Pools 15, 16, 17, and 18 of the Mississippi River, are restricted as follows:

*a.* *Construction.* Any person may construct a stationary blind using only the natural vegetation found on the area. No trees or parts of trees other than willows may be cut for use in constructing a blind. No other man-made materials of any type may be used for building or providing access to a stationary blind.

*b.* *Use of blinds.* The use of any stationary blind which is constructed in violation of 51.6(1)*"a"* is prohibited.

*c. Ownership of blinds.* Any person who constructs or uses a stationary blind shall not have any proprietary right-of-ownership to the blind.

**51.6(2)** *Portable blinds.* The construction and use of portable blinds on game management areas shall be restricted as follows:

*a. Construction.* A portable blind may be constructed of any natural or man-made material, as long as it is a self-contained unit capable of being readily moved from one site to another.

*b. Prohibited use.* Portable blinds shall be prohibited from one hour after sunset until midnight each day. Portable blinds which are built on, or are part of, a boat shall be considered as removed from an area when the boat and blind are tied up or moored at an approved access site. No boat shall be anchored away from shore and left unattended unless it is attached to a legal buoy.

*c. Exception—tree blinds.* Portable blinds placed in trees and used for purposes other than hunting waterfowl may be left on an area for a continuous period of time beginning seven days prior to the open season for hunting deer or turkey and ending seven days after the final day of that open season. Portable blinds left on game management areas do not guarantee the owner exclusive use of the blind when unattended, or exclusive use of the site.

*d. Protection of trees.* The use of any spike, nail, pin, or other object which is driven or screwed into a tree is prohibited.

**51.6(3)** *Use of waterfowl decoys.* The use of waterfowl decoys on any game management area, except on Pool 14 downstream of the Upper Mississippi River National Wildlife and Fish Refuge (River Mile 502) near Princeton, Iowa, and on Pools 15, 16, 17, and 18 of the Mississippi River, is restricted as follows:

Decoys are prohibited from one hour after sunset until midnight each day, and decoys cannot be left unattended for over 30 minutes between midnight and one hour after sunset. Decoys shall be considered as removed from an area when they are picked up and placed in a boat, vehicle or other container at an approved access site.

**51.6(4)** *Use of stationary blinds and waterfowl decoys on Pool 14 downstream of the Upper Mississippi River National Wildlife and Fish Refuge (River Mile 502) near Princeton, Iowa, and on Pools 15, 16, 17, and 18 of the Mississippi River.* The use of permanent blinds for waterfowl hunting on Pool 14 downstream of the Upper Mississippi River National Wildlife and Fish Refuge (River Mile 502) near Princeton, Iowa, and on Pools 15, 16, 17, and 18 of the Mississippi River is restricted as follows:

*a. Registration.* Hunters must register their blind site with the department of natural resources by completing a registration card and designating the blind's location on a map. Registration will be held in August at a site to be publicly announced by the department. Registration is for a five-year period and requires payment of a fee of $100. The blind registration number must be visibly posted at the blind's entrance.

*b. Construction.* Blinds must have minimum dimensions of 4 feet by 8 feet and not greater than 500 square feet of floor space, not including a boat hide. The blind must be constructed of biodegradable materials, including nontreated dimensional lumber and nontreated plywood, unless the blind will be removed at the end of the waterfowl season. The use of metal or nylon fasteners, including but not limited to nails, screws, lag bolts, staples and ties, is allowed. Treated lumber, treated plywood, woven wire, chicken wire, cattle panels, tin and sheet metal, vinyl and plastic, and other nonbiodegradable materials are not allowed unless those materials or the entire blind is removed within three days after the close of the waterfowl season.

*c. Tree and brush removal.* No person shall remove brush or trees around any blind, except willows. Willows and annual vegetation from the blind site may be used to cover the blind.

*d. Occupation of blinds.* Registrants must occupy their blind site by the opening of shooting time each day to claim the blind site for that day. After that time, unoccupied blind sites will be available to any other hunters. No person shall claim or attempt to claim a blind that is legally occupied. No person shall harass, in any manner, the occupants of a blind that is legally occupied.

*e. Locking blinds.* No person shall lock a blind.

*f.* *Decoys.* Decoys may be left out for the entire waterfowl season but must be picked up and removed from the area within three days after the close of the waterfowl season. All jugs and other floating devices used to attract waterfowl shall be considered decoys.
[**ARC 7917B**, IAB 7/1/09, effective 8/5/09]

**571—51.7(481A) Trapping on game management areas.**

**51.7(1)** *Marking trap sites.* No one shall place on any game management area any trap, stake, flag, marker, or any other item or device to be used for trapping furbearers, or to mark or otherwise claim any site for trapping furbearers, except during the open season for taking furbearers other than coyote.

**51.7(2)** Reserved.

**571—51.8(481A) Motor vehicle restrictions.** The use of motor vehicles on all game management areas is restricted.

**51.8(1)** *Roads and parking lots.* Except as otherwise provided in these rules, motor vehicles are prohibited on a game management area except on constructed and designated roads and parking lots.

**51.8(2)** *Handicapped persons.* Handicapped persons may use certain motor vehicles on game management areas, according to the restrictions set out in this rule, in order that they might enjoy such uses as are available to others.

*a.* *Definitions.* For purposes of this subrule, 51.8(2), the following definition shall apply: "Motor vehicle" means any self-propelled vehicle having at least three wheels and registered as a motor vehicle under Iowa Code chapter 321, 321G, or 321I.

*b.* *Permits.* Each handicapped person must have a permit issued by the director in order to use motor vehicles on game management areas. Such permits will be issued without charge. Applicants must submit certificates from their doctors stating that the applicants meet the criteria describing handicapped persons. Nonhandicapped companions of permit holders are not covered under the conditions of the permit.

*c.* *Approved areas.* A permit holder must contact the technician or wildlife biologist of the specific area(s) that the permit holder wishes to use annually. The technician or wildlife biologist will determine which areas or portions of areas will not be open to use by permittees, in order to protect the permittee from hazards or to protect certain natural resources of the area. The technician or wildlife biologist will assist by arranging access to the area and by designated specific sites on the area where the motor vehicle may be used, and where it may not be used. The technician or wildlife biologist will provide a map of the area showing the sites where use is permitted and bearing the signature of the technician or wildlife biologist and the date.

*d.* *Exclusive use.* The issuance of a permit does not imply that the permittee has exclusive use of an area. Permittees shall take reasonable care so as not to unduly interfere with the use of the area by others.

*e.* *Prohibited acts.* Except as provided in subrule 51.8(1), the use of a motor vehicle on any game management area by a person without a valid permit, or at any site not approved on a signed map, is prohibited. Permits and maps must be carried by the permittee at any time the permittee is using a motor vehicle on a game management area, and must be exhibited to any department employee or law enforcement official upon request.

*f.* *Shooting from motor vehicle.* Except where prohibited by law, a handicapped person meeting the conditions of this rule may shoot from a stationary motor vehicle.

**571—51.9(481A) Employees exempt.** Restrictions in rules 51.3(481A) to 51.8(481A) shall not apply to department personnel, law enforcement officials, or other authorized persons engaged in research, management, or enforcement when in performance of their duties.

**571—51.10(481A) Use of nontoxic shot on wildlife areas.** It shall be unlawful to hunt any migratory game bird or resident game or furbearers, except deer and turkeys, or target shoot with a shotgun while having in one's possession any shot other than nontoxic shot approved by the U.S. Fish and Wildlife Service on the following wildlife areas:

| County | Wildlife Area |
|---|---|
| Benton | Iowa River Corridor |
| Boone | Harrier Marsh |
| Buena Vista | All state and federal areas |
| Calhoun | South Twin Lake |
| Cerro Gordo | All state and federal areas |
| Clay | All state and federal areas except the Ocheyedan wildlife area target shooting range |
| Dickinson | All state and federal areas except the Spring Run target shooting range |
| Emmet | All state and federal areas |
| Franklin | All state and federal areas |
| Greene | All state and federal areas except Rippey Access and McMahon Access |
| Guthrie | McCord Pond, Lakin Slough and Bays Branch, except the target shooting range at Bays Branch |
| Hamilton | Little Wall Lake, Gordon Marsh and Bauer Slough |
| Hancock | All state and federal areas |
| Humboldt | All state and federal areas |
| Iowa | Iowa River Corridor |
| Jasper | Chichaqua |
| Kossuth | All state and federal areas |
| Osceola | All state and federal areas |
| Palo Alto | All state and federal areas |
| Pocahontas | All state and federal areas except Kalsow Prairie |
| Polk | Paul Errington Marsh and Chichaqua |
| Sac | All state and federal areas except White Horse Access and Sac City Access |
| Story | Hendrickson Marsh and Colo Bog |
| Tama | Iowa River Corridor |
| Winnebago | All state and federal areas |
| Worth | All state and federal areas |
| Wright | All state and federal areas |

**571—51.11(481A) Rock climbing and rappelling.** Rock climbing and rappelling are prohibited at all game management areas except at Indian Bluffs and Pictured Rocks wildlife management areas, Boone Forks wildlife management area only on the abandoned railroad bridge piers, and those authorized by 571—subrule 61.5(13). No one shall place bolts, pitons, or similar anchoring devices at Indian Bluffs or Pictured Rocks unless authorized to do so by the wildlife biologist in charge of the area.

**571—51.12(481A) Camping restrictions.** Primitive camping is allowed on all game management areas for a period not to exceed 14 days of consecutive use, unless specific restrictions are posted on site. The department may prohibit or restrict camping at any game management area by the posting of signs stating the applicable restrictions. Where posted, camping shall be prohibited within 100 yards of public parking lots, boat ramps, fishing jetties and other public use facilities.

These rules are intended to implement Iowa Code sections 456A.24(2)*"a"* and 481A.6.

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# CHAPTER 52
# WILDLIFE REFUGES

[Prior to 12/31/86, Conservation Commission[290] Chs 3,7,46]

**571—52.1(481A) Established.** The following state-owned lands and water under the jurisdiction of the department of natural resources are established as wildlife refuges or sanctuaries for the purpose of preserving the biological balance pursuant to the provisions of Iowa Code section 481A.39, and for the protection of public parks, public health safety and welfare, and to effect sound wildlife management.

**52.1(1)** *State parks, recreation areas and preserves.*

| Park or Preserve | County |
|---|---|
| A.A. Call | Kossuth |
| Abbie Gardner Sharp | Dickinson |
| Arnolds Park Pier | Dickinson |
| Backbone | Delaware |
| Barkley Memorial | Boone |
| Beeds Lake | Franklin |
| Bellevue | Jackson |
| Big Creek | Polk |
| Bixby | Clayton |
| Black Hawk Lake | Sac |
| Bob White | Wayne |
| Browns Lake | Woodbury |
| Brush Creek Canyon | Fayette |
| Cameron Woods | Scott |
| Clear Lake | Cerro Gordo |
| Cold Springs | Cass |
| Dolliver Memorial | Webster |
| Eagle Lake | Hancock |
| E.B. Lyons Prairie-Woodland Preserve and Nature Interpretive Center | Dubuque |
| Echo Valley | Fayette |
| Elinor Bedell | Dickinson |
| 1. Except that area along the shoreline signed as a public hunting area. | |
| Elk Rock | Marion |
| Fish Farm Mounds | Allamakee |
| Fort Atkinson | Winneshiek |
| Fort Defiance | Emmet |
| Frank A. Gotch | Humboldt |
| Frank Pellett Memorial Woods | Cass |
| Galland School | Lee |
| Geode | Des Moines-Henry |
| George Wyth | Black Hawk |
| Green Valley | Union |
| Gull Point (Okoboji Areas) | Dickinson |
| Heery Woods | Butler |
| Honey Creek | Appanoose |
| Indian Village | O'Brien |
| Inn Area (Okoboji Areas) | Dickinson |
| Kearny | Palo Alto |
| Kish-Ke-Kosh Prairie | Jasper |
| Lacey-Keosauqua | Van Buren |
| Lake Ahquabi | Warren |
| Lake Anita | Cass |

Lake Darling . . . . . Washington

1. That portion of the recreation area south and west of the main entrance road from Highway 1 and 78 to the south end of the modern campground.

2. That portion south of the east recreation area road from its intersection with the main entrance road to Honey Creek.

3. That area between the main entrance road and the south shore of Lake Darling starting at 7/8 mile from the intersection with Highway 1 and 78 and ending at the south end of the modern campground.

Lake Keomah . . . . . Mahaska
Lake Macbride . . . . . Johnson
Lake Manawa . . . . . Pottawattamie
Lake of Three Fires . . . . . Taylor
Lake Wapello . . . . . Davis
Ledges . . . . . Boone
Lennon Mills . . . . . Guthrie
Lewis and Clark . . . . . Monona
Little Maquoketa Mounds . . . . . Dubuque
McGregor Heights . . . . . Clayton
McIntosh Woods . . . . . Cerro Gordo
Malchow Mounds . . . . . Des Moines
Maquoketa Caves . . . . . Jackson
Margo Frankel Woods . . . . . Polk
Mericle Woods . . . . . Tama
Merritt Forest . . . . . Clayton
Mill Creek . . . . . O'Brien
Mines of Spain . . . . . Dubuque

1. 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.

2. The tract leased by the department of natural resources from the city of Dubuque upon which the E.B. Lyons Interpretive Center is located.

3. 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.

4. That portion located north of Catfish Creek, east of the Mines of Spain Road, south of the railroad tracks. This portion includes the Julien Dubuque Monument.

Mini-Wakan . . . . . Dickinson
Nestor Stiles Prairie . . . . . Cherokee
Nine Eagles . . . . . Decatur
Oak Grove . . . . . Sioux
Oakland Mills . . . . . Henry
Okamanpedan . . . . . Emmet
Orleans Beach . . . . . Dickinson
Palisades-Kepler . . . . . Linn
Pammel . . . . . Madison
Pecan Grove . . . . . Muscatine
Pikes Peak (McGregor Area) . . . . . Clayton
Pikes Point . . . . . Dickinson
Pillsbury Point . . . . . Dickinson
Pilot Grove . . . . . Iowa
Pilot Knob . . . . . Hancock
Pine Lake . . . . . Hardin
Pioneer . . . . . Mitchell
Plum Grove . . . . . Johnson
Point Ann . . . . . Clayton

Prairie Rose . . . . . Shelby
Preparation Canyon . . . . . Monona
Red Haw Hill . . . . . Lucas
Rice Lake . . . . . Worth-Winnebago
Rock Creek. . . . . Jasper
Sharon Bluffs . . . . . Appanoose
Silver Lake . . . . . Delaware
Spring Lake . . . . . Greene
Springbrook . . . . . Guthrie

1. That portion of the recreation area enclosed within the following described boundary: beginning at the southeasternmost corner of the property boundary and following that boundary west to the Raccoon River; then northwesterly along the river to the mouth of Springbrook Creek; then northeasterly along the east bank of Springbrook Creek to a point directly north of the water tower; then southeast to the trail east of the water tower; then along the northern and easternmost portion of that trail system to a point near the pond dam located in the southeasternmost corner of the park; then southeast to the point of beginning.

2. That portion of the recreation area enclosed within the following described boundary: beginning at the easterly southeast boundary corner and proceeding both north and west along County Highway F25 for a distance of 200 yards; then on a straight northeast/southwest line between the two points described above.

3. That portion of the recreation area bounded on the north by the property boundary, on the east by the dirt road known as Oak Avenue intersecting with State Highway 384 and on the southwest by State Highway 384.

4. That portion of the recreation area located on and west of a line approximately 100 yards east of the west property boundary which is east of the dirt road known as Oak Avenue from State Highway 384 north to the north property boundary.

All above areas are posted with "closed to hunting" boundary signs.

Starr's Cave . . . . . Des Moines
Steamboat Rock. . . . . Hardin
Stone Park . . . . . Woodbury
Strasser Woods. . . . . Polk
Trappers Bay . . . . . Dickinson
Turkey River Mounds . . . . . Clayton
Twin Lakes. . . . . Calhoun
Union Grove . . . . . Tama
Viking Lake . . . . . Montgomery

1. That portion of the recreation area enclosed within the following described boundary: on the north, the boundary of the refuge is described as the main entrance road to its "T" intersection with the road to the north boat ramp; thence northeasterly along the boat ramp road to the northwest corner of the boat ramp area to the lake water line.

2. On the south, the boundary is described as a line beginning at the north/south-east/west boundary corner south of the entrance road east to the road leading to the south picnic area parking lot and along that road to the easterly corner of that parking area; thence east to the lake water line.

3. All of the above area is posted with "closed to hunting" boundary signs.

Walnut Woods . . . . . Polk
Wanata . . . . . Clay
Wapsipinicon . . . . . Jones

1. All of the property within the state ownership boundary lines except the portion locally known as the "Oler Property" located in the southeast portion of the property line the boundary of which is marked with wildlife refuge signs.

2. Within the above described area, a circular shaped parcel approximately 400 yards in diameter centered on the enclosed rental shelter.

Waubonsie . . . . . Fremont
Wildcat Den . . . . . Muscatine
Woodman Hollow . . . . . Webster

**52.1(2)** *Wildlife refuges.*

*a.* Restrictions. The following areas under the jurisdiction of the department of natural resources are established as game refuges where posted. It shall be unlawful to hunt, pursue, kill, trap, or take any wild animal, bird, or game on these areas at any time, and no one shall carry firearms thereon, except where and when specifically authorized by the department of natural resources. It shall also be unlawful to trespass in any manner on the following areas, where posted, between the dates of September 1 and January 31 of each year, both dates inclusive, except that department personnel and law enforcement officials may enter the area at any time in performance of their duties, and hunters, under the supervision of department staff, may enter when specifically authorized by the department of natural resources.

| Area | County |
|---|---|
| Lake Icaria | Adams |
| Pool Slough Wildlife Area | Allamakee |
| Rathbun Area | Appanoose, Lucas, Wayne |
| Sedan Bottoms | Appanoose |
| Wildlife Exhibit Area | Boone |
| Sweet Marsh | Bremer |
| Big Marsh | Butler |
| South Twin Lake | Calhoun |
| Ventura Marsh | Cerro Gordo |
| Round Lake | Clay |
| Allen Green Refuge | Des Moines |
| Henderson | Dickinson |
| Jemmerson Slough Complex | Dickinson |
| Spring Run | Dickinson |
| Ingham Lake | Emmet |
| Forney Lake | Fremont |
| Riverton Area | Fremont |
| Dunbar Slough | Greene |
| Bays Branch | Guthrie |
| Crystal Hills | Hancock |
| Eagle Flats | Hancock |
| Eagle Lake | Hancock |
| Green Island Area | Jackson |
| Hawkeye Wildlife Area | Johnson |
| Muskrat Slough | Jones |
| Colyn Area | Lucas |
| Red Rock Area | Marion, Polk, Warren |
| Badger Lake | Monona |
| Tieville/Decatur Bend | Monona |
| Five Island Lake | Palo Alto |
| Big Creek-Saylorville Complex | Polk |
| Chichaqua Area | Polk |
| Smith Area | Pottawattamie |
| McCausland | Scott |
| Princeton Area | Scott |
| Prairie Rose Lake | Shelby |
| Otter Creek Marsh | Tama |
| Green Valley Lake | Union |
| Three Mile Lake | Union |

Lake Sugema . . . . . Van Buren
Rice Lake Area . . . . . Winnebago
Snyder Lake . . . . . Woodbury
Elk Creek Marsh . . . . . Worth
Lake Cornelia. . . . . Wright

*b.* It shall be unlawful to trespass in any manner on the following areas, where posted, anytime year around, except that department personnel and law enforcement officials may enter the area at any time in performance of their duties, and hunters under the supervision of department staff may enter when specifically authorized by the department of natural resources.

| Area | County |
|---|---|
| Middle River Wildlife Area (formerly Banner Pits) | Warren |
| Black Hawk Bottoms Wildlife Area | Des Moines |

*c.* It shall be unlawful to trespass in any manner on the following areas or portion of the areas during the time of the year they are posted as refuges. Department personnel and law enforcement officials may enter the area at any time in performance of their duties, and hunters under the supervision of department staff may enter to retrieve dead or wounded game animals when specifically authorized by the department.

| Area | County |
|---|---|
| Gladys Black Eagle Refuge | Marion |

**52.1(3)** *Open water refuges.* Rescinded 6/17/98, effective 7/22/98.
[**ARC 7918B**, IAB 7/1/09, effective 8/5/09]

This rule is intended to implement Iowa Code sections 481A.5, 481A.6, 481A.9 and 481A.39.

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[1] Effective date of 52.1(1) "Mines of Spain"(7/31/91) delayed 70 days by the Administrative Rules Review Committee at its meeting held 7/12/91.

# CHAPTER 53
# CONTROLLED HUNTING AREAS

[Prior to 12/31/86, Conservation Commission[290] Chs 14 and 15]

**571—53.1(481A) Definitions.**

*"Commission"* means the natural resource commission.

*"Department"* means the department of natural resources.

*"Director"* means the director of the department of natural resources or a designee.

**571—53.2(481A) Waterfowl hunting on Forney Lake and Riverton Area.** Rescinded IAB 9/4/02, effective 10/9/02.

**571—53.3(481A) Waterfowl hunting on Lake Odessa.** Rescinded IAB 6/30/10, effective 8/18/10.

These rules are intended to implement Iowa Code sections 481A.5, 481A.6, 481A.7, and 481A.48.

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# CHAPTER 54
# RESTRICTIONS ON INTRODUCTION AND REMOVAL OF PLANT LIFE

[Prior to 12/31/86, Conservation Commission[290] Ch 47]

**571—54.1(461A) Mushrooms and asparagus.** Lands under the jurisdiction of the commission shall be open for the harvesting of mushrooms and asparagus during the hours the areas are open to the public.
[**ARC 8594B**, IAB 3/10/10, effective 4/14/10]

**571—54.2(461A) Fruit.** Lands under the jurisdiction of the commission shall be open for the harvesting of all varieties of nuts, fruits, and berries unless signs are posted prohibiting such activity. Nut, fruit, and berry gathering shall be permitted only during the hours the areas are open to the public and shall not be permitted in state preserves unless otherwise allowed by the preserves management plan.
[**ARC 8594B**, IAB 3/10/10, effective 4/14/10]

**571—54.3(461A) American ginseng.** The harvesting of American ginseng (Panax quinquefolius) is subject to regulation by 571—Chapter 78.

This rule is intended to implement Iowa Code sections 456A.24(11) and 461A.41.
[**ARC 8594B**, IAB 3/10/10, effective 4/14/10]

**571—54.4(461A) Trees.** The commercial harvest of trees from lands under the jurisdiction of the commission shall be done in accordance with 561—8.5(17A,456A,461A) and 561—8.6(455B), according to the department's Forest Ecosystem Management Guide, approved by the natural resource commission on December 8, 1994, and hereby adopted by reference.

This rule is intended to implement Iowa Code sections 461A.35 and 461A.41.

**571—54.5(461A) Aquatic plants.** This rule applies to the introduction and removal of plants in public waters as those waters are defined by rule 571—13.2(455A,461A,462A). For purposes of this rule, aquatic plants are those listed in subrule 54.5(6) and include vegetation that exists at or below the ordinary high water line of a waterway.

**54.5(1)** *Permits.* The department may issue permits for the introduction and removal of aquatic plants in public waters. To be considered for a permit under this rule, applicants shall use the department's application form for sovereign lands construction permits, as described in rule 571—13.9(455A,461A,462A), and shall complete all relevant information on that application form. Applicants shall also provide any additional information as may be necessary, as described in rule 571—13.10(455A,461A). The term of the permit shall be stated in the permit. Permits are nontransferable and shall be subject to reevaluation upon expiration. Permits may be issued for between one and five years.

**54.5(2)** *Evaluation.* The department shall evaluate all permits sought under this rule in accordance with the evaluation criteria enumerated in rule 571—13.6(455A,461A,462A). In addition, the department shall consider the following criteria:

*a.* For aquatic plant introduction:

(1) Unless otherwise approved by the department, all introduced plants shall be included in the list provided in subrule 54.5(6);

(2) Introduced plants shall not include cultivars;

(3) Plants shall be introduced for the purposes of preventing shoreline erosion, stabilizing bottom sediment, providing fish or wildlife habitat, or removing nutrients from the water;

(4) Plants shall be thoroughly rinsed away from the water into which they are being introduced prior to being transported to the site if the plants have not been cultivated on site in a manner to prevent any foreign nonplant or seed material from entering the water prior to introduction; and

(5) Plants shall be obtained from a seed source that is within 50 miles of the introduction area and from stocks of only cultivated material (i.e., material that has not been taken from natural areas) or from a source that is approved by the department. Approval for a seed source may be sought from the department by contacting the area fisheries management biologist.

*b.* For aquatic plant removal:

(1) The plants shall be removed by hand-cutting, hand-pulling, hand-raking or mechanical cutting only;

(2) The plants shall be removed to establish a designated travel lane from a boat dock that has been permitted in accordance with 571—Chapter 16. Such travel lane shall not exceed a 15-foot width, and the placement of such lane shall be subject to the review and approval of the department. A travel lane allowed under this rule may be in the same location during the term of the permit, may be sited by the department to accommodate vegetation, and may not necessarily be the most direct path from the dock to the open water area; and

(3) All plant material removed under the permit must be left in place or collected and composted on the land owned, leased or otherwise subject to use by the applicant that is adjacent to the removal area.

Unless otherwise provided by this rule, in no event may a person be allowed to apply chemicals including, without limitation, pesticides or herbicides to remove aquatic plants from public waters. For nonpublic waters that meet certain designations in 567—Chapter 66, a person may be required to seek a permit under the rules established herein to use pesticides.

**54.5(3)** *Inspection requirements.* For the purpose of inspecting for compliance with permit conditions, the department shall have the right to enter the property attached to the public water at or near the place of introduction or removal. This inspection shall include, without limitation, identification of introduced species; a determination as to whether the travel lane is being maintained in accordance with the permit conditions; and whether plant material, if removed, is left on site.

**54.5(4)** *Violations.* Persons in violation of this rule are guilty of a simple misdemeanor as described by Iowa Code section 461A.57.

**54.5(5)** *Exceptions.*

*a.* Activities accomplished by the department or its agents to introduce or remove aquatic vegetation in public waters shall be deemed appropriate and shall not be subject to the permit requirements of this rule provided the activity is in the public interest and the activity does not constitute one of the prohibited activities described in 571—subrule 13.6(2).

*b.* Cities and counties in Iowa may use chemicals, including pesticides and herbicides, to remove aquatic vegetation from water intake structures. However, such cities and counties shall be required to obtain a permit under this rule and rules in 567—Chapter 66, as may be required, for such activities.

*c.* Aquatic vegetation located in public waters may be removed by persons without a permit under this rule only after the department, in its sole discretion, determines and evidences in writing that a hazard or other detrimental condition exists and the proposed mitigative activity is appropriate. Such activity shall be limited only to the work required to address the immediate hazard or other detrimental activity. 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 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 or detrimental condition and provide written authorization to proceed or shall require the person to apply for a permit under this rule.

**54.5(6)** *Appropriate plants.* The department is committed to maintaining the natural integrity of public waters in the state and strengthening native populations of vegetation and wildlife in those waters. To that end, the following table comprises the plants that may be permitted to be introduced into public waters:

| **Scientific Name** | **Common Name** |
|---|---|
| *Acorus americanus* | Sweet Flag |
| *Alisma plantago-aquatica* | Water Plantain |
| *Asclepias incarnata* | Marsh Milkweed |
| *Bidens cernua* | Nodding Beggars Ticks |
| *Bidens coronata* | Tickseed Sunflower |
| *Brasenia schreberi* | Water Shield |

| | |
|---|---|
| *Calamagrostis canadensis* | Blue Joint Grass |
| *Caltha palustris* | Marsh Marigold |
| *Carex atherodes* | Wheat Sedge |
| *Carex comosa* | Longhair Sedge |
| *Carex cristatella* | Crested Sedge |
| *Carex hystericina* | Bottlebrush Sedge |
| *Carex lacustris* | Hairy Sedge |
| *Carex normalis* | Greater Straw Sedge |
| *Carex pellita* | Wooly Sedge |
| *Carex prairea* | Prairie Sedge |
| *Carex scoparia* | Broom Sedge |
| *Carex stipata* | Awlfruit Sedge |
| *Carex stricta* | Upright Sedge |
| *Carex tribuloides* | Blunt Broom Sedge |
| *Carex vulpinoidea* | Fox Sedge |
| *Ceratophyllum demersum* | Coontail |
| *Eleocharis acicularis* | Needle Spikerush |
| *Eleocharis obtuse* | Blunt Spikerush |
| *Elodea canadensis* | Canada Waterweed |
| *Eupatorium perfoliatum* | Boneset |
| *Glyceria striata* | Fowl Manna Grass |
| *Iris versicolor* | Blue Flag Iris |
| *Juncus dudleyi* | Dudley's Rush |
| *Juncus torreyi* | Torrey's Rush |
| *Leersia oryzoides* | Rice Cutgrass |
| *Lobelia siphilitica* | Great Lobelia |
| *Lysimachia ciliate* | Fringed Loosestrife |
| *Lythrum alatum* | Winged Loosestrife |
| *Muhlenbergia mexicana* | Leafy Satin Grass |
| *Muhlenbergia racemosa* | Marsh Muhly |
| *Nymphea tuberosa* | White Water Lily |
| *Poa palustris* | Fowl Bluegrass |
| *Polygonum amphibium* | Water Smartweed |
| *Pontederia cordata* | Pickerelweed |
| *Potamogeton nodosus* | Longleaf Pondweed |
| *Ranunculus secleratus* | Cursed Crowfoot |
| *Sagittaria latifolia* | Broadleaf Arrowhead |
| *Schoenoplectus acutus* | Hardstem Bulrush |
| *Schoenoplectus fluviatilis* | River Bulrush |
| *Schoenoplectus tabernaemontani* | Soft-Stem Bulrush |
| *Scirpus atrovirens* | Green Bulrush |
| *Sparganium eurycarpum* | Giant Burreed |
| *Spartina pectinata* | Prairie Cord Grass |
| *Stuckenia pectinatus* | Sago Pondweed |
| *Typha latifolia* | Broadleaf Cattail |

In addition, an applicant may propose, as part of the application, species that do not appear on this list, which the department will consider. The department's consideration of species not on this list will be based on the commitment described above as well as the potential impact of the proposed species to the public water and ecosystem.

[**ARC 8594B**, IAB 3/10/10, effective 4/14/10]

These rules are intended to implement Iowa Code chapter 461A.

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# CHAPTER 55
# NONPERMANENT STRUCTURES
[Prior to 12/31/86, Conservation Commission[290] Ch 44]

**571—55.1(461A) Ice fishing shelters.**

**55.1(1)** *General.* The following rules shall govern the placement, construction, or erection of ice fishing shelters placed on or over state-owned land or waters under the jurisdiction of the natural resource commission.

**55.1(2)** *Removal.* The ice fishing shelter and material used in its construction shall be removed from on or over state-owned land or waters under the jurisdiction of the natural resource commission on or before ice melt or February 20 of each year, whichever comes first unless extended by the director.

**55.1(3)** *Owner information.* The full name, street address, and city of the building or structure owner of all structures left on the ice or state-owned land unattended shall be painted legibly in a color contrasting to the background on all sides of the shelter in block letters at least four inches in height.

**55.1(4)** *Permit.* The owner information displayed in accordance with the provisions of this rule will act as the permit for the placement of ice fishing shelters on or over state-owned land or waters under the jurisdiction of the natural resource commission.

**55.1(5)** *Accessibility.* Structures or buildings used as fishing shelters shall not be locked when in use.

**55.1(6)** *Reflectors.* All fishing shelters on the ice after sunset shall have reflectors attached to all sides of the structure in such a manner to enable them to reflect light at all times between the hours of sunset and sunrise.

**55.1(7)** *Shelter prohibited.* No person shall use any building or structure as an ice fishing shelter placed on or over state-owned land or waters under the jurisdiction of the natural resource commission in violation of any of the provisions of this rule.

This rule is intended to implement Iowa Code section 461A.4.

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CHAPTERS 56 to 60
Reserved

TITLE VI
*PARKS AND RECREATION AREAS*

# CHAPTER 61
# STATE PARKS AND RECREATION AREAS

[Prior to 12/31/86, Conservation Commission[290] Ch 45]

**571—61.1(461A) Applicability.** This chapter is applicable to all state-owned parks and recreation areas managed by the department of natural resources and by political subdivisions unless otherwise noted.

**571—61.2(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"* is as defined in rule 571—64.1(461A).

*"Beach house open shelter"* means a building located on the beach which is open on two or more sides and which may or may not have a fireplace.

*"Cabin"* means a small, one-story dwelling of simple construction which is available for rental on a daily or weekly basis.

*"Call center"* means a phone center where operators process all telephone reservations, reservation changes and reservation cancellations for camping and rental facilities.

*"Camping"* means the erecting of a tent or shelter of natural or synthetic material or 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 families of members of a formal organization.

*"Fishing"* means taking or attempting to take fish by utilizing hook, line and bait as defined in Iowa Code section 481A.72, or use of permitted devices for taking rough fish as determined by Iowa Code sections 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 those camping areas at Dolliver Memorial State Park, Springbrook State Park and 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 which is enclosed on all four sides and may have kitchen facilities such as a stove or refrigerator and which 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 which has showers and flush toilets.

*"Nonmodern area"* means a camping area in which no showers are provided and which contains only pit-type latrines or flush-type toilets. Potable water may or may not be available to campers.

*"Open shelter"* means a building which is open on two or more sides and which may or may not include a fireplace.

*"Open shelter with kitchenette"* means a building which 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.

*"Persons with disabilities parking permit"* means an identification device bearing the international symbol of accessibility that is issued by the Iowa department of transportation or similar devices that are issued by other states. The device can be a hanging device or on a motor vehicle as a plate or sticker as provided in Iowa Code section 321L.2 or 321L.9.

*"Person with physical disability"* means 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 which makes it impossible to ambulate successfully in park or recreation area natural surroundings without the use of a wheeled conveyance.

*"Possession"* means exercising dominion or control with or without ownership over property.

*"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 natural resource commission:

| Area | County |
|---|---|
| Badger Creek Recreation Area | Madison |
| Brushy Creek Recreation Area | Webster |
| Claire 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 |
| Pioneer Recreation Area | Mitchell |
| Pleasant Creek Recreation Area | Linn |
| Templar Park | Dickinson |
| Volga River Recreation Area | Fayette |
| Wilson Island Recreation Area | Pottawattamie |

These areas are managed for multiple uses, including public hunting, and are governed by rules established in this chapter as well as in 571—Chapters 52 and 105.

*"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 those facilities that may be rented on a daily or nightly basis and includes open shelters, open shelters with kitchenettes, beach house open shelters, lodges, cabins, yurts and group camps.

*"Reservation transaction fees"* means fees as given in this chapter to process a reservation, change a reservation or cancel a reservation.

*"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.

*"Special event"* means any planned event for which attendance is solicited through advertising, invitation, or other solicitation and that may interfere with the general public's normal use of a state park or recreation area and its facilities.

*"State park"* means the following areas managed by the state and designated by action of the natural resource commission:

| Area | County |
|---|---|
| A. A. Call | Kossuth |
| Backbone | Delaware |
| Banner Lakes at Summerset | Warren |
| Beed's Lake | Franklin |
| Bellevue | Jackson |
| Big Creek | Polk |
| Black Hawk | Sac |
| Cedar Rock | Buchanan |
| Clear Lake | Cerro Gordo |
| Dolliver Memorial | Webster |
| Elinor Bedell | Dickinson |
| Elk Rock | Marion |
| Fort Atkinson | Winneshiek |
| Fort Defiance | Emmet |
| Geode | Henry and Des Moines |
| George Wyth | Black Hawk |
| Green Valley | Union |
| Gull Point | Dickinson |
| Honey Creek | Appanoose |
| Lacey-Keosauqua | Van Buren |
| Lake Ahquabi | Warren |
| Lake Anita | Cass |
| Lake Darling | Washington |
| Lake Keomah | Mahaska |
| Lake Macbride | Johnson |
| Lake Manawa | Pottawattamie |
| Lake of Three Fires | Taylor |
| Lake Wapello | Davis |
| Ledges | Boone |
| Lewis and Clark | Monona |
| Maquoketa Caves | Jackson |
| McIntosh Woods | Cerro Gordo |
| Mini-Wakan | Dickinson |
| Nine Eagles | Decatur |
| Okamanpedan | Emmet |
| Palisades-Kepler | Linn |
| Pikes Peak | Clayton |
| Pikes Point | Dickinson |
| Pilot Knob | Winnebago |
| Pine Lake | Hardin |
| Prairie Rose | Shelby |
| Preparation Canyon | Monona |
| Red Haw | Lucas |
| Rice Lake | Winnebago |

| Area | County |
|---|---|
| Rock Creek | Jasper |
| Shimek Forest Campground | Lee |
| Springbrook | Guthrie |
| Stephens Forest Campground | Lucas |
| Stone | Plymouth and Woodbury |
| Trapper's Bay | Dickinson |
| Twin Lakes | Calhoun |
| Union Grove | Tama |
| Viking Lake | Montgomery |
| Walnut Woods | Polk |
| Wanata | Clay |
| Wapsipinicon | Jones |
| Waubonsie | Fremont |
| Wildcat Den | Muscatine |
| Yellow River Forest Campground | Allamakee |

Use and management of these areas are governed by Iowa Code chapter 461A and by other restrictions prescribed on area signs pursuant to Iowa Code section 461A.44.

*"State park managed by a management company"* means the following area established by Iowa Code chapter 463C:

| Area | County |
|---|---|
| Honey Creek Resort State Park | Appanoose |

Use and management of this area are governed by rules established in this chapter, as well as by the indenture of trust entered into by and among the department, the treasurer of state, the Honey Creek Premiere Destination Park bond authority as established by Iowa Code chapter 463C, and Banker's Trust Corporation, dated October 1, 2006.

*"State park managed by another governmental entity"* means the following areas designated by action of the natural resource commission:

| Area | County |
|---|---|
| Bobwhite | Wayne |
| Browns Lake-Bigelow Park | Woodbury |
| Cold Springs | Cass |
| Crystal Lake | Hancock |
| Eagle Lake | Hancock |
| Echo Valley | Fayette |
| Frank A. Gotch | Humboldt |
| Galland School | Lee |
| Heery Woods | Butler |
| Kearny | Palo Alto |
| Lake Cornelia | Wright |
| Lake Odessa Campground | Louisa |
| Margo Frankel Woods | Polk |
| Mill Creek | O'Brien |
| Oak Grove | Sioux |

| Area | County |
|---|---|
| Oakland Mills | Henry |
| Pammel | Madison |
| Pioneer | Mitchell |
| Sharon Bluffs | Appanoose |
| Silver Lake | Delaware |
| Spring Lake | Greene |
| Swan Lake | Carroll |

Use and management of these areas are governed by Iowa Code chapter 461A, by this chapter, and by rules adopted by the managing entity.

*"State preserve"* means the following areas or portion of the areas dedicated by actions pursuant to Iowa Code section 465C.10:

| Area | County |
|---|---|
| A. F. Miller | Bremer |
| Ames High Prairie | Story |
| Anderson Prairie | Emmet |
| Behrens Ponds and Woodland | Linn |
| Berry Woods | Warren |
| Bird Hill | Cerro Gordo |
| Bixby | Clayton |
| Bluffton Fir Stand | Winneshiek |
| Brush Creek Canyon | Fayette |
| Brushy Creek | Webster |
| Cameron Woods | Scott |
| Casey's Paha | Tama |
| Catfish Creek | Dubuque |
| Cayler Prairie | Dickinson |
| Cedar Bluffs Natural Area | Mahaska |
| Cedar Hills Sand Prairie | Black Hawk |
| Cheever Lake | Emmet |
| Clay Prairie | Butler |
| Claybanks Forest | Cerro Gordo |
| Coldwater Cave | Winneshiek |
| Crossman Prairie | Howard |
| Decorah Ice Cave | Winneshiek |
| Derald Dinesen Prairie | Shelby |
| Doolittle Prairie | Story |
| Eureka Woods | Greene |
| Fallen Rock | Hardin |
| Fish Farm Mounds | Allamakee |
| Five Ridge Prairie | Plymouth |
| Fleming Woods | Poweshiek |
| Fort Atkinson | Winneshiek |
| Fossil and Prairie Park | Floyd |
| Freda Haffner Kettlehole | Dickinson |

| Area | County |
|---|---|
| Gitchie Manitou | Lyon |
| Hanging Bog | Linn |
| Hardin City Woodland | Hardin |
| Hartley Fort | Allamakee |
| Hartman Bluff | Black Hawk |
| Hayden Prairie | Howard |
| Hoffman Prairie | Cerro Gordo |
| Indian Bluffs Primitive Area | Jones |
| Indian Fish Trap | Iowa |
| Kalsow Prairie | Pocahontas |
| Kish-Ke-Kosh Prairie | Jasper |
| Lamson Woods | Jefferson |
| Liska-Stanek Prairie | Webster |
| Little Maquoketa River Mounds | Dubuque |
| Malanaphy Springs | Winneshiek |
| Malchow Mounds | Des Moines |
| Manikowski Prairie | Clinton |
| Mann Wilderness Area | Hardin |
| Marietta Sand Prairie | Marshall |
| Mericle Woods | Tama |
| Merrill A. Stainbrook | Johnson |
| Merritt Forest | Clayton |
| Montauk | Fayette |
| Mossy Glen | Clayton |
| Mount Pisgah Cemetery | Union |
| Mount Talbot | Woodbury and Plymouth |
| Nestor Stiles Prairie | Cherokee |
| Ocheyedan Mound | Osceola |
| Old State Quarry | Johnson |
| Palisades-Dows | Linn |
| Pecan Grove | Muscatine |
| Pellett Memorial Woods | Cass |
| Pilot Grove | Iowa |
| Pilot Knob | Hancock |
| Retz Memorial Woods | Clayton |
| Roberts Creek | Clayton |
| Rock Creek Island | Cedar |
| Rock Island Botanical | Linn |
| Roggman Boreal Slopes | Clayton |
| Rolling Thunder Prairie | Warren |

| Area | County |
|---|---|
| Savage Woods | Henry |
| Searryl's Cave | Jones |
| Sheeder Prairie | Guthrie |
| Silver Lake Fen | Dickinson |
| Silvers-Smith Woods | Dallas |
| Slinde Mounds | Allamakee |
| St. James Lutheran Church | Winneshiek |
| Starr's Cave | Des Moines |
| Steele Prairie | Cherokee |
| Stinson Prairie | Kossuth |
| Strasser Woods | Polk |
| Sylvan Runkel | Monona |
| Toolesboro Mounds | Louisa |
| Turin Loess Hills | Monona |
| Turkey River Mounds | Clayton |
| White Pine Hollow | Dubuque |
| Williams Prairie | Johnson |
| Wittrock Indian Village | O'Brien |
| Woodland Mounds | Warren |
| Woodman Hollow | Webster |
| Woodthrush Woods | Jefferson |

Use and management of these areas are governed by rules established in this chapter as well as by management plans adopted by the preserves advisory board.

*"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 which is available for rental on a daily or weekly basis.

[**ARC 8821B**, IAB 6/2/10, effective 7/7/10]

**571—61.3(461A) Establishment of centralized reservation system operating procedures and policies.** The department shall establish a centralized reservation system to accept and process reservations for camping and rental facilities in state parks, recreation areas and state forest campgrounds.

**61.3(1)** *Centralized reservation system business rules manual.* The department shall adopt by reference the manual titled "Centralized Reservation System Business Rules for Iowa State Parks, Recreation Areas and State Forests," dated January 1, 2006, which sets procedures and policies for the administration of reservations of campsites and rental facilities through the centralized reservation system.

**61.3(2)** *Recreation facilities available on centralized reservation system.*

*a.* *Rental facilities.* All rental facilities will be available on the centralized reservation system with the exception of the group camp at Springbrook State Park.

*b.* *Campgrounds.*

(1) All campgrounds will be available on the centralized reservation system except for the campgrounds at A. A. Call State Park, Fort Defiance State Park and Preparation Canyon State Park and the backpack campsites located in state forests.

(2) No less than 50 percent and up to no more than 75 percent of the total number of campsites in each individual campground shall be designated as reservable sites on the reservation system. The determination of which campsites shall be included in the reservable designation shall be the responsibility of the park staff in each park. Park staff shall include a combination of electric, nonelectric and sewer/water sites while taking into consideration campsite characteristics such as location, shade and size. The department will review the percentage of reservable sites and usage on a biennial basis and determine whether the percentage of reservable campsites should be changed. A reservable campsite will be identified with a reservable site marker on the campsite post.

(3) All designated organized youth group campsites and campsites marked with the international symbol of accessibility shall be included in the reservation system.

**61.3(3)** *Methods available to make reservations.* Persons may make reservations by telephone through the call center or through the Internet using the reservation system Web site.

**61.3(4)** *Reservation transaction fees.*

*a.* *Reservation fee.* A nonrefundable reservation fee shall be charged for each reservation made per campsite or rental facility regardless of the length of stay. The one-time fee is per reservation and is not charged per day or night. This fee is in addition to the camping fees or rental fees established in subrules 61.4(1) and 61.5(1). The reservation fee varies depending upon the method used when the reservation is made.

(1) Internet reservation — $4.

(2) Telephone reservation — $6.

*b.* *Change fee.* A fee shall be charged to change an existing reservation.

(1) Reservation change made through the Internet — $5.

(2) Reservation change made over the telephone — $7.

*c.* *Cancellation fee.* A fee shall be charged to cancel a reservation.

(1) Reservation cancellation made through the Internet — $5.

(2) Reservation cancellation made over the telephone — $7.

**61.3(5)** *Reservation window.*

*a.* *Camping.* The reservation window for campsite reservations is 3 months to 2 days prior to the arrival date.

*b.* *Rental facilities.*

(1) Rentals for May 1 to September 30. The reservation window for rental facilities is 12 months to 4 days prior to the arrival date.

(2) Rentals for October 1 to April 30. The reservation window for rental facilities is 12 months to 7 days prior to the arrival date.

[**ARC 9324B**, IAB 1/12/11, effective 2/16/11]

**571—61.4(461A) Camping.**

**61.4(1)** *Fees.* The following are maximum per-night fees for camping in state parks and recreation areas. The fees may be reduced or waived by the director for special events or special promotional efforts sponsored by the department of natural resources. Special events or promotional efforts shall be conducted so as to give all park facility users equal opportunity to take advantage of reduced or waived fees. Reductions or waivers shall be on a statewide basis covering like facilities. In the case of promotional events, prizes shall be awarded by random drawing of registrations made available to all park visitors during the event. In areas subject to a local option sales tax, the camping fee shall be administratively adjusted so that persons camping in those areas will pay the same total cost applicable in other areas.

| | Fee | Sales Tax | Total Per Night |
|---|---|---|---|
| *a.* The following fees shall be in effect from May 1 to September 30 each year. | | | |
| Nonmodern | $ 8.49 | .51 | $ 9.00 |
| Modern | 10.38 | .62 | 11.00 |
| *b.* The following fees shall be in effect from October 1 to April 30 each year. | | | |
| Nonmodern | 5.66 | .34 | 6.00 |
| Modern | 7.55 | .45 | 8.00 |
| *c.* Electricity | 4.72 | .28 | 5.00 |
| This fee will be charged in addition to the camping fee on sites where electricity is available (whether it is used or not). | | | |
| *d.* Organized youth group campsite, per group | 14.15 | .85 | 15.00 |
| *e.* Cable television hookup | 1.89 | .11 | 2.00 |
| *f.* Sewer and water hookup | 2.83 | .17 | 3.00 |
| *g.* Additional fee for campgrounds designated for equestrian use | 2.83 | .17 | 3.00 |
| This fee is in addition to applicable fees listed above. | | | |
| *h.* Camping tickets (per book of seven) | 85.85 | 5.15 | 91.00 |

Camping tickets shall be valid for one year from the month of purchase. Persons using valid camping tickets purchased prior to any fee increase will not be required to pay the difference due to that fee increase.

**61.4(2)** *Varying fees.* Fees charged for like services in state-owned areas under management by political subdivisions may vary from those established by this chapter.

**61.4(3)** *Procedures for camping registration.*

*a.* *Registration.*

(1) 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 of natural resources. Campers shall, within one-half hour of arrival at the campground, complete the registration form, place the appropriate fee or number of camping tickets in the envelope and place the envelope in the depository provided by the department of natural resources. One copy must then be placed in the campsite holder provided at the campsite.

(2) Park staff shall complete the registration of campers with reservations and place the registration in the campsite holder no later than one hour prior to check-in time on the day of the camper's arrival.

*b.* Campsites are considered occupied and registration for a campsite shall be considered complete when the requirements of 61.4(3)*"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.

*d.* Each camping ticket shall cover the cost of one night of camping in a modern area on a site where electricity is furnished. In addition to using the camping ticket, persons camping on equestrian sites or on sites which also have sewer and water hookups or cable television hookups available must pay the additional charges for these services. Use of a camping ticket in an area or on a site which would require a lesser fee than an electrical site in a modern area will not entitle the user to a refund or credit of any kind.

**61.4(4)** *Organized youth group campsite registration.*

*a.* Registration procedures for organized youth group campsites shall be governed by paragraphs *"a," "b"* and *"c"* of 61.4(3).

*b.* Chaperoned, organized youth groups may choose to occupy campsites not designated as organized youth group campsites. However, the group is subject to all fees and rules in 61.4(1), 61.4(3) and 61.4(5) pertaining to the campsite the group wishes to occupy.

**61.4(5)** *Restrictions on campsite/campground use.* This subrule sets forth conditions of public use which apply to all state parks and recreation areas. Specific areas as listed in 61.4(6), 571—61.7(461A) and 571—61.10(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.* Camping is restricted to designated camping areas within state parks and recreation areas and state forest campgrounds.

*b.* 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 which are designated as chaperoned, organized youth group campsites.

*c.* Camping is restricted to one basic unit per site except that a small tent may be placed on a site with the basic unit. The area occupied by the small tent shall be no more than 8 feet by 10 feet and the tent shall hold no more than four people.

*d.* Each camping group shall utilize only the electrical outlet fixture designated for its particular campsite. No extension cords or other means of hookup shall be used to furnish electricity from one designated campsite to another.

*e.* 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.

*f.* All motor vehicles, excluding motorcycles, not covered by the provision in 61.4(5)*"e"* shall be parked in designated extra-vehicle parking areas.

*g.* Walk-in campers occupying nonreservable campsites or unrented, reservable campsites shall register as provided in subrule 61.4(3) within one-half hour of entering the campground.

*h.* Campers occupying nonreservable campsites shall vacate the campground or register for the night prior to 4 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 3 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 of natural resources program.

*i.* 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 2 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 or recreation area campground after the fourteenth night and may not return to the state park or recreation area until a minimum of 3 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 of natural resources program.

*j.* 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 3 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 of natural resources program.

*k.* Campsites marked with the international symbol of accessibility shall be used only by vehicles displaying a persons with disabilities parking permit. The vehicle must be in use by a person with a disability, either as an operator or a passenger.

*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.

**61.4(6)** *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 10:30 p.m. to 4 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 61.4(5) 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 61.4(5) 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.

**61.4(7)** *Campground fishing.* Rule 61.11(461A) is not intended to prohibit fishing by registered campers who fish from the shoreline within the camping area.

[**ARC 7684B**, IAB 4/8/09, effective 5/13/09; **ARC 8821B**, IAB 6/2/10, effective 7/7/10]

**571—61.5(461A) Rental facilities.** The following are maximum fees for facility use in state parks and recreation areas. The fees may be reduced or waived by the director for special events or special promotional efforts sponsored by the department of natural resources. Special events or promotional efforts shall be conducted so as to give all park facility users equal opportunity to take advantage of reduced or waived fees. Reductions or waivers shall be on a statewide basis covering like facilities. In the case of promotional events, prizes shall be awarded by random drawing of registrations made available to all park visitors during the event.

**61.5(1)** *Fees.*

*a.* Cabin rental. This fee does not include tax. Tax will be calculated at time of final payment.

| | Per Night* | Per Week |
|---|---|---|
| Backbone State Park, Delaware County | | |
| Renovated modern cabins | $ 50 | $300 |
| Two-bedroom modern cabins | 85 | 510 |
| Deluxe cabins | 100 | 600 |
| Black Hawk State Park, Sac County | 100 | 600 |
| Dolliver Memorial State Park, Webster County | 35 | 210 |
| Green Valley State Park, Union County | 35 | 210 |
| Honey Creek State Park, Appanoose County | 35 | 210 |
| Lacey-Keosauqua State Park, Van Buren County | 50 | 300 |
| Lake Darling State Park, Washington County | 35 | 210 |
| Lake of Three Fires State Park, Taylor County | 50 | 300 |
| Lake Wapello State Park, Davis County (Cabin Nos. 1-12) | 60 | 360 |
| Lake Wapello State Park, Davis County (Cabin No. 13) | 85 | 510 |

| | Per Night* | Per Week |
|---|---|---|
| Lake Wapello State Park, Davis County (Cabin No. 14) | 75 | 450 |
| Nine Eagles State Park, Decatur County | 75 | 450 |
| Palisades-Kepler State Park, Linn County | 50 | 300 |
| Pine Lake State Park, Hardin County | | |
| Studio cabins (four-person occupancy limit) | 65 | 390 |
| One-bedroom cabins | 75 | 450 |
| Pleasant Creek State Recreation Area, Linn County | 35 | 210 |
| Prairie Rose State Park, Shelby County | 35 | 210 |
| Springbrook State Park, Guthrie County | 200 | 1200 |
| Stone State Park, Woodbury County | 35 | 210 |
| Union Grove State Park, Tama County | 75 | 450 |
| Waubonsie State Park, Fremont County | | |
| Two-bedroom modern cabins | 85 | 510 |
| One-bedroom modern cabins | 60 | 360 |
| Two-bedroom camping cabins | 50 | 300 |
| One-bedroom camping cabins | 35 | 210 |
| Camping cabin | 25 | 150 |
| Wilson Island State Recreation Area, Pottawattamie County | 25 | 150 |

*Minimum two nights

*b.* Yurt rental. This fee does not include tax. Tax will be calculated at time of payment.

| | Per Night* | Per Week |
|---|---|---|
| McIntosh Woods State Park, Cerro Gordo County | $ 35 | $210 |

*Minimum two nights

*c.* Lodge rental per reservation. This fee does not include tax. Tax will be calculated at time of payment.

| | Per Weekday M-Th*** | Per Weekend Day Fr-Su |
|---|---|---|
| A. A. Call State Park, Kossuth County | $ 40 | $ 80 |
| Backbone State Park Auditorium, Delaware County** | 25 | 50 |
| Backbone State Park, Delaware County | 62.50 | 125 |
| Beed's Lake State Park, Franklin County | 40 | 80 |
| Bellevue State Park-Nelson Unit, Jackson County | 50 | 100 |
| Clear Lake State Park, Cerro Gordo County | 50 | 100 |
| Dolliver Memorial State Park-Central Lodge, Webster County** | 30 | 60 |
| Dolliver Memorial State Park-South Lodge, Webster County | 37.50 | 75 |
| Ft. Defiance State Park, Emmet County | 35 | 70 |
| George Wyth State Park, Black Hawk County** | 35 | 70 |
| Gull Point State Park, Dickinson County | 100 | 200 |
| Lacey-Keosauqua State Park, Van Buren County | 35 | 70 |
| Lake Ahquabi State Park, Warren County | 45 | 90 |
| Lake Darling State Park, Washington County | 100 | 200 |
| Lake Keomah State Park, Mahaska County | 45 | 90 |
| Lake Macbride State Park, Johnson County | | |

| | Per Weekday M-Th*** | Per Weekend Day Fr-Su |
|---|---|---|
| Beach Lodge | 35 | 70 |
| Lodge | 35 | 70 |
| Lake of Three Fires State Park, Taylor County | 35 | 70 |
| Lake Wapello State Park, Davis County | 30 | 60 |
| Lewis and Clark State Park, Monona County | 35 | 70 |
| Palisades-Kepler State Park, Linn County | 87.50 | 175 |
| Pine Lake State Park, Hardin County | 40 | 80 |
| Pleasant Creek Recreation Area, Linn County** | 37.50 | 75 |
| Stone State Park, Woodbury/Plymouth Counties | 62.50 | 125 |
| Viking Lake State Park, Montgomery County | 30 | 60 |
| Walnut Woods State Park, Polk County | 100 | 200 |
| Wapsipinicon State Park, Jones County | | |
| Heated year-round lodge | 35 | 70 |
| Unheated seasonal lodge | 20 | 40 |

**Does not contain kitchen facilities

***The weekend day fee applies to New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, and Christmas, even though the holiday may fall on a weekday.

*d.* Open shelter reservation, $25 plus applicable tax.

*e.* Reservation for open shelter with kitchen, $75 plus applicable tax.

*f.* Beach house open shelter reservation, $40 plus applicable tax:

Lake Ahquabi State Park, Warren County

Lake Wapello State Park, Davis County

Pine Lake State Park, Hardin County

Springbrook State Park, Guthrie County

*g.* Group camp rental. This fee does not include tax. Tax will be calculated at time of payment.

(1) Dolliver Memorial State Park, Webster County. Rental includes use of restroom/shower facility at Dolliver Memorial State Park.

1. Chaperoned, organized youth groups—$2 per day per person with a minimum charge per day of $60.

2. Other groups—$15 per day per cabin plus $30 per day for the kitchen and dining facility.

(2) Lake Keomah State Park, Mahaska County. All groups—$40 per day for the dining/restroom facility plus the applicable camping fee. Lake Keomah dining/restroom facility day use only rental $90.

*h.* Springbrook State Park conservation education center rental. The conservation education center may be rented as a group camp facility or as an educational group facility. All rentals shall be handled through staff at the education center.

(1) Linen service. Linen service includes bedding, pillows, towels and washcloths. The linen service fee stated below shall be charged. School groups are required to use the linen service. All other groups may elect to use the linen service.

(2) Concessionaire. All groups that utilize the classroom building and use education center staff for programs must use the concessionaire for all meals. All other groups may elect to use the kitchenette at the fee stated below or use the concessionaire or a combination of both.

(3) Classroom. All day use groups not utilizing the entire conservation education center facilities must pay the appropriate classroom or library fee. Overnight groups wishing to use the classroom facility for non-conservation education activities (such as quilters' meetings or family reunions) must pay the appropriate classroom fee.

(4) Reservations. School groups and DNR camps may reserve the center three years in advance. All other groups may reserve the center a year in advance on a first-come, first-served basis. There is no reservation fee. Fees shall be paid upon arrival at the center.

(5) Damage deposit. The damage deposit shall be paid on a separate instrument from the rental fee. School groups shall be exempt from this requirement.

(6) Day use attendance fee. A fee of $5 per person per day plus applicable tax shall be charged to all day use groups and all persons associated with overnight groups attending day functions only when they utilize the entire conservation education center facilities and staff services.

(7) Overnight rental fees. These fees do not include tax. Tax will be calculated at time of payment.

1. Kindergarten through grade 12—$5 per person per night.
2. Adults—$15 per person per night.
3. Families—$160 per dorm per night.

(8) Other services. These fees do not include tax. Tax will be calculated at time of payment.

1. Linen service—$5 per person per night.
2. Family linen service—$160 per dorm per night.
3. Kitchenette rental—$30 per day or night.
4. Classroom rental—$100 per day or night.
5. Library rental—$50 per day or night.
6. Dining hall rental, day use only—$100 per day.
7. Dining hall with kitchenette rental, day use only—$130 per day.

(9) Damage deposit—$50 per visit.

(10) Check-out times for dorms.

1. Monday-Saturday, 8 a.m.
2. Sunday, 9 a.m.

**61.5(2)** *Varying fees.* Fees charged for like services in state-owned areas under management by political subdivisions may vary from those established by this chapter.

**61.5(3)** *Procedures for rental facility registration and rentals.*

*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 61.5(3)*"b"*(2) and 61.5(3)*"b"*(3), cabin reservations must be for a minimum of one week (Friday p.m. to Friday a.m.) beginning the Friday of the national Memorial Day holiday weekend through Thursday after the national Labor Day holiday. From the Friday after the national Labor Day holiday through the Thursday before the national Memorial Day holiday weekend, cabins may be reserved for a minimum of two nights.

(2) The cabins at Dolliver Memorial State Park; the camping cabins at Pleasant Creek and Wilson Island State Recreation Areas and Green Valley, Honey Creek, Lake Darling and Stone State Parks; the yurts at McIntosh Woods State Park; and the group camps at Dolliver Memorial and Lake Keomah State Parks may be reserved for a minimum of two nights throughout the entire rental season.

(3) The multifamily cabin at Springbrook State Park may be reserved for a minimum of two nights throughout the entire rental season with the following exceptions:

1. From the Friday of the national Memorial Day holiday weekend through the Thursday after the national Labor Day holiday, a Friday and Saturday night stay is required for weekends.
2. A Friday, Saturday, and Sunday night stay is required for the national Memorial Day holiday and national Labor Day holiday weekends.
3. A Thursday, Friday, and Saturday night stay is required for the Fourth of July holiday if the Fourth of July occurs on a Thursday, Friday or Saturday.
4. A Friday, Saturday, and Sunday night stay is required for the Fourth of July holiday if the Fourth of July occurs on a Monday.

(4) All unreserved cabins, yurts and group camps may 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 group camp facilities must check in at or after 4 p.m. on Saturday. Check-out time is 11 a.m. or earlier on Saturday.

*d.* Persons renting facilities listed in subparagraph 61.5(3)*"b"*(2) must check in at or after 4 p.m. on the first day of the two-night rental period. Check-out time is 11 a.m. or earlier on the last day of the two-night rental period.

*e.* 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.

*f.* The number of persons occupying rental cabins is limited to six in cabins which contain one bedroom or less and eight in cabins with two bedrooms. Occupancy of the studio cabins at Pine Lake and all camping cabins is limited to four persons. Occupancy of the yurts is limited to four persons.

*g.* 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 61.4(5)*"b."*

*h.* Open shelters and beach house open shelters which 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.

*i.* Except by arrangement with the park staff in charge of the area, persons renting lodge, shelter, and beach house open shelter facilities and all guests shall vacate the facility by 10 p.m.

**61.5(4)** *Damage deposits for all rental facilities.*

*a.* Upon arrival for the rental facility period, renters shall pay in full a damage deposit in the amount of $50.

*b.* Damage deposits will be refunded only after authorized personnel inspect the rental 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 an amount equivalent to the applicable hourly wage of the employees 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.

[**ARC 7684B**, IAB 4/8/09, effective 5/13/09; **ARC 9186B**, IAB 11/3/10, effective 12/8/10]

**571—61.6(461A) Vessel storage fees.** These fees do not include tax.

| Vessel Storage Space (wet or dry) | Maximum Fee |
|---|---|
| Pontoon boats—eight months or less | $150 |
| Eight months or less (new docks) | 200 |
| Year-round | 200 |
| Year-round (new docks) | 250 |
| Other boats—eight months or less | 125 |
| Eight months or less (new docks) | 150 |
| Year-round | 150 |
| Year-round (new docks) | 200 |

**571—61.7(461A) Restrictions—area and use.** This rule sets forth conditions of public use which apply to all state parks and recreation areas. Specific areas as listed in 61.4(6), 61.8(461A) and 61.11(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.

**61.7(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 the department of natural resources personnel in charge of the area.

*d.* Except for dogs being used in designated hunting or in dog training areas, 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.

**61.7(2)** *Beach use/swimming.*

*a.* Except as provided in paragraphs *"b"* and *"c"* of this subrule, 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.

*b.* 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).

*c.* Swimming outside beach area.

(1) Persons may swim outside the beach area under the following conditions:

1. Swimming must take place between sunrise and sunset;

2. 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;

3. 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

4. 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.

*d.* The provisions of paragraph *"a"* of this subrule shall not be construed as prohibiting wading in areas other than the beach by persons actively engaged in shoreline fishing.

**61.7(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.

**61.7(4)** *Chainsaws.* Except by written permission of the director of the department of natural resources, chainsaw use is prohibited in state parks and recreation areas. This provision is not applicable to employees of the department of natural resources in the performance of their official duties.

**61.7(5)** *Firearms.* The use of firearms in state parks and recreation areas, as defined in 61.2(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 61.9(461A)), Volga River Recreation Area and Wilson Island Recreation Area.

*b.* Target and practice shooting in areas designated by DNR.

*c.* Special events, festivals, and education programs sponsored or permitted by DNR.

*d.* Special hunts authorized by the natural resource commission to control deer populations.

**61.7(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.

**61.7(7)** *Garbage.* Using government refuse receptacles for dumping household, commercial, or industrial refuse brought as such from private property is prohibited.

**61.7(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 physical disabilities may use certain motorized vehicles to access specific areas in state parks, recreation areas and preserves, according to restrictions set out in this paragraph, in order to enjoy the same recreational opportunities available to others. Allowable vehicles include any self-propelled electric or gas vehicle which has at least three wheels, but no more than six wheels, and is limited in engine displacement to less than 800 cubic centimeters and in total dry weight to less than 1,450 pounds.

(1) Permits.

1. Each person with a physical disability must have a permit issued by the director in order to use a motorized vehicle in specific areas within state parks, recreation areas, and preserves. Such permits will be issued without charge. An applicant must submit a certificate from a doctor stating that the applicant meets the criteria describing a person with a physical disability. One nonhandicapped companion may accompany the permit holder on the same vehicle if that vehicle is designed for more than one rider; otherwise the companion must walk.

2. Existing permits. Those persons possessing a valid permit for use of a motorized vehicle on game management areas as provided in 571—51.7(461A) may use a motorized vehicle to gain access to specific areas for recreational opportunities and facilities within state parks, recreation areas and preserves.

(2) Approved areas. On each visit, the permit holder must contact the park staff in charge of the specific area in which the permit holder wishes to use a motorized vehicle. The park staff must designate on a park map the area(s) where the permit holder will be allowed to use a motorized vehicle. This restriction is intended to protect the permit holder from hazards or to protect certain natural resources of the area. The map is to be signed and dated on each visit by the park staff in charge of the area. Approval for use of a motorized vehicle on state preserves also requires consultation with a member of the preserves staff in Des Moines.

(3) 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.

(4) Prohibited acts and restrictions.

1. Except as provided in 61.7(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 motor vehicle off-road will be no more than 5 mph. 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.

(5) Employees exempt. Restrictions in subrule 61.7(8) shall not apply to department personnel, law enforcement officials, or other authorized persons engaged in research, management or enforcement when in performance of their duties.

**61.7(9)** *Noise.* Creating or sustaining any unreasonable noise in any portion of all state parks and recreation areas 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 which would govern the conduct of a reasonable, prudent person under the circumstances shall be used to determine whether the noise is unreasonable. Unreasonable noise shall include the operation or utilization of motorized equipment or machinery such as an electric generator, motor vehicle, or motorized toy; or audio device such as a radio, television set, tape deck, public address system, or musical instrument; or other device. Between the hours of 10:30 p.m. and 6 a.m., noise which can be heard at a distance of 120 feet or three campsites shall be considered unreasonable.

**61.7(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 or persons shall enter into such parks and preserves until 4 a.m. the following day.

**61.7(11)** *Paintball guns.* The use of any item generally referred to as a paintball gun is prohibited in state parks, recreation areas and preserves.

**61.7(12)** *Restrictions on picnic site use.*

*a.* Open picnic sites marked with the international symbol of accessibility shall be used only by a person or group with a person qualifying for and displaying a persons with disabilities parking permit on the person's vehicle.

*b.* Paragraph 61.7(12)*"a"* does not apply to picnic shelters marked with the international accessibility symbol. The use of the symbol on shelters shall serve only as an indication that the shelter is wheelchair accessible.

**61.7(13)** *Rock climbing or rappelling.* The rock climbing practice known as free climbing and climbing or rappelling activities which 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.

**61.7(14)** *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.

**61.7(15)** *Deer population control hunts.* Deer hunting as allowed under Iowa Code section 461A.42*"c"* is permitted only during special hunts in the following state parks as provided under 571—Chapter 105 and as approved by the natural resource commission. During the dates of deer hunting, only persons engaged in deer hunting shall use the area or portions thereof as designated by DNR and signed as such.

| | |
|---|---|
| Backbone State Park | Delaware County |
| Elk Rock State Park | Marion County |
| George Wyth State Park | Black Hawk County |
| Lake Darling State Park | Washington County |
| Lake Manawa State Park | Pottawattamie County |
| Lake of Three Fires State Park | Taylor County |
| Springbrook State Park | Guthrie County |
| Viking Lake State Park | Montgomery County |

**61.7(16)** *Special event permits.* Any person or group wishing to conduct a special event in any state park or recreation area shall notify the department of natural resources manager in charge of the area in advance and comply with the following procedures.

*a.* At least 30 days prior to the scheduled event, the sponsor shall submit an application to the park staff of the area where the proposed event is to take place. Application forms shall be furnished by DNR. Submission of an application does not guarantee issuance of a permit by DNR.

*b.* Applicants for special events shall provide proof of liability insurance naming the applicant and DNR as additional insured.

*c.* If the area has a concessionaire on site, sales of food and other items shall be governed pursuant to 571—Chapter 14. If a concessionaire chooses not to provide these services during the event, the event sponsor may then bring in other concession operations as approved by DNR.

*d.* Exclusive use. Issuance of a special event permit does not imply that the permittee has exclusive use of an area unless a facility has been reserved pursuant to 61.3(461A) and 61.6(461A).

[**ARC 7683B**, IAB 4/8/09, effective 5/13/09]

**571—61.8(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:

**61.8(1)** *Brushy Creek State Recreation Area, Webster County.* Swimming is limited by the provisions of 61.7(2); also, swimming is prohibited at the beach from 10:30 p.m. to 6 a.m. daily.

**61.8(2)** *Hattie Elston Access and Claire 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 61.11(461A).

*b.* Overnight camping is prohibited.

**61.8(3)** *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.

**61.8(4)** *Pleasant Creek Recreation Area, Linn County.* Swimming is limited by the provisions of 61.7(2); also, swimming is prohibited at the beach from 10:30 p.m. to 6 a.m. daily. 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 areas known as the dog trial area and the equestrian area shall be closed from 10:30 p.m. to 4 a.m., except for equestrian camping and for those persons participating in a DNR-authorized field trial. From 10:30 p.m. to 4 a.m., only registered campers are permitted in the campground.

**61.8(5)** *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 10:30 p.m. to 4 a.m.

**571—61.9(461A) Mines of Spain hunting, trapping and firearms use.**

**61.9(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 of natural resources 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.

**61.9(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 61.9(1).

**61.9(3)** Firearms use is prohibited in the following described areas:

*a.* The areas described in 61.9(1).

*b.* The area north and west of Catfish Creek and west of Granger Creek.

**61.9(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 61.9(3) are open for hunting. Hunting shall be in compliance with all other regulations.

**61.9(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.

**61.9(6)** The use or possession of a handgun or any type of rifle is prohibited on the entire Mines of Spain Recreation Area except as provided in 61.9(4). Target and practice shooting with any type of firearm is prohibited.

**61.9(7)** All forms of hunting, trapping and firearms use not specifically permitted by 61.9(461A) are prohibited in the Mines of Spain Recreation Area.

**571—61.10(461A) After-hours fishing—exception to closing time.** Persons shall be allowed access to the areas designated in 61.11(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 such as campers.
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—61.11(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:

**61.11(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.

**61.11(2)** *Claire Wilson Park, Dickinson County.* The entire area including the parking lot, shoreline and fishing trestle facility.

**61.11(3)** *Clear Lake State Park, Ritz Unit, Cerro Gordo County.* The boat ramp, courtesy dock, fishing dock and parking lots.

**61.11(4)** *Elinor Bedell State Park, Dickinson County.* The entire length of the shoreline within state park boundaries.

**61.11(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.

**61.11(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.

**61.11(7)** *Hattie Elston Access, Dickinson County.* The entire area including the parking lot shoreline and boat ramp facilities.

**61.11(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.

**61.11(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.

**61.11(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.

**61.11(11)** *Lake Macbride State Park, Johnson County.* The shoreline of the south arm of the lake adjacent to the county road commencing at the "T" intersection of the roads 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.

**61.11(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 1.5 miles to the parking lot immediately north of the picnic area located on the west side of the southwest arm of the lake.

**61.11(13)** *Lower Pine Lake, Hardin County.* West shoreline along Hardin County Road S56 from the beach southerly to the boat ramp access.

**61.11(14)** *Mini-Wakan State Park, Dickinson County.* The entire area.

**61.11(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.

**61.11(16)** *Pikes Point State Park, Dickinson County.* The shoreline areas of Pikes Point State Park on the east side of West Okoboji Lake.

**61.11(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.

**61.11(18)** *Rock Creek Lake, Jasper County.* Both sides of the County Road F27 causeway across the main north portion of the lake.

**61.11(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.

**61.11(20)** *Upper Pine Lake, Hardin County.* Southwest shoreline extending from the boat launch ramp to the dam.

**61.11(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.

[**ARC 9186B**, IAB 11/3/10, effective 12/8/10]

**571—61.12(461A) Vessels prohibited.** Rule 61.11(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—61.13(461A) Severability.** Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

**571—61.14(461A) Restore the outdoors program.** Funding provided through the appropriation set forth in Iowa Code section 461A.3A, and subsequent Acts, shall be used to renovate, replace or construct new vertical infrastructure and associated appurtenances in state parks and other public facilities managed by the department of natural resources.

The intended projects will be included in the department's annual five-year capital plan in priority order by year and approved by the natural resource commission for inclusion in its capital budget request.

The funds appropriated by Iowa Code section 461A.3A, and subsequent Acts, will be used to renovate, replace or construct new vertical infrastructure through construction contracts, agreements with local government entities responsible for managing state parks and other public facilities, and agreements with the department of corrections to use offender labor where possible. Funds shall also be used to support site survey, design and construction contract management through consulting engineering and architectural firms and for direct survey, design and construction management costs incurred by department engineering and architectural staff for restore the outdoors projects. Funds shall not be used to support general department oversight of the restore the outdoors program, such as accounting, general administration or long-range planning.

**571—61.15(461A,463C) Honey Creek Resort State Park.** This chapter shall not apply to Honey Creek Resort State Park, with the exception that subrules 61.7(1) through 61.7(9) and 61.7(11) through 61.7(16) and rule 61.12(461A) shall apply to the operation and management of 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.

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◊ Two or more ARCs

1 Effective date of subrule 61.6(2) and rule 61.7(7/31/91) delayed 70 days by the Administrative Rules Review Committee at its meeting held 7/12/91.

2 Amendments to 61.4(2)*"f"* and 61.3(5)*"a"* effective January 1, 1993.

3 Amendments to 61.4(2)*"a"* to *"d"* effective October 31, 1993.

# CHAPTER 62
# STATE FOREST CAMPING

[Prior to 12/31/86, Conservation Commission[290] Ch 41]

**571—62.1(461A) Applicability.** This chapter governs camping activity in the following areas:

1. Yellow River State Forest, Allamakee County.
2. Stephens State Forest, Clarke, Lucas, Appanoose, Davis and Monroe Counties.
3. Shimek State Forest, Van Buren and Lee Counties.

[**ARC 8820B**, IAB 6/2/10, effective 7/7/10]

**571—62.2(461A) Definitions.**

*"Basic unit"* or *"basic camping unit"* means the portable shelter used by one to six persons.

*"Call center"* means a phone center where operators process all telephone reservations, reservation changes and reservation cancellations for camping and rental facilities.

*"Camping"* means the erecting of a tent or shelter of natural or synthetic material, or 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 no campsite or rental facility is booked twice.

*"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 families of members of a formal organization.

*"Immediate family"* means spouses, parents or legal guardians, domestic partners, dependent children and grandparents.

*"Nonmodern area"* means a camping area in which no showers are provided and which contains only pit-type latrines or flush-type toilets. Potable water may or may not be available to campers.

*"Organized youth group campsite"* means a designated camping area within or next to the main campground where chaperoned, organized youth groups may camp.

*"Reservation transaction fees"* means fees as given in this chapter to process a reservation, change a reservation or cancel a reservation.

*"Reservation window"* means a rolling period of time in which a person may reserve a campsite or rental facility.

*"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.

[**ARC 8820B**, IAB 6/2/10, effective 7/7/10]

**571—62.3(461A) Camping areas established and marked.**

**62.3(1)** Areas to be utilized for camping shall be established within each of the state forests listed in rule 62.1(461A).

**62.3(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.

**62.3(3)** Areas approved for backpack camping (no vehicular access) shall be marked with appropriate signs and shall contain fire rings.

**571—62.4(461A) Campground reservations.** The department shall establish a centralized reservation system to accept and process reservations for camping and rental facilities in state parks, recreation areas and state forest campgrounds.

**62.4(1)** *Centralized reservation system business rules manual.* The department shall adopt by reference the manual titled "Centralized Reservation System Business Rules for Iowa State Parks, Recreation Areas and State Forests," dated January 1, 2006, which sets procedures and policies for

the administration of reservations of campsites and rental facilities through the centralized reservation system.

**62.4(2)** *Recreation facilities available on the centralized reservation system—campgrounds.*

*a.* Except for the backpack campsites, all state forest campgrounds shall be available on the centralized reservation system.

*b.* No less than 50 percent and up to no more than 75 percent of the total number of campsites in each individual campground shall be designated as reservable sites on the reservation system. The determination of which campsites shall be included in the reservable designation shall be the responsibility of the park staff in each park. Park staff shall include a combination of electric, nonelectric and sewer/water sites while taking into consideration campsite characteristics such as location, shade, and size. The department will review the percentage of reservable sites and usage on a biennial basis and determine whether the percentage of reservable campsites should be changed. A reservable campsite will be identified with a reservable site marker on the campsite post.

*c.* All designated organized youth group campsites and campsites marked with the international symbol of accessibility shall be included in the reservation system.

*d.* Reservations will not be taken for any backpack campsites in state forest campgrounds. Those sites shall be available on a first-come, first-served basis only.

**62.4(3)** *Methods available to make reservations.* Persons may make reservations by telephone through the call center or through the Internet using the reservation system Web site.

**62.4(4)** *Reservation transaction fees.*

*a.* *Reservation fee.* A nonrefundable reservation fee shall be charged for each reservation made per campsite regardless of the length of stay. The one-time fee is per reservation and is not charged per day or night. This fee is in addition to the camping fees established in 571—subrule 61.4(1). The reservation fee varies depending upon the method used when the reservation is made.

(1) Internet reservation — $4.

(2) Telephone reservation — $6.

*b.* *Change fee.* A fee shall be charged to change an existing reservation.

(1) Reservation change made through the Internet — $5.

(2) Reservation change made over the telephone — $7.

*c.* *Cancellation fee.* A fee shall be charged to cancel a reservation.

(1) Reservation cancellation made through the Internet — $5.

(2) Reservation cancellation made over the telephone — $7.

**62.4(5)** *Reservation window—camping.* The reservation window for camping is three months to two days prior to the arrival date in which a person may make a reservation.

[**ARC 9324B**, IAB 1/12/11, effective 2/16/11]

**571—62.5(461A) Camping fees and registration.**

**62.5(1)** Any person who camps in a state forest must register the person's name and address with the department of natural resources' representative in charge of the area.

*a.* Walk-in campers shall complete the registration form, place the appropriate fee in the envelope and place the envelope in the depository provided by the department of natural resources. One copy must then be placed in the campsite holder provided at the campsite.

*b.* Park staff shall complete the registration for the campers with reservations and place the registration in the campsite holder no later than one hour prior to the 4 p.m. check-in time on the day of the camper's arrival.

**62.5(2)** The fees for camping in established state forest campgrounds shall be the same as those cited in 571—paragraphs 61.4(1)*"a"* and *"b"* for all other nonmodern camping areas managed by the department of natural resources where fees are charged.

**62.5(3)** Campsites are considered occupied and campsite registration shall be considered complete when the requirements of 62.5(1) have been met.

**62.5(4)** The fees for an organized youth group campsite shall be the same as those cited in 571—paragraph 61.4(1)*"d"* for all other organized youth group campsites.

**62.5(5)** Backpack campsites. Persons using backpack campsites shall register at the forest area check station or other designated site. No fee will be charged for the use of the designated backpack campsites.

**571—62.6(461A) Camping restrictions.**

**62.6(1)** No person shall camp in the state forests listed in rule 62.1(461A) except within the designated camping areas or at established backpack campsite areas.

**62.6(2)** Camping within the designated camping area shall be on sites posted by numbered signs marking the location to be used by the camping unit or within the areas designated for backpack camping.

**62.6(3)** No more than six persons shall occupy a campsite except for the following:

*a.* 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.

*b.* Campsites which are designated as chaperoned, organized youth group campsites.

**62.6(4)** Campers occupying reservable sites shall vacate the campground by 3 p.m. of the last day of their stay.

**62.6(5)** Camping is restricted to one basic unit per site except that a small tent may be placed on a site with the basic unit. The area occupied by the small tent shall be no more than 8 feet by 10 feet and the tent shall hold no more than four people.

[**ARC 8820B**, IAB 6/2/10, effective 7/7/10]

**571—62.7(461A) Camping time limit.** No basic camping unit shall be permitted to camp longer than two weeks at a time within a state forest, except for volunteers working under the department of natural resources' campground host program agreement.

**571—62.8(461A) Camping refused.** Department of natural resources officers are given authority to refuse camping privileges and to rescind any and all camping permits for cause.

**571—62.9(461A) 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—62.10(461A) Hours.** Access into and out of the established camping areas shall be permitted from 4 a.m. to 10:30 p.m. During the hours of 10:31 p.m. to 3:59 a.m., only registered campers are permitted in the campgrounds.

**571—62.11(461A) Horses and pets.** No horse or other animal shall be hitched or tied to any tree or shrub in a manner to result in injury to state property. Pets such as dogs or cats shall not be allowed to run at large within the designated camping area. Such animals shall be deemed running at large unless the owner carries the animal or leads it by leash or chain not exceeding six feet in length or keeps it confined in or attached to a vehicle. Chains or other restraints used shall not be of sufficient length as to permit the animal to enter a designated campsite other than the one used by the animal's owner.

Stabling of equine animals and llamas shall be in accordance with 571—paragraph 61.4(5)*"k."*

**571—62.12(461A) Noise.** Creating or sustaining any unreasonable noise in any portion of all state forests 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 which would govern the conduct of a reasonable, prudent person under the circumstances shall be used to determine whether the noise is unreasonable. Unreasonable noise shall include the operation or utilization of motorized equipment or machinery such as an electric generator, motor vehicle, or motorized toy; or audio device such as a radio, television set, tape deck, public address system, or musical instrument; or other device. Between the hours of 10:30 p.m. and 6 a.m., noise which can be heard at a distance of 120 feet or three campsites shall be considered unreasonable.

These rules are intended to implement Iowa Code sections 461A.35, 461A.44, 461A.45, 461A.47 to 461A.51 and 461A.57.

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# CHAPTER 63
# KEG BEER RULES

[Prior to 12/31/86, Conservation Commission(290) Ch 42]

**571—63.1(111,123) Purpose.** This chapter governs the use of state park and recreation areas and designated state forests for consumption of beer dispensed from a keg or other container larger than one gallon. The purpose is to enhance public enjoyment of state areas through regulation of an activity which can be disruptive.

**571—63.2(111,123) Applicability.** This chapter is applicable to all state parks and recreation areas managed by the parks, recreation, and preserves division of the department of natural resources and to the state forests containing designated campground areas listed in 571—62.1(461A).

**571—63.3(111,123) Definitions.**

*"Beach"* or *"beach area"* means that portion of state parks or recreation areas designated for swimming activity including the water area contiguous to the beach.

*"Beer"* is as defined in Iowa Code section 123.3(7).

*"Campground"* means that portion of state parks or recreation areas designated for camping activity including parking areas contiguous to the campground and designated camp areas of state forests.

*"Kegger"* means a gathering of two or more persons at which beer is dispensed from a keg or other container larger than one gallon.

*"Person"* is as defined in Iowa Code section 4.1(20).

**571—63.4(111,123) Prohibited areas.** Keggers shall not be conducted in beach areas, in campgrounds, or in parking areas or immediately adjacent to those areas.

**571—63.5(111,123) Procedure.** Any person wishing to conduct a kegger in any area to which this chapter applies shall notify the department of natural resources officer in charge of the area in advance and comply with the following procedure:

**63.5(1)** A designated agent shall be named who shall sign a responsibility agreement. The content of the responsibility agreement shall be as stated in 571—63.7(461A,123).

**63.5(2)** The designated agent shall be available for personal contact by department of natural resources personnel at all times during the kegger.

**63.5(3)** The agent shall pay a deposit of $100 per 100 persons or portion thereof at the kegger, to be held by the department of natural resources officer as a damage deposit. The department of natural resources officer may designate the area in which the kegger is to be conducted. If the kegger takes place in an enclosed shelter for which a rental fee and deposit is charged, the $100 shall be waived in lieu of the usual deposit for that facility.

**63.5(4)** The agent shall assume responsibility to ensure that all state laws are complied with in the conduct of persons attending the kegger and that the area used for the kegger is left in a clean, unlittered condition and no state property damaged beyond the extent of normal wear and tear.

**63.5(5)** Conducting or continuation of the kegger shall be contingent on the persons involved complying with all applicable state laws including but not limited to Iowa Code section 123.47, chapter 461A, and rules promulgated under those chapters and as long as the activity does not interfere with other uses of area facilities.

**63.5(6)** The agent shall inform the department of natural resources officer when the kegger is concluded and attendees have left the area.

**571—63.6(461A,123) Deposit disposition.**

**63.6(1)** The $100 deposit required by 63.5(3) shall be refunded within three days in full or on a prorated basis computed according to 63.6(2) depending on the condition in which the site is left after the kegger is held.

**63.6(2)** If it is necessary for department of natural resources personnel to clean up the area 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 an amount equivalent to the applicable hourly wage of the employees for the time necessary to clean the area or repair the damage.

**63.6(3)** The $1000 is not to be construed as a limit of liability for damage to state property. The department of natural resources may take any legal action necessary to recover additional damage.

**571—63.7(111,123) Responsibility agreement.** The agreement required by 63.5(1) shall contain the following information:

RESPONSIBILITY AGREEMENT

I/We, the undersigned, being of 21 years of age or older, or born before September 2, 1967, and desiring to entertain ourselves and others at:

Area: _____

Date: _____

agree to leave the site used in the same condition as found, agree to clean up what debris and litter may be deposited during our stay, within the time period agreed to, agree to be responsible for any damages done to property within the area by ourselves or our guests, agree to ensure compliance with Iowa law respecting the possession of beer by underage persons, agree not to interfere with other use of park facilities, and finally, agree to abide by all rules and regulations and all laws of this state.

Dated this _____ day of _____, 19_____.

Signature of Group Leaders (agents):

_____

_____

Identification Information:

| Agents (Name & Address) | Phone No. | Driver's License No. | Vehicle License |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

These rules are intended to implement Iowa Code sections 461A.3, 461A.35, 461A.47, 123.47 and 123.47A.

[Filed 9/1/83, Notice 4/27/83—published 9/28/83, effective 11/3/83]
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# CHAPTER 64
# METAL DETECTORS USE IN STATE AREAS

[Prior to 12/31/86, Conservation Commission[290] Ch 43]

**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—61.1(461A).

**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—61.1(461A) 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 permit may be issued by the manager in charge of the property. Review of all permit applications shall be coordinated with the state historic preservation officer and the state archaeologist. The DNR shall take the state historic preservation officer's and the state archaeologist's views into account before acting upon the issuance of a permit.

**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 10 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.** Persons using metal detectors shall wear or carry a litter apron or bag, and all litter that is recovered shall be disposed of in approved trash receptacles.

These rules implement Iowa Code section 461A.35.

[Filed 7/13/82, Notice 4/28/82—published 8/4/82, effective 9/8/82]
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[Filed 11/17/04, Notice 9/29/04—published 12/8/04, effective 1/12/05]

# CHAPTER 65
# FIREWORKS DISPLAYS—
# STATE PARKS AND RECREATION AREAS

**571—65.1(461A) Entities eligible for permits.** Permits shall be issued only to qualified entities such as political subdivisions of the state of Iowa; community or civic organizations such as Chambers of Commerce; Junior Chambers of Commerce (Jaycees); Rotary Clubs; Elks Lodge, and similar fraternal benefit associations or societies. Permits will not be issued to individuals. Permits are not transferable to another entity and do not relieve the sponsoring entity from obtaining any other permits required by the state or its political subdivisions.

**571—65.2(461A) Application procedure.**

**65.2(1)** At least 30 days prior to the scheduled fireworks display the sponsoring entity shall submit an application to the park management bureau of the department of natural resources (DNR). Application forms shall be furnished by the DNR. Submission of an application does not guarantee issuance of a permit by the DNR.

**65.2(2)** The application shall be accompanied by a bond or certificate of insurance naming the applicant and the DNR as insured in the sum of not less than $1,000,000. The department of natural resources may, at its discretion, require a greater amount. The bond or insurance shall insure to the use and benefit of the DNR or any person who suffers damage either to person or property by reason of the display of fireworks covered by the permit.

**65.2(3)** The sponsoring entity shall certify in the application that the fireworks display will be conducted by a competent operator. The location of the display shall be determined by the department of natural resources representative in charge of the area.

**571—65.3(461A) Fireworks display procedures.**

**65.3(1)** The sponsoring entity must take adequate safety precautions to ensure that persons not actively involved in conducting the display remain a safe distance from the firing area and any areas containing set pieces.

**65.3(2)** The DNR representative in charge of the area in which the display is being conducted or any state peace officer may halt any display when the character, location, weather or firing of the display makes it hazardous to property or dangerous to any person or persons.

**65.3(3)** Any fireworks that remain unfired after the display is concluded shall be immediately disposed of by the operator or the sponsoring entity in a way safe for the particular type of fireworks remaining.

**65.3(4)** The sponsoring entity shall make arrangements for firefighting equipment and emergency medical services to be on the scene at all times during the firing of the display.

**65.3(5)** The sponsoring entity is totally responsible for cleanup of the fireworks display site at the conclusion of the display.

These rules are intended to implement Iowa Code section 461A.42.

[Filed 10/11/91, Notice 8/7/91—published 10/30/91, effective 12/4/91]

# CHAPTER 66
# SAYLORVILLE MULTIUSE TRAIL
[Prior to 12/31/86, Conservation Commission[290] Ch 56]

**571—66.1(461A,481A) Applicability.** This rule governs activity in the following described areas, all in Polk County, Iowa:

1. The parking area and trailhead facility located adjacent to the Des Moines river on the north side of Kempton Road (NW 66th Street) locally known as "Sycamore Access."
2. All federally owned property on the east side of the Des Moines River from Sycamore Access south to the north corporate limits of the city of Des Moines. This area is bounded on the west by the ordinary high water line of the Des Moines River and on the east by Morningstar Drive and NW 26th Street.
3. Federally owned property in Sections 15 and 22, Township 79N, Range 24W, located east of Morningstar Drive and north of the north corporate limits of the city of Des Moines.
4. All federally owned land and land under flowage easement on the west side of the Des Moines River from the south right-of-way boundary of NW 66th Avenue south to the north right-of-way boundary of Interstates 35-80.

**571—66.2(456A,481A) Wildlife refuge.** The following described areas are established as game refuges and shall be posted with signs designating the boundaries other than the river. The use of firearms is prohibited in these areas. Persons shall not hunt, pursue, kill, trap, or take any wild animal, bird, or game on these areas at any time.

1. An area along and adjacent to the surfaced multiuse trail from the ordinary high water line of the Des Moines River to a point 50 yards east of the east edge of that trail extending from Sycamore Access to the north boundary of the right-of-way of Interstates 80-35.
2. All federally owned land on the east side of the Des Moines River from the north right-of-way boundary of Interstates 80-35 south to the north corporate limits of the city of Des Moines.
3. All federally owned land and land under flowage easement on the west side of the Des Moines River from the south right-of-way boundary of NW 66th Avenue south to the north right-of-way boundary of Interstates 35-80.

**571—66.3(481A) Hunting and trapping restrictions.**

**66.3(1)** *Hunting.* Hunting in those areas not designated as wildlife refuge shall be confined to the use of shotguns shooting shot only and use of bow and arrow. The use of any other method is prohibited. All laws and regulations governing hunting and trapping seasons and limits on possession are applicable on these areas.

**66.3(2)** *Trapping.*

*a.* The use of snares is prohibited on the area covered by this rule.

*b.* Any traps used on the area, including foothold, leghold, body gripping or conibear type must be set completely underwater.

**571—66.4(461A) Area use restrictions.**

**66.4(1)** The use of motor vehicles and snowmobiles is prohibited on the hard-surfaced multiuse trail except where signs authorize such use.

**66.4(2)** Snowmobile use is restricted to the area posted with signs permitting their use.

**66.4(3)** The use of equine animals is restricted to areas other than the hard-surfaced multiuse trail.

**66.4(4)** Permits may be issued by the director for special events on specific dates utilizing golf carts or similar transportation along the trail for elderly or handicapped persons.

These rules implement Iowa Code sections 461A.35, 481A.5 and 481A.6.

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# CHAPTER 67
# DEVELOPMENT AND MANAGEMENT OF RECREATION TRAILS ON STATE FORESTS, PARKS, PRESERVES AND RECREATION AREAS

**571—67.1(456A,461A) Applicability.** This chapter is applicable to all state-owned parks, recreation areas, forests and preserves under the jurisdiction of the department of natural resources, except those areas under management by a local government entity.

**571—67.2(456A,461A) Definitions.**

*"All-terrain vehicle"* means a motorized flotation-tire vehicle with not less than three low-pressure tires, but not more than six low-pressure tires, or a two-wheeled off-road motorcycle, that is limited in engine displacement to less than 800 cubic centimeters and in total dry weight to less than 850 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and any other vehicle registered under Iowa Code chapter 321I.

*"Area"* means any park, recreation area, forest, or preserve under the jurisdiction of the department of natural resources.

*"Department"* means the department of natural resources (DNR).

*"Director"* means the director of the department of natural resources or designee.

*"Division administrator"* means the division administrator of the DNR division responsible for managing the area in question.

*"Equestrian"* means a horserider or a person who is horseback riding.

*"Equestrian hunting permit, which may include an annual permit, application"* means an application by a hunter wishing to ride off trail to hunt in an area. This application shall include the dates and area and provide a contact number in case of conflicts or questions. Applications will be evaluated for potential user conflicts and the potential for the need to obtain a special event permit pursuant to 571—subrule 61.7(16).

*"Horse"* means any equine animal, including horses, mules, burros, donkeys, and all llamas or alpacalike animals.

*"Snowmobile"* means a motorized vehicle weighing less than 1,000 pounds which uses sled-type runners or skis, endless belt-type tread, or any combination of runners, skis, or tread, and is designed for travel on snow or ice and any vehicle registered under Iowa Code chapter 321G.

**571—67.3(456A,461A) Purpose.** The purpose of this chapter is to establish guidelines for developing and properly managing the use of recreation trails on state parks, recreation areas, forests and preserves.

**571—67.4(456A,461A) Establishment of trails.** Establishment and designation of recreation trails shall not be undertaken until after a plan showing the basic design, location and designated use for any such trail has been prepared. The director shall approve all trail plans for areas, and trails shall follow only those routes designated on the plan.

**571—67.5(456A,461A) Designation of recreation trails.** All trails shall be designated by the department. Designation shall include an assignment of the use or uses for which each trail is intended. Uses shall be classified as follows: foot traffic, horseback riding, snowmobiling, cross-country skiing, bicycling and multiple-use trails. The intended uses of trails shall be described on signs at appropriate locations within the area, in informational brochures about the area, or on posted notice at the area's headquarters.

**571—67.6(456A,461A) Guidelines for trail location.** No new trail shall be designated or constructed:

1. On any slope where erosion will occur unless measures are taken to permanently control erosion. The measures may include, but not be limited to: water bars, steps, vegetative or crushed stone surfacing and terraces;

2. Through rare or sensitive plant communities, except for trails intended for interpretive purposes and designed for foot traffic only;

3. In locations where wildlife management practices are being carried out that would be negatively affected by trail activity;

4. To pass over archaeological sites or adversely affect known archaeological sites eligible for the National Register of Historic Places or known sites not yet evaluated;

5. Where past trail use has resulted in erosion or other environmental damage that would be exacerbated by continued trail use;

6. So as to allow travel through a river, stream or wetland or waterway except at designated crossings.

**571—67.7(456A,461A) Control of trail use.**

**67.7(1)** Use of trails may be temporarily limited or suspended by the area manager when use or any natural event has created conditions that will cause the trail to degrade if further use is allowed. Guidelines may include, but are not limited to, the following considerations:

*a.* Precipitation events (e.g., rain, thaws, or flooding that, based on the soils and topography, would present a problem for resource protection or public safety if the trail were to remain open).

*b.* Special events (e.g., events that are large, involve concessionaires, or would otherwise require a special event permit as described in 571—subrule 61.7(16) and would interfere with the safety or enjoyment of other trail users).

*c.* Ecosystem management activities (e.g., scheduled harvests, timber stand improvement, planting, or controlled burns that would temporarily disrupt trail use).

*d.* Trail construction or repair.

*e.* Off-trail use (e.g., vehicle or animal use that has created damage off the actual trail which affects the trail and needs to be corrected).

*f.* Conflicts between trail users.

*g.* Trail damage/erosion (e.g., overuse, use at the wrong time, or unauthorized vehicle use).

**67.7(2)** The area manager shall limit or suspend use of a trail by posting signs at appropriate trailheads and by posting notices in conspicuous locations within the area.

**67.7(3)** Upon suspension or limitation of trail use, the area manager shall take prompt and reasonable steps to correct the conditions that led to suspension or limitation. When, in the area manager's judgment, such conditions have been corrected, normal use of the trail may resume.

**67.7(4)** No trail shall be permanently closed to public use without approval of the director. Recommendations for permanent closure shall be made to the division administrator by the area manager. The division administrator shall prepare a report documenting reasons for closure and provide the report and recommendation to the director. At the request of six or more persons, the director shall direct that a public informational meeting be held in the vicinity of the area to inform the public of the planned closure and to receive public comments. A summary of the public comments made at the meeting shall be presented to the natural resource commission for review. The commission may uphold or reverse the director's decision and shall consider both public comments and staff recommendations before taking action.

**571—67.8(456A,461A) Use of designated trails.**

**67.8(1)** Bicyclists, equestrians and snowmobile operators shall use only trails officially designated and properly signed for such uses.

**67.8(2)** Unless otherwise prohibited by law, the use of motorized all-terrain vehicles shall be limited to roadways on all areas except as necessary to carry on authorized activities such as area management, agricultural activity, search and rescue operations and special events authorized by the department.

**67.8(3)** An area manager may approve off-trail riding by issuing an equestrian hunting permit. Any person or group wishing to request off-trail riding under a special use permit must comply with the following:

*a.* The sponsor shall submit an application to the area manager where the proposed event is to take place. Application forms shall be furnished by DNR. Submission of an application does not guarantee issuance of a permit.

*b.* The sponsor shall contact the area manager for current trail conditions prior to the equestrian hunting event. Trail closure policies apply to equestrian hunting permits.

These rules are intended to implement Iowa Code sections 455A.5, 456A.24 and 461A.35.

[Filed 1/6/89, Notice 11/2/88—published 1/25/89, effective 3/1/89]
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CHAPTERS 68 to 70
Reserved

TITLE VII
*FORESTRY*

# CHAPTER 71
# NURSERY STOCK SALE TO THE PUBLIC

[Prior to 12/31/86, Conservation Commission[290] Ch 48]

**571—71.1(456A,461A) Purpose.** The department of natural resources shall sell nursery stock to private landowners and public agencies to encourage the establishment of wildlife habitat and erosion control plantings and to promote forestry.

**571—71.2(456A,461A) Procedures.**

**71.2(1)** *Description of nursery stock to be sold.*

*a.* Plants sold for use on private land shall not exceed four years of age.

*b.* Plants sold for use on private land shall be barerooted.

*c.* Only those species in accepted use for wildlife habitat, erosion control and forestry plantings shall be sold for use on private land.

*d.* Seeds and cuttings of those species in paragraph *"c"* may be sold for use on private land.

**71.2(2)** *Order limitations.*

*a.* The minimum acceptable order shall be 500 plants in total with the minimum number of 100 plants of one species.

(1) To complete the previous year's planting, a purchaser may order less than 500 plants with a minimum of 100 plants of one species.

(2) Special purpose packets shall contain the number and species of plants as determined annually by the state forester but not to exceed 400 plants.

*b.* If a shortage occurs, substitution of suitable species may be made at the discretion of the state forester.

**71.2(3)** *Customer obligation.*

*a.* Nursery stock planted on private land shall be for the purpose of wildlife habitat establishment, the control of soil erosion or to establish forest cover.

*b.* Purchasers of nursery stock for planting on private land shall, as a part of the order, be required to certify the plants will be used for wildlife habitat, erosion control or forestation purposes and will not be used to establish a new farmstead windbreak, shade trees or ornamental plantings.

*c.* All purchasers of stock shall, as a part of the plant order, be required to certify as to the county in which the nursery stock will be planted.

*d.* All purchasers shall be required as a part of the plant order, to certify that the plants purchased will not be sold with roots attached.

[**ARC 9051B**, IAB 9/8/10, effective 10/13/10 (See Delay note at end of chapter)]

**571—71.3(456A,461A) Nursery stock prices.**

**71.3(1)** Prices for hardwoods shall be as follows:

*a.* Aspen, oak, hickory, walnut, pecan and basswood, 6″ to 16″—$40 per hundred plants.

*b.* Aspen, oak, hickory, walnut, pecan and basswood, 17″ and larger—$55 per hundred plants.

*c.* Other hardwood tree species, 6″ to 16″—$37 per hundred plants.

*d.* Other hardwood tree species, 17″ and larger—$52 per hundred plants.

**71.3(2)** Prices for shrubs shall be as follows:

*a.* Elderberry, buttonbush, dogwood, and Nanking cherry, 6″ to 16″—$37 per hundred plants.

*b.* Elderberry, buttonbush, dogwood, and Nanking cherry, 17″ and larger—$52 per hundred plants.

*c.* Other shrub species, 6″ to 16″—$40 per hundred plants.

*d.* Other shrub species, 17″ and larger—$55 per hundred plants.

**71.3(3)** Prices for conifers shall be as follows:

*a.* Conifers, 6″ to 16″—$25 per hundred plants.

*b.* Conifers, 17″ and larger—$40 per hundred plants.

**71.3(4)** Prices for wildlife packets shall be $110 each.

**71.3(5)** Prices for songbird packets shall be $25 each.

**71.3(6)** Prices for walnut seed shall be $3 per pound.

**71.3(7)** For promotion of conservation plantings, nursery stock may be provided to schools and conservation and education groups to use for Arbor Day and other special events.

[**ARC 7857B**, IAB 6/17/09, effective 7/22/09]

These rules are intended to implement Iowa Code sections 456A.20 and 461A.2 and 1989 Iowa Acts, chapter 311, section 16.

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[Editorial change: IAC Supplement 10/20/10]

[1] October 13, 2010, effective date of rescission of 71.2(2)*"c"* delayed 30 days by the Administrative Rules Review Committee at its meeting held October 12, 2010.

# CHAPTER 72
# TIMBER BUYERS

[Prior to 12/31/86, Conservation Commission[290] Ch 49]

**571—72.1(456A) Definitions.**

*"Collateral bond"* means a bond signed by the timber buyer as principal and accompanied by a bank certificate of deposit.

*"Corporate surety bond"* means a bond signed by the timber buyer as principal and a corporate surety authorized to engage in the business of executing surety bonds within Iowa.

*"Department"* means the department of natural resources.

*"Director"* means the director of the department of natural resources or the administrator of the division of forests and forestry who has been designated to act for the director.

*"Proof of ownership"* means a timber sale contract; bill of sale or bill of lading showing owner's name, address, and telephone number, point of origin, and destination.

*"The Act"* means Iowa Code section 456A.36.

*"Timber buyer"* means a person engaged in the business of buying timber from the timber growers for sawing into lumber for processing or resale, but does not include a person who occasionally purchases timber for sawing or processing for the person's own use and not for resale. Timber buyer includes a person who contracts with a timber grower on a shared-profit basis to harvest timber from the grower's land.

*"Timber buyer surety bond"* means a bond signed by the timber buyer as principal, bonding the timber buyer to the commission for the performance under the Act.

**571—72.2(456A) Applicability of rules.**

**72.2(1)** *Duty to file.*

*a.* *General.* On and after January 1, 1981, no person shall engage in the business of timber buying in the state of Iowa unless the timber buyer shall have on file with the department a bond and application for bond approval in compliance with these rules.

*b.* *Timber buying.* All persons engaged in the business of timber buying shall file prior to engaging in business as a timber buyer, a bond complying with these rules and an application for bond approval as specified in rules 72.2(456A) and 72.3(456A) of this chapter. Should the department determine that the bond or application, although in substantial compliance, is insufficient to comply with the law, it shall provide notice by certified mail, return receipt requested. The timber buyer will be given 20 days to correct the insufficiency. If not corrected within that time period, or within an additional time period approved by the director, the timber buyer shall be deemed to be in violation of the Act and of these rules. If the department determines that the bond or application does not substantially comply with the Act or these rules, it shall immediately notify the timber buyer that the filing does not satisfy the statutory requirements for filing a bond or surety and that the buyer may not lawfully engage in the business of timber buying until a bond has been approved by the department.

*c.* *Date of filing.* For purposes of this rule, the date of filing shall be the date on which the materials are received by the department or the date postmarked, if mailed.

**72.2(2)** *Filing of required forms.*

*a.* Application for Bond Approval, Form NRC72-1.

(1) Form NRC72-1 shall be filed as a single copy with the Division Administrator, Forests and Forestry Division, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319.

(2) Form NRC72-1 shall be filed prior to buying timber from timber growers in Iowa.

(3) Form NRC72-1 shall be refiled annually by January 1 of each calendar year the timber buyer will be engaged in the business of buying timber from timber growers in Iowa.

(4) The timber buyer shall report the amount of dollars paid to timber growers in one of the following ways; (1) for the timber buyer's most recently completed fiscal or business year, or (2) for the 12 months preceding the filing of the application for bond approval and bond.

(5) Forms are available from the department.

*b.* Corporate Surety Bond, Form NRC72-2.

(1) Form NRC72-2 shall be filed as a single copy with Division Administrator, Forests and Forestry Division, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319, at the same time as the application for bond approval, unless a collateral bond and bank certificate of deposit are submitted.

(2) Form NRC72-2 shall be filed prior to buying timber from timber growers in Iowa.

(3) Form NRC72-2 shall be in the amount determined by the timber buyer and reported to the department by the timber buyer on Form NRC72-1, Application for Bond Approval.

(4) Forms are available from the department.

*c.* Timber Buyer Surety Bond, Form NRC72-3.

(1) Form NRC72-3 shall be filed as a single copy at the same time as the collateral assignment of certificate of deposit, Form NRC72-4, and the bank certificate of deposit, with the Division Administrator, Forests and Forestry Division, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319.

(2) Form NRC72-3 shall be filed prior to buying timber from timber growers in Iowa.

(3) Forms are available from the department.

*d.* Collateral Assignment of Certificate of Deposit, Form NRC72-4.

(1) Form NRC72-4 shall be filed as a single copy with the Division Administrator, Forests and Forestry Division, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319, unless a surety bond is submitted.

(2) Form NRC72-4 shall be filed prior to buying timber from timber growers in Iowa.

(3) Form NRC72-4 shall be accompanied by a bank certificate of deposit in the amount determined by the timber buyer and reported to the department by the timber buyer on the Application for Bond Approval, Form NRC72-1, and by Timber Buyer Surety Bond, Form NRC72-3.

(4) Forms are available from the department.

*e.* Verified Application for Release of Bond and Certificate of Deposit, Form NRC72-5.

(1) Form NRC72-5 shall be filed with the Division Administrator, Forests and Forestry Division, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319, by timber buyers who wish the release of their certificate of deposit being held by the department in lieu of a surety bond because that person wishes to replace it with a surety bond or because that person no longer wishes to stay in the timber buying business in Iowa.

(2) Forms are available from the department.

*f.* All filings must be on approved department forms.

**72.2(3)** *Terms and conditions of bank certificate of deposit and collateral bond.* Collateral bonds shall be subject to the following conditions:

*a.* The department shall obtain possession of and keep in custody all collateral deposited by the timber buyer, until released or replaced.

*b.* Certificates of deposit shall be assigned to the department, in writing, and upon the books of the bank issuing such certificates.

*c.* Banks issuing these certificates shall waive all rights of setoff or liens which they have or might have against those certificates.

*d.* Certificates of deposit shall be automatically renewed unless the director approves release of the funds in writing.

*e.* The funds shall be made payable upon demand to the director, subject to the provisions of the Act, for the use and benefit of the people of the state and for the use and benefit of a timber grower whose timber has been cut by the timber buyer or the timber buyer's agents, and who has not been paid.

*f.* The timber buyer may, upon 60 days' written notice to the department, provide a surety bond in lieu of the certificate of deposit and collateral bond.

*g.* The certificate of deposit and collateral bond will be kept in custody by the department for one year beyond the date of presentation by the timber buyer of a surety bond in lieu of certificate of deposit

and collateral bond or upon written notice to the department of termination of the business of buying timber in Iowa.

**72.2(4)** *Determination of the bond amount.*

*a.* The standard applied by the department in determining the amount of the bond shall be:

(1) The bond shall be in the principal amount of 10 percent of the total amount paid to timber growers during the preceding year, plus 10 percent of the total amount due or delinquent and unpaid to timber growers at the end of the preceding year, and 10 percent of the market value of growers' share of timber harvested during the previous year. However, the total amount of the bond shall be not less than $3,000 and no more than $15,000.

(2) In the case of a timber buyer not previously engaged in business as a timber buyer, the amount of the bond shall be based on the estimated dollar amount to be paid by the timber buyer to timber growers for timber purchased during the next succeeding year.

(3) In determining the amount of the bond, the department shall consider only amounts paid or estimated to be paid, to Iowa timber growers.

*b.* The timber buyer is responsible for maintaining the proper amount of bond to comply with the Act.

*c.* Change in bond amount. If the amount of the bond, as determined under this section, has changed from that of the existing bond on file, the timber buyer shall enclose a rider to the bond or an additional certificate of deposit as necessary to increase the amount of bonding to meet the required amount for the new year or may request approval of a substituted bond or certificate of deposit if the amount required for future bonding is reduced.

**72.2(5)** *Release of collateral bond and certificate of deposit.* The timber buyer or any person authorized to act on behalf of the timber buyer, may file Form NRC72-5, Verified Application for Release of Bond and Certificate of Deposit with the department for release of the security and the department will respond as follows:

*a.* If the timber buyer replaces the certificate of deposit and collateral assignment with a surety bond, the department will release the certificate of deposit and collateral assignment to the timber buyer or the timber buyer's authorized representative one year after the timber buyer files a surety bond, if no known claims on the collateral bond exist.

*b.* If the timber buyer no longer wishes to stay in the timber buying business in Iowa, the department will hold the verified application for 12 months from the date of receipt and after that time release the certificate of deposit and collateral bond to the timber buyer or the timber buyer's authorized representative by certified mail or in person, if no known claims on the collateral bond exist.

*c.* Should any person be adversely affected by the release of the collateral bond, that person may file a written request with the department to obtain notice of any application by the timber buyer for release of collateral bond. The request shall give name, mailing address, and the reason why that party would be affected.

**72.2(6)** *Use of bond proceeds when the bond is forfeited.* If the department realizes more than the amount of the liability from the security, after deducting expenses including all costs and expenses of the state in forfeiture proceedings and incurred by the state in converting the security into money, the department shall pay the excess as follows:

*a.* Certificate of deposit excess will be paid to the timber buyer who furnished the security.

*b.* Surety bond excess will be paid to the corporate surety.

**72.2(7)** *Requests for confidential treatment.* If any person filing a document with the director for use in carrying out the responsibilities under the Act relating to timber buyer bonding claims that some or all the information contained in the document is exempted from disclosure by Iowa Code chapter 22, or is otherwise exempt by law from public disclosure, and if the person requests the director not to disclose this information, the person shall file together with the document a second copy of the document from which has been deleted the information for which confidential treatment is claimed. The person shall conspicuously indicate on the face of the original document that it is confidential information and shall file a statement specifying the justification of nondisclosure of the information for which confidential treatment is claimed. If the person filing a document does not submit a second copy of the document

with the confidential information deleted, the director may assume that there is no objection to public disclosure of the document in its entirety.

The director retains the right to make a determination with regard to any claim of confidentiality. Notice of the decision by the director to deny a claim, in whole or in part, and an opportunity to respond shall be given to a person claiming confidentiality of information no less than five days if possible prior to its public disclosure, or placement in files open to the public.

**571—72.3(456A) Forms.**

**72.3(1)** *Required forms.* The forms required for use of timber buyers in complying with this chapter shall be available from the Department of Natural Resources. The forms are as follows:

| | |
|---|---|
| NRC72-1 | APPLICATION FOR BOND (Revised 8/96) |
| NRC72-2 | CORPORATE SURETY BOND COVERING THE PURCHASE OF TIMBER FROM TIMBER GROWERS BY TIMBER BUYER OR BUYER'S AGENT (Revised 8/96) |
| NRC72-3 | TIMBER BUYER SURETY BOND (USING A CERTIFICATE OF DEPOSIT) GOVERNING THE PURCHASE OF TIMBER FROM TIMBER GROWERS BY BUYER OR BUYER'S AGENT (Revised 8/96) |
| NRC72-4 | COLLATERAL ASSIGNMENT OF CERTIFICATE OF DEPOSIT (Revised 8/96) |
| NRC72-5 | VERIFICATION APPLICATION FOR RELEASE OF BOND AND CERTIFICATE OF DEPOSIT (Revised 8/96) |

Copies of the forms may be obtained by writing Division Administrator, Forests and Forestry Division, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319, or by calling (515)281-5981.

**72.3(2)** Reserved.

This rule is intended to implement Iowa Code sections 456A.24 and 456A.36.

[Filed 11/7/80, Notice 9/17/80—published 11/26/80, effective 1/1/81]
[Filed emergency 8/8/85—published 8/28/85, effective 8/28/85]
[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]
[Filed 9/20/96, Notice 7/3/96—published 10/9/96, effective 11/13/96]

# CHAPTER 73
# FOREST AND FRUIT-TREE RESERVATIONS
[Prior to 12/31/86, Conservation Commission[290] Ch 53]

**571—73.1(427C,456A) Criteria for establishing and maintaining forest and fruit-tree reservations.**

**73.1(1)** *Designation.* The selection of a forest or fruit-tree reservation is the prerogative of the taxpayer and shall not be denied unless the criteria set forth in Iowa Code chapter 427C and these rules have not been satisfied.

**73.1(2)** *Area designated.* The area designated as a forest or fruit-tree reservation may be less than one legally described tract of land if the minimum acreage requirement of Iowa Code section 427C.2 is satisfied.

**73.1(3)** *Size of reservation.* As used in Iowa Code section 427C.2, the term "continuous area" means an area of land which is not separated by public roads or streets. A "continuous area" may include land contained in more than one legal description.

**73.1(4)** *Fencing.* It is not mandatory that a forest or fruit-tree reservation be fenced. However, it is the taxpayer's responsibility to ensure that livestock are not permitted on the reservation (1938 O.A.G. 198).

**73.1(5)** *Number of trees.* To qualify initially as a forest reservation, a tract of land must contain at least 200 growing trees on each acre. However, if trees are removed pursuant to Iowa Code section 427C.4, a taxpayer has up to one year to replace the trees.

**73.1(6)** *Economic gain.* As used in Iowa Code section 427C.10, the term "gain from raising fruit or forest trees" means gain from the harvest from trees including, but not limited to, fruit, nuts, Christmas trees and greens, posts, poles, logs, fuelwood, pulpwood, and tree sap.

**571—73.2(427C,456A) County assessor's annual report on forest and fruit-tree reservations to the department of natural resources.**

**73.2(1)** *Report content.* The report shall contain the name and address of each owner and the number of acres for each forest and fruit-tree reservation.

**73.2(2)** *Report due date.* The report shall be submitted annually to the department of natural resources no later than June 15 of the assessment year.

This rule is intended to implement Iowa Code chapters 427C and 441.

[Filed 2/8/85, Notice 1/2/85—published 2/27/85, effective 4/3/85]
[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]

# CHAPTER 74
# FOREST LAND ENHANCEMENT PROGRAM (FLEP)

**571—74.1(461A) Purpose.** The purpose of this chapter is to define procedures by which federal, state, or private moneys designated for cost-share forestry practices on private lands may be utilized for that purpose.

**571—74.2(461A) Definitions.**

*"Department"* means the department of natural resources and its designated representatives.

*"FLEP"* means the forest land enhancement program.

*"Forest stewardship committee"* means a committee of individuals from state, federal, county, and private institutions who serve as an advisory board to the department on forest stewardship issues.

*"Private lands"* means lands not owned by federal, state, county, or local governments.

*"Private moneys"* means any money from an individual or entity that is not a unit of federal, state, county, or local government.

**571—74.3(461A) Project scope.** This program will provide forestry cost-share assistance to private landowners primarily through the forest land enhancement program (FLEP). The primary source of funding shall be federally allocated funds; however, other public or private funds may be utilized if available. These funds will be used for conservation tree and shrub planting such as reforestation, wildlife habitat establishment, forest riparian buffer establishment, timber stand improvement and other forestry enhancement projects on private lands as approved by the department and the forest stewardship committee.

**571—74.4(461A) Availability of funds.** Funds to institute FLEP landowner cost-share assistance will primarily be derived through federal allocations pursuant to Title VIII, Subtitle A, Section 8002, of the Farm Security and Rural Investment Act of 2002, which amends the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2102). Availability of funds will vary based upon the federal allocation from the USDA Forest Service. Funding through the 2002 Farm Security and Rural Investment Act should be available through 2007. Allocations from other available public or private sources may be used for the purpose of this program at the discretion of the department.

**74.4(1)** *Allotments.* Funds available for cost-share assistance shall be dependent upon the allocation designated to the department from the USDA Forest Service.

**74.4(2)** *Additional funding.* To maximize forestry conservation practices, the department may accept contributions from any governmental or private entity or individual for the purpose of approved cost-share forestry practices on private lands.

**571—74.5(461A) Forest land enhancement program areas.** This rule delineates eligibility and procedures for cost-share assistance for forestry practices.

**74.5(1)** *Eligibility.* FLEP funds are available statewide except that funds from a specific funding entity may be earmarked for cost-share assistance in a specific geographic region of the state. To be eligible for cost-share assistance, individual landowners must have a forest stewardship plan approved by the department and enter into a written agreement with the department specifying the obligations of each party.

**74.5(2)** *Applications.* Applications will be accepted only from those eligible as noted above.

*a.* Applications must be on forms furnished by the department.

*b.* Applications must be signed by the landowner and by the department.

**74.5(3)** *Project review and selection.* Project applications will be reviewed separately for each department forestry district. Department district foresters in each district will recommend what projects are approved and the total amount of cost-share funds to be allocated to the landowner. The department will have final approval over projects.

**74.5(4)** *Contract agreements.* The department is authorized to enter into agreements with landowners to carry out the purposes of this program.

*a.* Agreement forms will be provided by the department. They shall state the terms of the agreement including, but not limited to, conservation practices to be implemented, total project cost, and cost-share dollars allocated for the specified practices.

*b.* The approved forest stewardship plan shall be considered a part of the contract.

*c.* Cost-share assistance will not be provided unless both parties have signed an agreement.

*d.* Contract periods will not be approved for any period less than ten years in duration.

*e.* Contracts may be amended by mutual agreement of both parties.

**74.5(5)** *Specifications and guidelines.* Forestry practices must conform with the department's Forestry Practices Manual: Technical Guide.

**74.5(6)** *Cost-share rates.* The department, with input from the state forest stewardship committee and in accordance with USDA Forest Service policies, shall set cost-share rates and payment maximums for each authorized forest conservation practice.

**74.5(7)** *Reimbursements.* Cooperators shall submit billings for reimbursements on forms provided by the department.

*a.* Billings shall be submitted immediately after project completion and within 18 months of project approval.

*b.* Billings shall include documentation on all costs incurred for the project.

*c.* Reimbursements shall not be made unless the landowner has fulfilled obligations as specified in the contract.

*d.* Billings shall be approved or disapproved by the department's district forester or assistant district forester after inspection of the project.

**571—74.6(461A) Cost reimbursement.** Whenever a landowner has been found to be in violation of a contract specified in this chapter, the department may cancel the contract, and the landowner shall reimburse the department for the full amount of any payments received from FLEP. The requirements and procedures for recovering expended funds in the event of a violation of the contract shall be established in the contract.

These rules are intended to implement Iowa Code subsections 455A.13(1) and 456A.24(13).

[Filed 5/9/03, Notice 3/5/03—published 5/28/03, effective 7/2/03]

# CHAPTER 75
Reserved

TITLE VIII
*SEASONS, LIMITS, METHODS OF TAKE*

# CHAPTER 76
# UNPROTECTED NONGAME

[Prior to 12/31/86, Conservation Commission[290] Ch 16]

**571—76.1(481A) Species.** Certain species of nongame shall not be protected.

**76.1(1)** *Birds.* The European starling and the house sparrow shall not be protected.

**76.1(2)** *Reptiles.*

*a.* Garter snake.

*b.* Timber rattlesnake except in Allamakee, Appanoose, Clayton, Delaware, Des Moines, Dubuque, Fayette, Henry, Jackson, Jones, Lee, Madison, Van Buren, and Winneshiek Counties but not including an area of 50 yards around houses actively occupied by human beings in those counties.

This rule is intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.42.

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[Filed 10/17/86, Notice 8/27/86—published 11/5/86, effective 1/1/87]
[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]
[Filed 8/18/00, Notice 5/31/00—published 9/6/00, effective 10/11/00[1]]
[Filed 6/21/01, Notice 5/2/01—published 7/11/01, effective 8/15/01]

[1] At its meeting held October 9, 2000, the Administrative Rules Review Committee delayed the effective date of the rescission of 76.1(2) from 10/11/00 until adjournment of the 2001 Session of the General Assembly.

# CHAPTER 77
# ENDANGERED AND THREATENED PLANT AND ANIMAL SPECIES

[Prior to 12/31/86, Conservation Commission[290], Ch 19]

**571—77.1(481B) Definitions.** As used in this rule:

*"Endangered species"* means any species of fish, plant life, or wildlife which is in danger of extinction throughout all or a significant part of its range.

*"Special concern species"* means any species about which problems of status or distribution are suspected, but not documented, and for which no special protection is afforded under this rule.

*"Threatened species"* means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

**571—77.2(481B) Endangered, threatened, and special concern animals.** The natural resource commission, in consultation with scientists with specialized knowledge and experience, has determined the following animal species to be endangered, threatened or of special concern in Iowa:

**77.2(1)** *Endangered animal species:*

Mammals

| | |
|---|---|
| Indiana Bat | Myotis sodalis |
| Plains Pocket Mouse | Perognathus flavescens |
| Red-backed Vole | Clethrionomys gapperi |
| Spotted Skunk | Spilogale putorius |

Birds

| | |
|---|---|
| Red-shouldered Hawk | Buteo lineatus |
| Northern Harrier | Circus cyaneus |
| Piping Plover | Charadrius melodus |
| Common Barn Owl | Tyto alba |
| Least Tern | Sterna antillarum |
| King Rail | Rallus elegans |
| Short-eared Owl | Asio flammeus |

Fish

| | |
|---|---|
| Lake Sturgeon | Acipenser fulvescens |
| Pallid Sturgeon | Scaphirhynchus albus |
| Pugnose Shiner | Notropis anogenus |
| Weed Shiner | Notropis texanus |
| Pearl Dace | Semotilus margarita |
| Freckled Madtom | Noturus nocturnus |
| Bluntnose Darter | Etheostoma chlorosomum |
| Least Darter | Etheostoma microperca |

### Reptiles

| | |
|---|---|
| Yellow Mud Turtle | Kinosternon flavescens |
| Wood Turtle | Clemmys insculpta |
| Great Plains Skink | Eumeces obsoletus |
| Copperbelly Water Snake | Nerodia erythrogaster neglecta |
| Western Hognose Snake | Heterodon nasicus |
| Copperhead | Agkistrodon contortrix |
| Prairie Rattlesnake | Crotalus viridis |
| Massasauga Rattlesnake | Sistrurus catenatus |

### Amphibians

| | |
|---|---|
| Blue-spotted Salamander | Ambystoma laterale |
| Crawfish Frog | Rana areolata |

### Butterflies

| | |
|---|---|
| Dakota Skipper | Hesperia dacotae |
| Ringlet | Coenonympha tullia |

### Land Snails

| | |
|---|---|
| Iowa Pleistocene Snail | Discus macclintocki |
| Minnesota Pleistocene Ambersnail | Novisuccinea new species A |
| Iowa Pleistocene Ambersnail | Novisuccinea new species B |
| Frigid Ambersnail | Catinella gelida |
| Briarton Pleistocene Vertigo | Vertigo briarensis |
| Bluff Vertigo | Vertigo meramecensis |
| Iowa Pleistocene Vertigo | Vertigo new species |

### Fresh Water Mussels

| | |
|---|---|
| Spectacle Case | Cumberlandia monodonta |
| Slippershell | Alasmidonta viridis |
| Buckhorn | Tritogonia verrucosa |
| Ozark Pigtoe | Fusconaia ozarkensis |
| Bullhead | Plethobasus cyphyus |
| Ohio River Pigtoe | Pleurobema sintoxia |
| Slough Sandshell | Lampsilis teres teres |
| Yellow Sandshell | Lampsilis teres anodontoides |
| Higgin's-eye Pearly Mussel | Lampsilis higginsi |

**77.2(2)** *Threatened animal species:*

### Mammals

| | |
|---|---|
| Least Shrew | Cryptotis parva |
| Southern Bog Lemming | Synaptomys cooperi |

## Birds

| | |
|---|---|
| Long-eared Owl | Asio otus |
| Henslow's Sparrow | Ammodramus henslowii |

## Fish

| | |
|---|---|
| Chestnut Lamprey | Ichthyomyzon castaneus |
| American Brook Lamprey | Lampetra appendix |
| Grass Pickerel | Esox americanus |
| Blacknose Shiner | Notropis heterolepis |
| Topeka Shiner | Notropis topeka |
| Western Sand Darter | Ammocrypta clara |
| Black Redhorse | Moxostoma duquesnei |
| Burbot | Lota lota |
| Orangethroat Darter | Etheostoma spectabile |

## Reptiles

| | |
|---|---|
| Slender Glass Lizard | Ophisaurus attenuatus |
| Common Musk Turtle | Sternotherus odoratus |
| Blanding's Turtle | Emydoidea blandingii |
| Ornate Box Turtle | Terrapene ornata |
| Diamondback Water Snake | Nerodia rhombifera |
| Western Worm Snake | Carphophis amoenus vermis |
| Speckled Kingsnake | Lampropeltis getulus |

## Amphibians

| | |
|---|---|
| Mudpuppy | Necturus maculosus |
| Central Newt | Notophthalmus viridescens |

## Butterflies

| | |
|---|---|
| Powesheik Skipperling | Oarisma powesheik |
| Byssus Skipper | Problema byssus |
| Mulberry Wing | Poanes massasoit |
| Silvery Blue | Glaucopsyche lygdamus |
| Baltimore | Euphydryas phaeton |

## Snails

| | |
|---|---|
| Midwest Pleistocene Vertigo | Vertigo hubrichti |
| Occult Vertigo | Vertigo occulta |

### Fresh Water Mussels

| | |
|---|---|
| Cylinder | Anodontoides ferussacianus |
| Strange Floater | Strophitus undulatus |
| Creek Heelsplitter | Lasmigona compressa |
| Purple Pimpleback | Cyclonaias tuberculata |
| Butterfly | Ellipsaria lineolata |
| Ellipse | Venustaconcha ellipsiformis |

**77.2(3)** *Special concern animal species:*

### Mammals

| | |
|---|---|
| Southern Flying Squirrel | Glaucomys volans |

### Birds

| | |
|---|---|
| Forster's Tern | Sterna forsteri |
| Black Tern | Chlidonias niger |
| Peregrine Falcon | Falco peregrinus |
| Bald Eagle | Haliaeetus leucocephalus |

### Fish

| | |
|---|---|
| Pugnose Minnow | Notropis emiliae |
| Pirate Perch | Aphredoderus sayanus |

### Reptiles

| | |
|---|---|
| Smooth Green Snake | Opheodrys vernalis |
| Bullsnake | Pituophis catenifer sayi |

### Butterflies

| | |
|---|---|
| Dreamy Duskywing | Erynnis icelus |
| Sleepy Duskywing | Erynnis brizo |
| Columbine Duskywing | Erynnis lucilius |
| Wild Indigo Duskywing | Erynnis baptisiae |
| Ottoe Skipper | Hesperia ottoe |
| Leonardus Skipper | Hesperia l. leonardus |
| Pawnee Skipper | Hesperia leonardus pawnee |
| Beardgrass Skipper | Atrytone arogos |
| Zabulon Skipper | Poanes zabulon |
| Broad-winged Skipper | Poanes viator |
| Sedge Skipper | Euphyes dion |
| Two-spotted Skipper | Euphyes bimacula |
| Dusted Skipper | Atrytonopsis hianna |
| Salt-and-pepper Skipper | Amblyscirtes hegon |
| Pipevine Swallowtail | Battus philenor |
| Zebra Swallowtail | Eurytides marcellus |
| Olympia White | Euchloe olympia |

| | |
|---|---|
| Purplish Copper | Lycaena helloides |
| Acadian Hairstreak | Satyrium acadicum |
| Edward's Hairstreak | Satyrium edwardsii |
| Hickory Hairstreak | Satyrium caryaevorum |
| Striped Hairstreak | Satyrium liparops |
| Swamp Metalmark | Calephelis mutica |
| Regal Fritillary | Speyeria idalia |
| Baltimore | Euphydryas phaeton ozarkae |

[**ARC 8105B**, IAB 9/9/09, effective 10/14/09]

**571—77.3(481B) Endangered, threatened, and special concern plants.** The natural resource commission, in consultation with scientists with special knowledge and experience, determined the following plant species to be endangered, threatened, or of special concern in Iowa.

**77.3(1)** *Endangered plant species:*

| COMMON NAME | SCIENTIFIC NAME |
|---|---|
| Pale false foxglove | Agalinus skinneriana |
| Blue giant-hyssop | Agastache foeniculum |
| Bearberry | Arctostaphylos uva-ursi |
| Black chokeberry | Aronia melanocarpa |
| Eared milkweed | Asclepias engelmanniana |
| Mead's milkweed | Asclepias meadii |
| Narrow-leaved milkweed | Asclepias stenophylla |
| Ricebutton aster | Aster dumosus |
| Large-leaved aster | Aster macrophyllus |
| Schreber's aster | Aster schreberi |
| Fern-leaved false foxglove | Aureolaria pedicularia |
| Matricary grape fern | Botrychium matricariifolium |
| Poppy mallow | Callirhoe triangulata |
| Cordroot sedge | Carex chordorrhiza |
| Large-bracted corydalis | Corydalis curvisiliqua |
| Silky prairie-clover | Dalea villosa |
| Swamp-loosestrife | Decodon verticillatus |
| Northern panic-grass | Dichanthelium boreale |
| Roundleaved sundew | Drosera rotundifolia |
| False mermaid | Floerkea proserpinacoides |
| Bog bedstraw | Galium labradoricum |
| Povertygrass | Hudsonia tomentosa |
| Northern St. Johnswort | Hypericum boreale |
| Pineweed | Hypericum gentianoides |
| Winterberry | Ilex verticillata |
| Black-based quillwort | Isoetes melanopoda |
| Water-willow | Justicia americana |
| Dwarf dandelion | Krigia virginica |
| Cleft conobea | Leucospora multifida |
| Whiskbroom parsley | Lomatium foeniculaceum |

| | |
|---|---|
| Running clubmoss | Lycopodium clavatum |
| Bog clubmoss | Lycopodium inundatum |
| Annual skeletonweed | Lygodesmia rostrata |
| Water marigold | Megalodonta beckii |
| Northern lungwort | Mertensia paniculata |
| Bigroot pricklypear | Opuntia macrorhiza |
| Clustered broomrape | Orobanche fasciculata |
| Ricegrass | Oryzopsis pungens |
| Cinnamon fern | Osmunda cinnamomea |
| Purple cliffbrake | Pellaea atropurpurea |
| Arrow arum | Peltandra virginica |
| Pale green orchid | Platanthera flava |
| Eastern prairie fringed orchid | Platanthera leucophaea |
| Clammyweed | Polansia jamesii |
| Crossleaf milkwort | Polygala cruciata |
| Purple milkwort | Polygala polygama |
| Jointweed | Polygonella articulata |
| Douglas' knotweed | Polygonum douglasii |
| Three-toothed cinquefoil | Potentilla tridentata |
| Canada plum | Prunus nigra |
| Frenchgrass | Psoralea onobrychis |
| Pink shinleaf | Pyrola asarifolia |
| Prickly rose | Rosa acicularis |
| Meadow spikemoss | Selaginella eclipes |
| Rough-leaved goldenrod | Solidago patula |
| Bog goldenrod | Solidago uliginosa |
| Yellow-lipped ladies-tresses | Spiranthes lucida |
| Pickering morning-glory | Stylisma pickeringii |
| Rough-seeded fameflower | Talinum rugospermum |
| Waxy meadowrue | Thalictrum revolutum |
| Long beechfern | Thelypteris phegopteris |
| Large-leaved violet | Viola incognita |
| Rusty woodsia | Woodsia ilvensis |
| Yellow-eyed grass | Xyris torta |

**77.3(2)** *Threatened plant species:*

| | |
|---|---|
| Northern wild monkshood | Aconitum noveboracense |
| Round-stemmed false foxglove | Agalinus gattingerii |
| Nodding wild onion | Allium cernuum |
| Fragrant false indigo | Amorpha nana |
| Virginia snakeroot | Aristolochia serpentaria |
| Woolly milkweed | Asclepias lanuginosa |
| Showy milkweed | Asclepias speciosa |
| Forked aster | Aster furcatus |
| Rush aster | Aster junciformis |

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|---|---|
| Flax-leaved aster | Aster linariifolius |
| Water parsnip | Berula erecta |
| Kittentails | Besseya bullii |
| Bog birch | Betula pumila |
| Pagoda plant | Blephilia ciliata |
| Leathery grapefern | Botrychium multifidum |
| Little grapefern | Botrychium simplex |
| Sweet Indian-plantain | Cacalia suaveolens |
| Poppy mallow | Callirhoe alcaeoides |
| Pipsissewa | Chimaphila umbellata |
| Golden saxifrage | Chrysosplenium iowense |
| Dayflower | Commelina erecta |
| Spotted coralroot | Corallorhiza maculata |
| Bunchberry | Cornus canadensis |
| Golden corydalis | Corydalis aurea |
| Pink corydalis | Corydalis sempervirens |
| Showy lady's-slipper | Cypripedium reginae |
| Slim-leaved panic-grass | Dichanthelium linearifolium |
| Jeweled shooting star | Dodecatheon amethystinum |
| Glandular wood fern | Dryopteris intermedia |
| Marginal shield fern | Dryopteris marginalis |
| Woodland horsetail | Equisetum sylvaticum |
| Slender cottongrass | Eriophorum gracile |
| Yellow trout lily | Erythronium americanum |
| Queen of the prairie | Filipendula rubra |
| Blue ash | Fraxinus quadrangulata |
| Black huckleberry | Gaylussacia baccata |
| Oak fern | Gymnocarpium dryopteris |
| Green violet | Hybanthus concolor |
| Twinleaf | Jeffersonia diphylla |
| Creeping juniper | Juniperus horizontalis |
| Intermediate pinweed | Lechea intermedia |
| Hairy pinweed | Lechea villosa |
| Prairie bush clover | Lespedeza leptostachya |
| Twinflower | Linnaea borealis |
| Western parsley | Lomatium orientale |
| Wild lupine | Lupinus perennis |
| Tree clubmoss | Lycopodium dendroideum |
| Rock clubmoss | Lycopodium porophilum |
| Hairy waterclover | Marsilea vestita |
| Bog buckbean | Menyanthes trifoliata |
| Winged monkeyflower | Mimulus alatus |
| Yellow monkeyflower | Mimulus glabratus |
| Partridge berry | Mitchella repens |
| Pinesap | Monotropa hypopithys |

| | |
|---|---|
| Small sundrops | Oenothera perennis |
| Little pricklypear | Opuntia fragilis |
| Royal fern | Osmunda regalis |
| Philadelphia panic-grass | Panicum philadelphicum |
| Slender beardtongue | Penstemon gracilis |
| Hooker's orchid | Platanthera hookeri |
| Northern bog orchid | Platanthera hyperborea |
| Western prairie fringed orchid | Platanthera praeclara |
| Purple fringed orchid | Platanthera psycodes |
| Pink milkwort | Polygala incarnata |
| Silverweed | Potentilla anserina |
| Shrubby cinquefoil | Potentilla fruticosa |
| Pennsylvania cinquefoil | Potentilla pensylvanica |
| One-sided shinleaf | Pyrola secunda |
| Meadow beauty | Rhexia virginica |
| Beaked rush | Rhynchospora capillacea |
| Northern currant | Ribes hudsonianum |
| Shining willow | Salix lucida |
| Bog willow | Salix pedicellaris |
| Low nutrush | Scleria verticillata |
| Buffaloberry | Sheperdia argentea |
| Scarlet globemallow | Sphaeralcea coccinea |
| Slender ladies-tresses | Spiranthes lacera |
| Oval ladies-tresses | Spiranthes ovalis |
| Hooded ladies-tresses | Spiranthes romanzoffiana |
| Spring ladies-tresses | Spiranthes vernalis |
| Rosy twisted-stalk | Streptopus roseus |
| Fameflower | Talinum parviflorum |
| Large arrowgrass | Triglochin maritimum |
| Small arrowgrass | Triglochin palustre |
| Low sweet blueberry | Vaccinium angustifolium |
| Velvetleaf blueberry | Vaccinium myrtilloides |
| False hellebore | Veratrum woodii |
| Kidney-leaved violet | Viola renifolia |
| Oregon woodsia | Woodsia oregana |

**77.3(3)** *Special concern plant species:*

| | |
|---|---|
| Balsam fir | Abies balsamea |
| Three-seeded mercury | Acalypha gracilens |
| Three-seeded mercury | Acalypha ostryifolia |
| Mountain maple | Acer spicatum |
| Moschatel | Adoxa moschatellina |
| Water plantain | Alisma gramineum |
| Wild onion | Allium mutabile |
| Amaranth | Amaranthus arenicola |

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|---|---|
| Lanceleaf ragweed | Ambrosia bidentata |
| Saskatoon serviceberry | Amelanchier alnifolia |
| Low serviceberry | Amelanchier sanguinea |
| Raccoon grape | Ampelopsis cordata |
| Pearly everlasting | Anaphalis margaritacea |
| Sand bluestem | Andropogon hallii |
| Broomsedge | Andropogon virginicus |
| Purple angelica | Angelica atropurpurea |
| Purple rockcress | Arabis divaricarpa |
| Green rockcress | Arabis missouriensis |
| Lakecress | Armoracia lacustris |
| Fringed sagewort | Artemisia frigida |
| Common mugwort | Artemisia vulgaris |
| Pawpaw | Asimina triloba |
| Curved aster | Aster falcatus |
| Hairy aster | Aster pubentior |
| Prairie aster | Aster turbinellus |
| Standing milkvetch | Astragalus adsurgens |
| Bent milkvetch | Astragalus distortus |
| Missouri milkvetch | Astragalus missouriensis |
| Blue wild indigo | Baptisia australis |
| Yellow wild indigo | Baptisia tinctoria |
| Prairie moonwort | Botrychium campestre |
| Watershield | Brasenia schreberi |
| Buffalograss | Buchloe dactyloides |
| Poppy mallow | Callirhoe papaver |
| Water-starwort | Callitriche heterophylla |
| Grass pink | Calopogon tuberosus |
| Low bindweed | Calystegia spithamaea |
| Clustered sedge | Carex aggregata |
| Back's sedge | Carex backii |
| Bush's sedge | Carex bushii |
| Carey's sedge | Carex careyana |
| Flowerhead sedge | Carex cephalantha |
| Field sedge | Carex conoidea |
| Crawe's sedge | Carex crawei |
| Fringed sedge | Carex crinita |
| Double sedge | Carex diandra |
| Douglas' sedge | Carex douglasii |
| Dry sedge | Carex foena |
| Thin sedge | Carex gracilescens |
| Delicate sedge | Carex leptalea |
| Mud sedge | Carex limosa |
| Hoplike sedge | Carex lupuliformis |
| Yellow sedge | Carex lurida |

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|---|---|
| Intermediate sedge | Carex media |
| Backward sedge | Carex retroflexa |
| Richardson's sedge | Carex richardsonii |
| Rocky Mountain sedge | Carex saximontana |
| Sterile sedge | Carex sterilis |
| Soft sedge | Carex tenera |
| Deep green sedge | Carex tonsa |
| Tuckerman's sedge | Carex tuckermanii |
| Umbrella sedge | Carex umbellata |
| Wild oats | Chasmanthium latifolium |
| Pink turtlehead | Chelone obliqua |
| Fogg's goosefoot | Chenopodium foggii |
| Missouri goosefoot | Chenopodium missouriensis |
| Coast blite | Chenopodium rubrum |
| Bugbane | Cimicifuga racemosa |
| Hill's thistle | Cirsium hillii |
| Swamp thistle | Cirsium muticum |
| Wavy-leaved thistle | Cirsium undulatum |
| Western clematis | Clematis occidentalis |
| Blue-eyed Mary | Collinsia verna |
| Cancer-root | Conopholis americana |
| Fireberry hawthorn | Crataegus chrysocarpa |
| Red hawthorn | Crataegus coccinea |
| Two-fruited hawthorn | Crataegus disperma |
| Hawthorn | Crataegus pruinosa |
| Hawksbeard | Crepis runcinata |
| Prairie tea | Croton monanthogynus |
| Crotonopsis | Crotonopsis elliptica |
| Waxweed | Cuphea viscosissima |
| Dodder | Cuscuta indecora |
| Small white lady's-slipper | Cypripedium candidum |
| Carolina larkspur | Delphinium carolinianum |
| Sessile-leaved tick trefoil | Desmodium sessilifolium |
| Fingergrass | Digitaria filiformis |
| Buttonweed | Diodia teres |
| Purple coneflower | Echinacea purpurea |
| Waterwort | Elatine triandra |
| Purple spikerush | Eleocharis atropurpurea |
| Green spikerush | Eleocharis olivacea |
| Oval spikerush | Eleocharis ovata |
| Dwarf spikerush | Eleocharis parvula |
| Few-flowered spikerush | Eleocharis pauciflora |
| Wolf's spikerush | Eleocharis wolfii |
| Interrupted wildrye | Elymus interruptus |
| Dwarf scouring rush | Equisetum scirpoides |

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|---|---|
| Ponygrass | Eragrostis reptans |
| Tall cottongrass | Eriophorum angustifolium |
| Tawny cottongrass | Eriophorum virginicum |
| Upland boneset | Eupatorium sessilifolium |
| Spurge | Euphorbia commutata |
| Missouri spurge | Euphorbia missurica |
| Slender fimbristylis | Fimbristylis autumnalis |
| Umbrella grass | Fuirena simplex |
| Rough bedstraw | Galium asprellum |
| Small fringed gentian | Gentianopsis procera |
| Northern cranesbill | Geranium bicknellii |
| Spring avens | Geum vernum |
| Early cudweed | Gnaphalium purpureum |
| Limestone oak fern | Gymnocarpium robertianum |
| Bitterweed | Helenium amarum |
| Mud plantain | Heteranthera limosa |
| Water stargrass | Heteranthera reniformis |
| Hairy goldenaster | Heterotheca villosa |
| Common mare's-tail | Hippuris vulgaris |
| Canadian St. Johnswort | Hypericum canadense |
| Drummond St. Johnswort | Hypericum drummondii |
| White morning glory | Ipomoea lacunosa |
| Sumpweed | Iva annua |
| Alpine rush | Juncus alpinus |
| Toad rush | Juncus bufonius |
| Soft rush | Juncus effusus |
| Green rush | Juncus greenii |
| Edged rush | Juncus marginatus |
| Vasey's rush | Juncus vaseyi |
| Potato dandelion | Krigia dandelion |
| Pinweed | Lechea racemulosa |
| Duckweed | Lemna perpusilla |
| Creeping bush clover | Lespedeza repens |
| Silvery bladder-pod | Lesquerella ludoviciana |
| Wild flax | Linum medium |
| Brook lobelia | Lobelia kalmii |
| False loosestrife | Ludwigia peploides |
| Crowfoot clubmoss | Lycopodium digitatum |
| Adder's-mouth orchid | Malaxis unifolia |
| Globe mallow | Malvastrum hispidum |
| Two-flowered melic-grass | Melica mutica |
| Ten-petaled blazingstar | Mentzelia decapetala |
| Millet grass | Milium effusum |
| Rock sandwort | Minuartia michauxii |
| Naked mitrewort | Mitella nuda |

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|---|---|
| Scratchgrass | Muhlenbergia asperifolia |
| Water milfoil | Myriophyllum heterophyllum |
| Rough water milfoil | Myriophyllum pinnatum |
| Water milfoil | Myriophyllum verticillatum |
| Glade mallow | Napaea dioica |
| Showy evening primrose | Oenothera speciosa |
| Northern adders-tongue fern | Ophioglossum vulgatum |
| Louisiana broomrape | Orobanche ludoviciana |
| Mountain ricegrass | Oryzopsis asperifolia |
| Gattinger's panic-grass | Panicum gattingeri |
| White beardtongue | Penstemon albidus |
| Cobaea penstemon | Penstemon cobaea |
| Tube penstemon | Penstemon tubiflorus |
| Cleft phlox | Phlox bifida |
| Annual ground cherry | Physalis pubescens |
| Heart-leaved plantain | Plantago cordata |
| Wood orchid | Platanthera clavellata |
| Green fringed orchid | Platanthera lacera |
| Plains bluegrass | Poa arida |
| Chapman's bluegrass | Poa chapmaniana |
| Weak bluegrass | Poa languida |
| Bog bluegrass | Poa paludigena |
| Meadow bluegrass | Poa wolfii |
| Hairy Solomon's-seal | Polygonatum pubescens |
| Large-leaved pondweed | Potamogeton amplifolius |
| Ribbonleaf pondweed | Potamogeton epihydrus |
| White-stemmed pondweed | Potamogeton praelongus |
| Spiralled pondweed | Potamogeton spirillus |
| Tussock pondweed | Potamogeton strictifolius |
| Vasey's pondweed | Potamogeton vaseyi |
| Bird's-eye primrose | Primula mistassinica |
| Prionopsis | Prionopsis ciliata |
| Mermaid weed | Proserpinaca palustris |
| Dwarf cherry | Prunus besseyi |
| Hortulan plum | Prunus hortulana |
| Sand cherry | Prunus pumila |
| Lemon scurfpea | Psoralea lanceolata |
| Crowfoot | Ranunculus circinatus |
| Gmelin's crowfoot | Ranunculus gmelinii |
| Buckthorn | Rhamnus alnifolia |
| Dwarf sumac | Rhus copallina |
| Northern gooseberry | Ribes hirtellum |
| Yellow cress | Rorippa sinuata |
| Swamp rose | Rosa palustris |
| Tooth-cup | Rotala ramosior |

| | |
|---|---|
| Dewberry | Rubus hispidus |
| Western dock | Rumex occidentalis |
| Widgeon grass | Ruppia maritima |
| Prairie rose gentian | Sabatia campestris |
| Sage willow | Salix candida |
| Sassafras | Sassafras albidum |
| Tumblegrass | Schedonnardus paniculatus |
| Scheuchzeria | Scheuchzeria palustris |
| Sensitive briar | Schrankia nuttallii |
| Hall's bulrush | Scirpus hallii |
| Prairie bulrush | Scirpus maritimus |
| Pedicelled bulrush | Scirpus pedicellatus |
| Smith's bulrush | Scirpus smithii |
| Torrey's bulrush | Scirpus torreyi |
| Veiny skullcap | Scutellaria nervosa |
| Wild stonecrop | Sedum ternatum |
| Rock spikemoss | Selaginella rupestris |
| Butterweed | Senecio glabellus |
| False golden ragwort | Senecio pseudaureus |
| Knotweed bristlegrass | Setaria geniculata |
| Virginia rockcress | Sibara virginica |
| Prairie dock | Silphium terebinthinaceum |
| Burreed | Sparganium androcladum |
| Great plains ladies-tresses | Spiranthes magnicamporum |
| Clandestine dropseed | Sporobolus clandestinus |
| Rough hedge-nettle | Stachys aspera |
| Needle-and-thread | Stipa comata |
| White coralberry | Symphoriocarpos albus |
| Eared false foxglove | Tomanthera auriculata |
| Spiderwort | Tradescantia virginiana |
| Humped bladderwort | Utricularia gibba |
| Flat-leaved bladderwort | Utricularia intermedia |
| Small bladderwort | Utricularia minor |
| Valerian | Valeriana edulis |
| American brookline | Veronica americana |
| Marsh speedwell | Veronica scutellata |
| Maple-leaved arrowwood | Viburnum acerifolium |
| Black arrowwood | Viburnum molle |
| Black haw | Viburnum prunifolium |
| Spurred violet | Viola adunca |
| Lance-leaved violet | Viola lanceolata |
| Macloskey's violet | Viola macloskeyi |
| Pale violet | Viola striata |
| Summer grape | Vitis aestivalis |
| Frost grape | Vitis vulpina |

**571—77.4(481B) Exemptions.** Notwithstanding the foregoing list and the prohibitions in Iowa Code chapter 481B, a person may import, export, possess, transport, purchase, barter, buy, sell, offer to sell, hold for processing or process a species of animal or plant which is listed as endangered or threatened on the state list or as listed in the Code of Federal Regulations, Title 50, part 17, as amended to December 30, 1991, according to the following rules:

**77.4(1)** Trophies lawfully taken by persons licensed to hunt or fish (not including trapping or commercial harvest licenses) in another state, country or territory may be brought into this state and possessed, held for processing and processed but may not be sold or offered for sale.

**77.4(2)** Furs or skins of wildlife species appearing on the state list of endangered and threatened species which were lawfully taken or purchased in another state, country or territory may be imported, exported, purchased, possessed, bartered, offered for sale, sold, held for processing, or processed in this state if they are tagged or permanently marked by the state, country, or territory of origin.

**77.4(3)** Species of live animals appearing on the state list of endangered and threatened species may be imported, exported, possessed, purchased, bartered, offered for sale, or sold under the terms of a scientific collecting permit or educational project permit issued pursuant to Iowa Code section 481A.6 and administrative rules adopted by the department.

**77.4(4)** Plants, seeds, roots, and other parts of plants which appear on the state list of endangered and threatened plants which were lawfully taken or purchased in another state, country or territory may be imported, exported, purchased, possessed, offered for sale or sold in this state.

**77.4(5)** A part or product of a species of fish or wildlife appearing on the state list of endangered or threatened species which enters the state from another state or from a point outside the territorial limits of the United States may enter, be transported, exported, possessed, sold, offered for sale, held for processing or processed in accordance with the terms of a permit issued by the agency of jurisdiction in the state of origin or, if entering from outside the United States, a federal permit issued by the United States government. If proper documentation is available, a person may buy or offer to buy a part or product of a species of fish or wildlife appearing on the state or federal lists as long as it is imported from a legal source outside this state and proper documentation is provided.

**77.4(6)** If a person possesses a species of fish or wildlife or a part, product or offspring of such a species, proper documentation such as receipt of purchase and the permit from the state of origin or the U.S. government must be presented upon request of any conservation officer. Failure to produce such documentation is a violation of this chapter and will constitute grounds for forfeiture to the Iowa DNR.

**77.4(7)** A species of plant, fish or wildlife appearing on the state list of endangered and threatened species may be collected, held, salvaged and possessed under the terms of a scientific collecting permit issued pursuant to Iowa Code section 481A.6 and administrative rules adopted by the department.

**77.4(8)** Drainage district repairs and improvements to existing open ditch facilities are excluded from the department's protection efforts for the Topeka shiner. This includes facilities of levee and drainage districts established and maintained under Iowa Code chapter 468. This exclusion does not apply to new channelization, deepening, or leveeing of existing streams and rivers with permanent flow or existing streams with off-channel water areas capable of supporting fish.

**77.4(9)** The department may enter into an agreement with a private landowner for habitat improvements that benefit endangered and threatened species while limiting the potential impacts to the landowner arising when a covered species becomes more numerous due to the voluntary improvements to the habitat. If any covered species becomes more numerous as a result of the landowner's voluntary actions, a private landowner who commits to implement voluntary conservation measures for a listed species will not be required to implement additional measures, and additional land, water, or resource use restrictions will not be imposed.

*a.* The department will provide participating landowners with technical assistance to develop landowner incentive program agreements. Each agreement shall include the following:

1. Landowner's name.
2. Legal description of the property covered by the agreement.
3. Length of agreement period.
4. Species covered by the agreement.

5. Baseline conditions: the estimated number of listed species and the size and condition of habitat for each species covered.

6. Conservation measures to be implemented and implementation schedule.

7. Financial commitment of the department and the landowner.

8. Measures to determine if the agreement has been fulfilled.

9. Any property use restrictions.

10. Terms for the termination of the agreement prior to its scheduled expiration.

*b.* The landowner, through normal lawful activities, may return the property to the baseline or a mutually agreed-upon condition above the baseline at any time after expiration of the landowner incentive program agreement.

This rule is intended to implement Iowa Code chapter 481B.

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# CHAPTER 78
# GINSENG HARVESTING AND SALE

**571—78.1(456A) Purpose.** The purposes of these rules are to establish a program for the harvesting and sale of American Ginseng subject to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); to provide for the time and conditions for harvesting the plant; and to provide requirements for the registration of growers, dealers and exporters and the records kept by dealers and exporters. The goal of the department's program is to ensure that American Ginseng (Panax quinquefolius), a slow-growing plant with increased demand due to its medicinal and commercial value, remains a sustainable resource in the state of Iowa.
[**ARC 7680B**, IAB 4/8/09, effective 4/1/09]

**571—78.2(456A) Scope.** These rules shall apply to all persons harvesting, cultivating and dealing in American Ginseng (Panax quinquefolius) in Iowa. However, these rules are not intended to apply to the trade or trafficking of lawfully obtained American Ginseng that has been processed, prepared, packaged and labeled in a manner intended for its final consumptive use.
[**ARC 7680B**, IAB 4/8/09, effective 4/1/09]

**571—78.3(456A) Definitions.** All words and phrases used in these rules shall have their ordinary and customary meaning, except that the following words and phrases shall be defined as follows:

*"Controlled conditions"* means a nonnatural environment that is intensively manipulated by human intervention for the purpose of plant production. General characteristics of controlled conditions may include, but are not limited to, tillage, fertilization, weed and pest control, irrigation, or nursery operations, such as potting, bedding, or protection from weather and artificial or natural shade or light.

*"Cultivated ginseng"* means ginseng that is nurtured, artificially propagated or maintained under controlled conditions from a seed, cutting, division, callus tissue, root, rhizome, other plant tissue, spore, or other propagule that has been derived from cultivated parental stock.

*"Cultivated parental stock"* means the ensemble of plants grown under controlled conditions that are used for reproduction and must be maintained in sufficient quantities for propagation.

*"Cutting"* or *"division"* means a plant grown from the root, rhizome, stem, or leaf of another plant and is considered to be artificially propagated only if the traded specimen does not contain any material collected from the wild.

*"Dealer"* means any person who deals in ginseng, which includes without limitation buying, selling, purchasing, holding, brokering, billing for, bartering, trading or otherwise receiving payment for wild or cultivated ginseng in Iowa, for the purpose of selling or otherwise transacting wild or cultivated ginseng. The term "dealer" includes any person, including without limitation a harvester, who sells ginseng to any person other than a dealer licensed pursuant to these rules or lawfully licensed in another state.

*"Dealer's permit"* means a permit issued to a dealer by the department under these rules.

*"Department"* means the Iowa department of natural resources.

*"Director"* means the director of the Iowa department of natural resources or a designee.

*"Ginseng"* means all parts of the American Ginseng (Panax quinquefolius) plant, including without limitation roots, rhizomes, leaves and seeds, which may be cultivated or wild. "Ginseng," however, for purposes of these rules, does not mean those parts of the American Ginseng plant that have been processed.

*"Green ginseng"* means a root of ginseng from which the moisture has not been removed by drying. For the purposes of these rules, the amount of dried ginseng rhizome which can be derived from green ginseng rhizome shall be calculated using a ratio of three and three-tenths to one (3.3:1) by weight.

*"Grower"* means a person who grows cultivated ginseng for the purpose of selling the ginseng.

*"Grower's permit"* means a permit issued under these rules to a grower.

*"Harvester"* means any person who harvests, possesses, transports, cuts, gathers, destroys, digs or uproots wild ginseng for the purpose of selling the ginseng or for personal use.

*"Harvester's permit"* means a permit issued under these rules to a harvester.

*"Nonresident"* means a person other than a resident as defined by Iowa Code section 483A.1A.

*"Permits"* means dealer's permits, grower's permits and harvester's permits issued under these rules.

*"Resident"* means a resident as defined by Iowa Code section 483A.1A.

*"Root"* means the ginseng rhizome and its roots.

*"True leaves"* or *"prongs"* means compound leaves that include five leaflets consisting of three large leaflets and two small leaflets.

*"Wild ginseng"* means an unprocessed plant, dry or live green root, rhizome, seed or other part of ginseng, which is growing in or has been collected from its native habitat, including ginseng plants which have arisen from a seed that is planted in the wild, or which have been transplanted into native habitat. "Wild ginseng" is ginseng that has not been grown or nurtured by a person beyond planting of seeds or plants.

[**ARC 7680B**, IAB 4/8/09, effective 4/1/09]

**571—78.4(456A) Season for legal harvest.** The season for legally harvesting ginseng is September 1 to October 31.

[**ARC 7680B**, IAB 4/8/09, effective 4/1/09]

**571—78.5(456A) General prohibitions.**

**78.5(1)** *Harvest.* From November 1 through the following August 31, no person shall harvest, dig, cut, uproot, gather, intentionally disturb, or destroy ginseng, whether the ginseng is wild or cultivated ginseng. This prohibition shall not apply to the transplantation or intentional disturbance of cultivated ginseng when such activities are incidental to the cultivation and growing of cultivated ginseng in a nursery business.

**78.5(2)** *Sale.* A person, other than a dealer licensed pursuant to these rules, shall not sell ginseng from March 16 through August 31.

**78.5(3)** *Sale and possession of green ginseng.* A person shall not possess or transact business in green ginseng from November 21 through August 31, unless otherwise provided for by these rules.

**78.5(4)** *State-owned and state-managed lands.* In an effort to conserve and protect native stands of wild ginseng, the introduction of nonnative ginseng stock on state-owned or state-managed lands under the jurisdiction of the commission is prohibited, except in narrow circumstances as described in these rules. As such, a person shall not, at any time, possess, harvest, dig, cut, uproot, gather, plant, propagate, intentionally disturb or destroy ginseng or ginseng seed on state-owned or state-managed lands under the jurisdiction of the commission. Nothing in this chapter shall prohibit the department from taking measures on state-owned or state-managed lands under the jurisdiction of the commission to conserve and protect native wild ginseng, which may include without limitation planting and possessing seeds.

**78.5(5)** *Out-of-state ginseng.* No ginseng dug, harvested or purchased outside the borders of Iowa which is not accompanied by a valid certificate of origin pursuant to rule 571—78.9(456A) shall be transported into or be in the state of Iowa lawfully.

[**ARC 7680B**, IAB 4/8/09, effective 4/1/09]

**571—78.6(456A) Ginseng permits.** The department shall issue a grower's permit or dealer's permit upon receipt of a signed and complete application. An application shall be submitted on the form provided by the department, and payment of the appropriate fee, if applicable, shall be included with the application. Harvester's permits are available for sale through the department's electronic licensing system for Iowa (ELSI), which may be accessed through license agents throughout the state or on the department's Web site. The department shall not issue a permit if the department determines that the permit will be detrimental to the survival of ginseng or will otherwise be in contravention of the laws of this state or applicable federal laws. A person shall not carry, possess or use any other person's permit issued pursuant to these rules, except as specifically provided by these rules.

**78.6(1)** *Grower's permits.*

*a.* A person must obtain a permit from the department to legally grow cultivated ginseng. There is no fee for the permit, except for the charge associated with ELSI.

*b.* In order to be considered, an application for a grower's permit shall be made on the form provided by the department, shall be complete, and shall be executed by the person seeking the grower's permit.

*c.* A grower's permit shall be valid for five years from the date of issuance.

*d.* An application for permit renewal must be filed with the department within 60 days of expiration of the existing permit.

**78.6(2)** *Dealer's permits.*

*a.* A dealer in Iowa must have a valid dealer's permit issued by the department. A dealer's paid employees and family members who work at a dealer's primary place of business as identified on the dealer's permit may operate legally under the dealer's permit. For purposes of this subrule, family members include a dealer's spouse, domestic partner, parents, siblings, and children.

*b.* In order to be considered, an application for a dealer's permit shall be made on the form provided by the department, shall be complete, and shall be executed by the person seeking the dealer's permit.

*c.* Dealer's permits shall be issued as either Class A or Class B. A Class A dealer's permit authorizes a person to deal in any amount of ginseng in a license year. The permit application shall be accompanied by a $250 permit fee for Iowa residents and a $500 permit fee for nonresidents. A Class B dealer's permit authorizes an Iowa resident to deal in not more than five pounds dry weight of wild ginseng in a license year. The permit application shall be accompanied by a $50 permit fee. There shall be an additional charge associated with ELSI. The department's issuance of the permit may take in excess of 60 days to complete.

*d.* A dealer's permit shall be valid for a license year, from April 1 until March 31 of the following year.

*e.* A dealer's permit must be shown to the department when the department is certifying ginseng and must be shown to harvesters or other dealers when the dealer is buying ginseng.

**78.6(3)** *Harvester's permits.*

*a.* Any person who harvests wild ginseng must have a valid harvester's permit issued by the department and shall produce such permit upon the request of the department while the person is engaged in harvesting activities, including the person's moving to or from the harvest site, transporting ginseng and the selling of the harvested ginseng.

*b.* An application for a harvester's permit shall be made on the form provided by the department, unless the harvester's permit is purchased through ELSI, and shall be accompanied by a fee of $35 for residents and $65 for nonresidents. There shall be an additional charge associated with ELSI. The application and subsequent harvester's permit shall be signed by the applicant.

*c.* A harvester's permit shall be valid from September 1 through March 15 of the following year.

*d.* A harvester who has a valid harvester's permit may sell wild ginseng from September 1 through March 15 of the following year.

*e.* A harvester with a valid harvester's permit may retain no more than four ounces of dry wild ginseng for personal consumption for one year beyond the expiration date of the permit. All wild ginseng possessed pursuant to this paragraph shall be for the harvester's personal use only and may not be lawfully sold.

*f.* No person may sell, barter or otherwise offer for sale any ginseng that has been unlawfully collected, obtained or possessed in violation of this chapter, the Code of Iowa, or the Code of Federal Regulations.

**78.6(4)** *Duplicate permits.* A duplicate grower's permit, harvester's permit or dealer's permit may be issued upon application to the department and the payment of a $5 fee, plus any charges assessed to use ELSI to issue the duplicate permit.

[**ARC 7680B**, IAB 4/8/09, effective 4/1/09]

**571—78.7(456A) Dealers—record keeping.**

**78.7(1)** *Contents of records.* Each permitted ginseng dealer shall keep individual, accurate, legible and complete records of each ginseng transaction. The records shall be on forms prescribed by the

department, which shall provide a reasonable number of these forms at no cost to the dealer. The dealer's record of each ginseng transaction shall include:

*a.* The date of transaction; and

*b.* The name and address of the buyer or seller, whichever is applicable for the transaction; and

*c.* The harvester's permit number or dealer's permit number, if a dealer is buying ginseng in the transaction; and

*d.* A description of the ginseng transacted, including the actual weight of the ginseng transacted and whether the ginseng is dried or green. If the ginseng is green ginseng, the weight shall also be converted to the dried weight of ginseng according to the ratio in rule 571—78.3(456A); and

*e.* The name of the county or counties where the ginseng was harvested if the ginseng is purchased from a harvester; and

*f.* A copy of the ginseng's certificate of origin, signed by the seller, if applicable; and

*g.* The year of harvest for the ginseng bought or sold; and

*h.* Any additional information as requested by the department and included on the department's form.

**78.7(2)** *Monthly reporting.* Each dealer shall submit to the department copies of all records required by subrule 78.7(1) on a monthly basis, no later than the fifteenth day of each month.

**78.7(3)** *Annual reporting.* Each dealer shall file an annual report with the department, which shall be delivered or postmarked by April 15. The annual report shall be filed on forms provided by the department and shall include the following information:

*a.* A summary of all the dealer's transactions during the preceding license year, from April 1 through March 31, including sales to out-of-state persons; and

*b.* An inventory of any roots remaining in the dealer's possession in Iowa as of April 1, including the roots' certified weight and designation as either wild ginseng or cultivated ginseng, or a statement that the dealer has no roots remaining in the dealer's possession in Iowa as of that date. Any certification regarding a root's weight as required by this subrule shall be completed through the department or its agents at locations designated by the department, upon appointment.

*c.* Any roots carried over from one license year to the next shall be documented on the following license year's reports.

**78.7(4)** *Records retention.* All records required by this rule shall be kept by the dealer for a period of three years after the expiration of the dealer's permit.

[**ARC 7680B**, IAB 4/8/09, effective 4/1/09]

**571—78.8(456A) Dealer locations.**

**78.8(1)** *Generally.* Ginseng dealers shall transact business only at the location specified on the dealer's permit or at the place of business specified on the permit of any other dealer who holds a dealer's permit in Iowa and is involved in the transaction.

**78.8(2)** *Location permits.* A dealer who wishes to transact business at a location other than the locations provided for in subrule 78.8(1) may obtain a location permit from the department. Each location permit shall be valid only for the location specified on the location permit and shall entitle the dealer to operate at that location in addition to the location specified on the corresponding dealer's permit.

The department shall, upon application and payment of the applicable location permit fee, furnish a location permit to the dealer. The location permit fee shall be $5 for residents and $50 for nonresidents, plus any charge assessed for use of ELSI to issue the permit.

**78.8(3)** *Duplicate location permits.* A duplicate location permit may be issued upon application to the department and the payment of a $5 fee, plus any charge assessed for use of ELSI to issue the duplicate permit.

[**ARC 7680B**, IAB 4/8/09, effective 4/1/09]

**571—78.9(456A) Certificates of origin.**

**78.9(1)** *Shipments.* Every shipment of ginseng to a location outside the state of Iowa by a grower, harvester or dealer shall be accompanied by a certificate of origin, or shipping certificate, which certifies that the ginseng was lawfully harvested.

*a.* The department will issue a certificate of origin for cultivated ginseng to a grower or dealer upon application by the permit holder and based upon the completeness of the permit holder's application, which shall be on a form provided by the department, and the permit holder's compliance with the requirements of this chapter.

*b.* The department will issue a certificate of origin for wild ginseng to a harvester upon application by the permit holder and based upon the completeness of the permit holder's application, which shall be on a form provided by the department, and the permit holder's compliance with the requirements of this chapter.

*c.* The certificate of origin for wild ginseng will be issued by the department and its agents after the roots have been weighed and certified by the department or its agents at one of the locations designated by the department, upon appointment.

*d.* A grower, harvester, or dealer seeking a certificate of origin must have a valid grower's permit, harvester's permit, or dealer's permit, respectively, and must present the permit to receive a certificate of origin.

**78.9(2)** *Fees.* The department shall issue a certificate of origin free to any grower or dealer who lawfully possesses a valid grower's permit or dealer's permit, respectively, and for a fee of $5 for each certificate to any harvester who lawfully possesses a valid harvester's permit.

**78.9(3)** *Compliance.* Certificates of origin shall be issued only to permit holders who have complied with the requirements of this chapter, including without limitation requirements regarding plant size for wild ginseng.

**78.9(4)** *Wild ginseng originating in another state.*

*a.* No person may ship out of this state to a foreign country wild ginseng that originates in another state or foreign country unless the wild ginseng is accompanied by a valid certificate of origin issued by that other state or foreign country. No person may ship out of this state wild ginseng that originates in another state under a certificate of origin issued pursuant to this chapter.

*b.* No resident may import for purposes of dealing wild ginseng that originates in another state unless the wild ginseng is accompanied by a valid certificate of origin from the other state. Original certificates of origin shall remain with the wild ginseng at all times.

*c.* If a resident dealer receives wild ginseng that originated in another state and if a certificate of origin issued by that state does not accompany the wild ginseng, the dealer shall return the wild ginseng to the sender within 30 days after its receipt.

*d.* A dealer shall maintain a copy of the certificate of origin with the record of transaction.

*e.* It shall be lawful for any person to have in possession any wild ginseng lawfully harvested or purchased outside Iowa and lawfully brought into the state so long as the person possesses a valid certificate of origin for the wild ginseng.

[**ARC 7680B**, IAB 4/8/09, effective 4/1/09]

**571—78.10(456A) Inspection.**

**78.10(1)** At any time upon request, any permit issued under this chapter shall be made available to the department, director, officer appointed by the department, peace officer, or, in the case of a harvesting permit, the owner or person in lawful control of the land upon which the permittee may be harvesting wild ginseng. Failure of a person to carry or refusal to show or exhibit a valid permit while engaged in or presumed to be engaged in the harvesting, growing or dealing of ginseng in Iowa shall be a violation of this chapter. However, a person charged with violating these rules shall not be convicted if the person produces to the department or to a court officer, within a reasonable time, a permit issued to that person and valid when the person was charged with a violation of these rules. Failure to make such permit available is a violation of these rules.

**78.10(2)** Any records required by this chapter to be maintained or submitted shall be produced for inspection upon request of the department, director, officer appointed by the department, or peace officer. Failure to maintain records or to submit reports as required by these rules is a violation of these rules.

**78.10(3)** Any person or dealer who has in possession any ginseng or part thereof shall upon request of the department, director, any officer appointed by the department, or peace officer show the ginseng to the department, director or officer; a refusal to do so is a violation of this chapter.
[**ARC 7680B**, IAB 4/8/09, effective 4/1/09]

**571—78.11(456A) Restrictions and prohibitions for harvesting wild ginseng.**

**78.11(1)** Every person shall have in possession a valid, department-issued permit to harvest wild ginseng for the current harvest season when harvesting, cutting, uprooting, gathering, destroying, possessing or transporting wild ginseng.

**78.11(2)** No person shall harvest a plant unless the plant possesses three or more true leaves or prongs and a flowering or fruiting stalk with red berries. If, after a person removes a plant from the soil with the requisite leaves or prongs, it is determined the root has less than five stem scars, the person shall return the plant to the soil at the same location and make best efforts to return the plant and the surrounding area to their condition prior to harvest of the plant. In no event shall a person harvest or possess a wild ginseng root unless the root has at least five stem scars.

**78.11(3)** When a person harvests wild ginseng, the entire plant, except the fruit and seeds, shall be retained with the plant until the plant is taken to the harvester's residence or place of business, as identified in the harvester's permit.
[**ARC 7680B**, IAB 4/8/09, effective 4/1/09]

**571—78.12(456A) Additional restrictions and prohibitions for wild ginseng.**

**78.12(1)** *Seeds.*

*a.* All persons harvesting wild ginseng shall plant all seeds collected from such plants within 100 feet of the parent plant. Seeds collected for planting pursuant to this subrule should be collected from the fruit by gently pressing the fruit of the ginseng.

*b.* A person shall use no tool other than the person's finger to plant seeds from wild ginseng and shall push each seed to a depth of no more than one inch into the soil.

*c.* A person shall not possess or transport seeds of wild ginseng more than 100 feet from the site of the parent plant.

**78.12(2)** *Dealing.*

*a.* A person shall not purchase or sell wild ginseng if the person knows or should have known that the ginseng was harvested illegally.

*b.* A dealer shall not purchase wild ginseng without inspecting the permit of the harvester or dealer. A dealer shall not purchase wild ginseng if the dealer knows or should have known that the harvester or dealer has violated this chapter.

*c.* A person shall not buy, deal, purchase or otherwise transact business involving seeds from wild ginseng.
[**ARC 7680B**, IAB 4/8/09, effective 4/1/09]

**571—78.13(456A) Compliance with laws.** A person shall not violate any state, federal or local laws in harvesting, dealing or shipping ginseng.
[**ARC 7680B**, IAB 4/8/09, effective 4/1/09]

**571—78.14(456A) Violations of this chapter.**

**78.14(1)** A person violating this chapter shall be subject to a schedule fine pursuant to Iowa Code section 805.8B, subsection 4, and permit suspension, modification and revocation pursuant to 571—78.17(456A).

**78.14(2)** Separate offense. Each ginseng plant or part thereof, including wild ginseng, unlawfully harvested, dealt, or shipped shall be a separate offense. More than one person per plant may be guilty of violating this chapter.

**78.14(3)** Materials determined by the department's law enforcement personnel to be contraband or to have been taken in violation of this chapter may be seized and disposed of in conformance with Iowa Code chapter 809.
[**ARC 7680B**, IAB 4/8/09, effective 4/1/09]

**571—78.15(456A) Possession.** When a person is in possession of wild ginseng, including the shipping or transporting of wild ginseng, and a container includes one or more parts of wild ginseng that are unlawful, the entire contents of the container shall be deemed unlawful.
[**ARC 7680B**, IAB 4/8/09, effective 4/1/09]

**571—78.16(456A) Valuation.** The value of seized ginseng that was harvested in violation of these rules shall be based on the current market value, as determined by the department.
[**ARC 7680B**, IAB 4/8/09, effective 4/1/09]

**571—78.17(456A) Revocation of permits.** Any permit issued pursuant to this chapter may be revoked, in whole or in part, by written notice, if the director determines that the permit holder has violated any provision of this chapter and determines that continuation of the permit 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 permit holder may file a notice of appeal, requesting a contested case pursuant to 561—Chapter 7. The notice of appeal shall specify the basis for requesting that the permit be reinstated.
[**ARC 7680B**, IAB 4/8/09, effective 4/1/09]

**571—78.18(456A) Reciprocity.** Nonresident harvesters, growers and dealers from states that regulate American Ginseng by allowing the harvesting, cultivating and dealing in American Ginseng but that prohibit Iowa harvesters, growers and dealers to lawfully operate in those states are not eligible for permits issued by the department.
[**ARC 7680B**, IAB 4/8/09, effective 4/1/09]

These rules are intended to implement Iowa Code section 456A.24(11).

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[Filed 5/7/93, Notice 12/23/92—published 5/26/93, effective 7/16/93]
[Filed emergency 5/15/95—published 6/7/95, effective 5/15/95]
[Filed 5/29/98, Notice 4/8/98—published 6/17/98, effective 7/22/98]
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[Filed Emergency After Notice ARC 7680B (Notice ARC 7498B, IAB 1/14/09), IAB 4/8/09, effective 4/1/09]

# CHAPTER 79
# FISH STOCKING PROCEDURES AND FEES FOR PRIVATE WATERS

**571—79.1(481A) Purpose.** This chapter establishes procedures and fees for the stocking of private waters.

**571—79.2(481A) Application procedures.**

**79.2(1)** Eligibility. Upon approval of application and payment of fees, any owner of a pond may receive fish stocks for private waters, provided all of the following conditions are met:

*a.* The pond is newly impounded, has been drained and refilled, or is free of fish.

*b.* Livestock are, and will continue to be, excluded from the impoundment area with a minimum of a 60-foot buffer between pond edge and fence.

*c.* The pond is at least one-half acre and no more than ten acres in size.

*d.* The pond has a depth of at least eight feet at its deepest point.

**79.2(2)** The following procedures shall be used to administer the stocking of private waters:

*a.* Application shall be made on a standard form provided by the department which shall include the name, address, and telephone number of the pond owner and the location of and physical information about the pond to be stocked.

*b.* The pond owner shall submit the appropriate fee with the application to the department.

*c.* A department employee will review the pond information to determine eligibility.

*d.* An application shall not be accepted after August 15 of each year for fish stocking that same year.

*e.* If the application is rejected, the fee shall be refunded to the pond owner.

**79.2(3)** Limitations.

*a.* Pursuant to Iowa Code section 481A.141, a pond stocked by the department pursuant to Iowa Code section 481A.78 shall not be used for aquaculture purposes.

*b.* The landowner retains full rights to control access to the land, but fishing shall be subject to all applicable fishing regulations.

*c.* Once an application has been accepted, the fee is nonrefundable.

**79.2(4)** Customer obligation. Fish stocks will be delivered to one site in a county, with advance notice of time and place provided to each approved applicant by the department. It is the responsibility of each pond owner to pick up the fish and place them in the designated waters.

**571—79.3(481A) Fish stocks.** Fish species provided and maximum stocking rates by the department are as follows: largemouth bass – 70/acre, bluegill – 1000/acre and channel catfish – 100/acre. The stocking cycle begins in October with the delivery of bluegill and channel catfish. The cycle is then completed during June of the following year with the delivery of largemouth bass.

**571—79.4(481A) Fees.** The stocking fee will be $25 per acre or fraction of an acre as follows:

| | |
|---|---|
| 0.5-1.0 acre = | $25 |
| 1.1-2.0 acres = | $50 |
| 2.1-3.0 acres = | $75 |
| 3.1-4.0 acres = | $100 |
| 4.1-5.0 acres = | $125 |
| 5.1-6.0 acres = | $150 |
| 6.1-7.0 acres = | $175 |
| 7.1-8.0 acres = | $200 |
| 8.1-9.0 acres = | $225 |

| | |
|---|---|
| 9.1-10.0 acres = | $250 |

These rules are intended to implement Iowa Code sections 456A.24 and 481A.78.

[Filed 11/17/04, Notice 9/29/04—published 12/8/04, effective 1/12/05]

# CHAPTER 80
# SALVAGE OF FISH AND GAME

**571—80.1(481A) Salvage.** Salvage is authorizing the possession of accidentally killed game for the purpose of human consumption or the feeding of domestic animals. Any benefits derived from the possession of legally salvaged game (such as sale of hides, plumage, or antlers) is a secondary benefit only.

**80.1(1)** Peace officers are not to salvage game solely for the purpose of financial gain or commercial taxidermy.

**80.1(2)** The following game when accidentally killed by a motor vehicle shall not be considered salvageable: spotted fawn deer and hen pheasants.

**80.1(3)** All salvage tags referred to in this chapter are not transferable.

**571—80.2(481A) Game killed by motor vehicle.** The following conditions shall apply to a person being allowed to take possession of a game animal that has been accidentally killed by a motor vehicle.

**80.2(1)** Any person wanting to possess game accidentally killed by a motor vehicle shall immediately notify the nearest conservation officer, Iowa state trooper, or sheriff's department and request a salvage tag prior to taking possession of said game.

**80.2(2)** When a request is made for game accidentally killed by a motor vehicle, the game shall, when salvageable, be disposed of in accordance with the following priorities:

*a.* Individuals involved in the accident;

*b.* Public institutions;

*c.* Nonprofit organizations;

*d.* Others.

**80.2(3)** All game accidentally killed by a motor vehicle shall be tagged with forms provided by the department of natural resources.

**80.2(4)** All game accidentally killed by a motor vehicle shall be subject to the following possession regulations:

*a.* A salvage tag is not valid unless signed by the holder and a designee of the director of the department of natural resources.

*b.* A salvage tag shall not be valid for more than 90 days.

*c.* A salvage tag shall remain with the game until consumed.

*d.* It is unlawful to sell or trade any part of the carcass except as provided by law.

*e.* It is unlawful to process or cut up for preservation any game prior to obtaining a salvage tag or verbal authorization from a conservation officer with the department of natural resources.

**80.2(5)** The conservation officer is the issuing authority for the salvage tags and is responsible for the county program records.

**571—80.3(481A) Confiscated fish or game.** The following conditions shall apply to a person being allowed to take possession of fish or game confiscated by the department of natural resources or a court.

**80.3(1)** Confiscated fish or game, when salvageable, shall be disposed of in accordance with the following priorities:

*a.* Public institutions;

*b.* Nonprofit organizations;

*c.* Others.

**80.3(2)** Confiscated fish or game shall be tagged with forms provided by the department of natural resources.

**80.3(3)** All confiscated fish or game shall be subject to the following possession regulations:

*a.* A salvage tag is not valid unless signed by the holder and a designee of the director of the department of natural resources.

*b.* A salvage tag shall not be valid for more than 90 days.

*c.* A salvage tag shall remain with the fish or game until consumed.

*d.* It is unlawful to sell or trade any part of the carcass except as provided by law.

These rules are intended to implement Iowa Code section 481A.11.

[Filed 3/17/89, Notice 11/30/88—published 4/5/89, effective 5/10/89]
[Filed 8/1/91, Notice 6/26/91—published 8/21/91, effective 9/25/91]

# CHAPTER 81
# FISHING REGULATIONS

[Prior to 12/31/86, Conservation Commission[290] Ch 108]

## 571—81.1(481A) Seasons, territories, daily bag limits, possession limits, and length limits.

| INLAND WATERS OF THE STATE | | | | | BOUNDARY RIVERS |
|---|---|---|---|---|---|
| KIND OF FISH | OPEN SEASON | DAILY BAG LIMIT | POSSESSION LIMIT | MINIMUM LENGTH LIMITS | MISSISSIPPI RIVER MISSOURI RIVER BIG SIOUX RIVER |
| Rock Sturgeon | Closed | 0 | 0 | 0 | Same as inland waters |
| Shovelnose Sturgeon | Continuous | None | None | None | Same as inland waters except no harvest allowed in the Big Sioux River and aggregate daily bag limit 10, aggregate possession limit 20, in the Missouri River |
| Paddlefish* | Continuous | 2 | 4 | None | Same as inland waters except for an open season and length limit in the Mississippi River See below* |
| Yellow Perch | Continuous | 25 | 50 | None | Same as inland waters except no bag or possession limit in the Missouri River |
| Trout | Continuous | 5 | 10 | None* | Same as inland waters |
| Catfish* | Continuous | 8 Lakes<br>15 Streams | 30 | None | Same as inland waters except no bag or possession limit in the Mississippi River |
| Black Bass<br>(Largemouth Bass)<br>(Smallmouth Bass)<br>(Spotted Bass) | Continuous | 3<br>In Aggregate | 6 | See below* | Continuous open season; aggregate daily bag limit 5, aggregate possession limit 10 See below* |
| Combined Walleye, Sauger and Saugeye | Continuous* | 5* | 10* | None* | Continuous open season; aggregate daily bag limit 6, aggregate possession limit 12; except aggregate daily bag limit 4, aggregate possession limit 8, in the Big Sioux and Missouri Rivers See below* |
| Northern Pike | Continuous* | 3 | 6 | None | Continuous open season; daily bag limit 5, possession limit 10; except daily bag limit 6, possession limit 12, in the Big Sioux River |

| INLAND WATERS OF THE STATE | | | | | BOUNDARY RIVERS |
|---|---|---|---|---|---|
| KIND OF FISH | OPEN SEASON | DAILY BAG LIMIT | POSSESSION LIMIT | MINIMUM LENGTH LIMITS | MISSISSIPPI RIVER MISSOURI RIVER BIG SIOUX RIVER |
| Muskellunge or Hybrid Muskellunge | Continuous* | 1 | 1 | 40″ | Same as inland waters |
| Crappie | Continuous | 25* | None | None | Same as inland waters except 50 in possession |
| Bluegill | Continuous | 25* | None | None | Same as inland waters except in aggregate with pumpkinseed on the Mississippi River |
| All other fish species* | Continuous | None | None | None | See below* |
| Frogs (except Bullfrogs) | Continuous | 48 | 96 | None | Same as inland waters |
| Bullfrogs (Rana Catesbeiana) | Continuous | 12 | 12 | None | Same as inland waters |

*Also see 571—81.2(481A), Exceptions.
[**ARC 8195B**, IAB 10/7/09, effective 11/11/09]

**571—81.2(481A) Exceptions to seasons and limits, set in 81.1(481A).**

**81.2(1)** Exception closed season. In Lakes West Okoboji and East Okoboji and Spirit Lake, there shall be a closed season on walleye beginning February 15 each year. The annual opening for walleye in these three lakes shall be the first Saturday in May. In these three lakes there shall be a closed season on muskellunge and tiger muskie beginning December 1 each year. The annual opening for muskellunge and tiger muskie in these three lakes shall be May 21 the following year.

**81.2(2)** Black bass. A 15-inch minimum length limit shall apply on black bass in all public lakes except as otherwise posted. On federal flood control reservoirs, a 15-inch minimum length limit shall apply on black bass at Coralville, Rathbun, Saylorville, and Red Rock. All black bass caught from Lake Wapello, Davis County, and Brown's Lake, Jackson County, must be immediately released alive. A 12-inch minimum length limit shall apply on black bass in all interior streams, river impoundments, and the Missouri River including chutes and backwaters of the Missouri River where intermittent or constant flow from the river occurs. A 14-inch minimum length limit shall apply to the Mississippi River including chutes and backwaters where intermittent or constant flow from the river occurs. All black bass caught from the following stream segments must be immediately released alive:

1. Middle Raccoon River, Guthrie County, extending downstream from below Lennon Mills Dam at Panora as posted to the dam at Redfield.
2. Maquoketa River, Delaware County, extending downstream from below Lake Delhi Dam as posted to the first county gravel road bridge.
3. Cedar River, Mitchell County, extending downstream from below the Otranto Dam as posted to the bridge on County Road T26 south of St. Ansgar.
4. Upper Iowa River, Winneshiek County, extending downstream from the Fifth Street bridge in Decorah as posted to the Upper Dam.

**81.2(3)** Walleye.

*a. Lakes West Okoboji, East Okoboji, Spirit, Upper Gar, Minnewashta, and Lower Gar in Dickinson County, and Storm Lake in Buena Vista County.* A 17-inch to 22-inch protected-slot length limit shall apply. Walleye less than 17 inches in length and walleye greater than 22 inches in length may be harvested. The daily bag limit shall be three, with a possession limit of six. No more than one walleye greater than 22 inches in length may be taken per day.

*b.* *Clear Lake, Cerro Gordo County.* A 14-inch minimum length limit shall apply. The daily bag limit shall be three, with a possession limit of six. No more than one walleye greater than 22 inches in length may be taken per day.

*c.* *Black Hawk Lake, Sac County.* A 15-inch minimum length limit shall apply. The daily bag limit shall be three, with a possession limit of six.

*d.* *Big Creek Lake, Polk County.* A 15-inch minimum length limit shall apply. The daily bag limit shall be three, with a possession limit of six. No more than one walleye greater than 20 inches in length may be taken per day.

*e.* *Mississippi River.* A 15-inch minimum length limit shall apply. All walleye from 20 inches to 27 inches in length that are caught from Mississippi River Pools 12 through 20 must be immediately released alive. No more than one walleye greater than 27 inches in length may be taken per day from Pools 12 through 20.

**81.2(4)** Paddlefish snagging is permitted in all waters of the state, except as follows:

*a.* There shall be no open season in the Missouri River and Big Sioux River, nor in any tributary of these streams within 200 yards immediately upstream of its confluence with the Missouri and Big Sioux Rivers.

*b.* Snagging for paddlefish on the Mississippi River is restricted to the area within 500 yards below the navigation dams and their spillways. No hooks larger than 5/0 treble or measuring more than 1¼ inches in length when two of the hook points are placed on a ruler are permitted when snagging. The open season on the Mississippi River is the period from March 1 through April 15.

*c.* Snagging for paddlefish is not permitted at any time in those areas where snagging is prohibited as a method of take as listed in subrule 81.2(11).

*d.* On the Mississippi River, a 33-inch maximum length limit shall apply; any paddlefish measuring 33 inches or more when measured from the front of the eye to the fork of the tail must immediately be released alive.

**81.2(5)** Special trout regulations. A 14-inch minimum length limit shall apply on brown trout, rainbow trout, and brook trout in Spring Branch Creek, Delaware County, from the spring source to County Highway D5X as posted, and on brown trout only in portions of Bloody Run Creek, Clayton County, where posted. All trout caught from the posted portion of Waterloo Creek, Allamakee County, Hewitt and Ensign Creeks (Ensign Hollow), Clayton County, McLoud Run, Linn County, and South Pine Creek, Winneshiek County, and all brown trout caught from French Creek, Allamakee County, must be immediately released alive. Fishing in the posted area of Spring Branch Creek, Bloody Run Creek, Waterloo Creek, Hewitt and Ensign Creeks (Ensign Hollow), South Pine Creek, McLoud Run, and French Creek shall be by artificial lure only. Artificial lure means lures that do not contain or have applied to them any natural or synthetic substances designed to attract fish by the sense of taste or smell.

**81.2(6)** Exception border lakes. In Little Spirit Lake, Dickinson County; Iowa and Tuttle (Okamanpedan) Lakes, Emmet County; Burt (Swag) Lake, Kossuth County; and Iowa Lake, Osceola County, the following shall apply:

*a.* Walleye daily bag and possession limit six;

*b.* Northern pike daily bag and possession limit three;

*c.* Largemouth and smallmouth bass daily bag and possession limit six;

*d.* Channel catfish daily bag and possession limit eight. Open season on the above fish shall be the Saturday nearest May 1 to February 15 each year.

*e.* Yellow perch, white bass, and sunfish daily bag and possession limit 30, and crappie daily bag and possession limit 15. There is a continuous open season on these species.

*f.* Spears and bow and arrow may be used to take carp, buffalo, dogfish, gar, sheepshead, and carpsucker from sunrise to sunset during the period from the first Saturday in May to February 15 each year in the above lakes.

**81.2(7)** DeSoto Bend Lake. All fishers shall conform with federal refuge regulations as posted under the authority of Section 33.19 of Title 50 CFR. The text of the rules will be contained on the signs as posted.

**81.2(8)** General restriction. Anglers must comply with the most restrictive set of regulations applicable to the water on which they are fishing. Where length limits apply, fish less than the legal length must be immediately released into the water from which they were caught.

**81.2(9)** Catfish. For the purpose of this rule, stream catfish bag and possession limits apply at the federal flood control impoundments of Rathbun Lake, Red Rock Lake, Saylorville Lake, and Coralville Lake.

**81.2(10)** Identification of catch. No person shall transport or possess on any waters of the state any fish unless (a) the species of any such fish can be readily identified and a portion of the skin (at least 1 square inch) including scales is left on all fish or fillets and (b) the length of fish can be determined when length limits apply. "On any waters of the state" includes from the bank or shoreline in addition to wading and by boat.

**81.2(11)** Method of take. Artificial light may be used in the taking of any fish. The following species of fish may be taken by hand fishing, snagging, spearing, and bow and arrow: common carp, bighead carp, grass carp, silver carp, black carp, bigmouth buffalo, smallmouth buffalo, black buffalo, quillback carpsucker, highfin carpsucker, river carpsucker, spotted sucker, white sucker, shorthead redhorse, golden redhorse, silver redhorse, sheepshead, shortnose gar, longnose gar, dogfish, gizzard shad, and goldfish. All other species of fish not hooked in the mouth, except paddlefish legally taken by snagging, must be returned to the water immediately with as little injury as possible. A fish is foul hooked when caught by a hook in an area other than in the fish's mouth. Snagging is defined as the practice of jerking any type of hook or lure, baited or unbaited, through the water with the intention of foul hooking fish. No hook larger than a 5/0 treble hook or measuring more than 1¼ inches in length when two of the hook points are placed on a ruler are permitted when snagging. Exceptions to snagging as a method of take are as follows:

No snagging is permitted in the following areas:

1. Des Moines River from directly below Saylorville Dam to the Southeast 14th Street bridge in Des Moines.
2. Cedar River in Cedar Rapids from directly below the 5 in 1 Dam under I-380 to the 1st Avenue bridge.
3. Cedar River in Cedar Rapids from directly below the "C" Street Roller Dam to 300 yards downstream.
4. Iowa River from directly below the Coralville Dam to 300 yards downstream.
5. Chariton River from directly below Lake Rathbun Dam to 300 yards downstream.
6. Spillway area from directly below the Spirit Lake outlet to the confluence at East Okoboji Lake.
7. Northeast bank of the Des Moines River from directly below the Ottumwa Dam, including the catwalk, to the Jefferson Street Bridge. Snagging from the South Market Street Bridge is also prohibited.
8. Missouri River and the Big Sioux River from the I-29 bridge to the confluence with the Missouri River.
9. Des Moines River from directly below the Hydroelectric Dam (Big Dam) to the Hawkeye Avenue Bridge in Fort Dodge.
10. Des Moines River from directly below the Little Dam to the Union Pacific Railroad Bridge in Fort Dodge.
11. Clear Lake and Ventura Marsh from the Ventura Grade, Jetty and Bridge.
12. Skunk River from directly below Oakland Mills dam to the downstream end of the 253rd Street boat ramp.

**81.2(12)** Panfish. The daily bag limit for crappie and bluegill applies only to public waters of the state. In all waters of the Mississippi River, the daily bag and possession limit applied individually to crappie, yellow perch and rock bass shall be 25 and 50, respectively. In all waters of the Mississippi River, the daily bag and possession limit applied in the aggregate for bluegill and pumpkinseed and for white bass and yellow bass shall be 25 and 50, respectively.

**81.2(13)** Culling. It is prohibited to sort, cull, high-grade, or replace any fish already in possession. Participants in permitted black bass tournaments are exempted. Any fish taken into possession by holding in a live well, on a stringer or in other fish-holding devices is part of the daily bag limit. Once the daily

bag limit of a particular species is reached, fishing for that species is permitted as long as all fish of that species caught are immediately released.

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# CHAPTER 82
# COMMERCIAL FISHING

[Prior to 12/31/86, Conservation Commission[290] Ch 110]

## INLAND WATERS

**571—82.1(482) Contract policy.** All contracts for removal of fish from inland waters shall be awarded on a competitive basis to the maximum practical extent subject to the following provisions. Commercial fishers licensed with the state may enter into contract with owners of private water bodies for the removal of injurious fish provided approval is received from the director or staff of the department prior to any sampling or removal operations. Owners of private water bodies need not comply with subrules 82.1(1) to 82.1(6).

**82.1(1)** *Invitation for bids.* Sealed bids to be opened at a specified time, place, and date must be solicited for all fish removal operations under contract. Prospective bidders shall be informed by an advertisement in at least one newspaper of statewide circulation; one newspaper published in the county seat of the county in which the work is to be done, and such other means as may be appropriate in sufficient time to enable prospective bidders to prepare and submit bids. Specifications of the contract shall be provided to all prospective bidders as provided in the invitation for bids.

**82.1(2)** *Public bid letting.* All sealed bids shall be publicly opened as specified in the invitation for bids. The bids shall be tabulated and made available in a written form to any interested party.

**82.1(3)** *Contract award.* The contract shall be awarded to the firm or individual whose bid is believed to be the most advantageous to the state. Bids may be rejected if they do not appear to be reasonable or if there is reason to believe that the firm or individual is not sufficiently qualified to accomplish the desired work.

**82.1(4)** *Contract approval.* All contracts for fish removal operations in excess of $25,000 shall be approved by the commission. Contracts less than $25,000 shall be approved by the director.

**82.1(5)** *Failure to receive a bid.* In the event that no sealed bids are received, the fisheries bureau chief, or staff at the direction of the fisheries bureau chief, may negotiate a contract with a qualified contractor.

**82.1(6)** *Contract period.* Contracts shall have a maximum duration of 12 months. A contract may be extended, with the mutual consent of both parties, on an annual basis, for a period up to and including three years from the time of the original contract. All terms and conditions existing in the original contract will apply during the extended contract period.

## MISSISSIPPI AND MISSOURI RIVERS

**571—82.2(482) Commercial taking.** Fish may be taken for commercial purposes, from the Mississippi and Missouri Rivers subject to the following regulations.

**82.2(1)** *Permissive catch.* Except for channel catfish, flathead catfish and shovelnose sturgeon which may not be taken from the Missouri River, it shall be lawful to take with licensed commercial fishing gear the following species: carp, smallmouth buffalo, largemouth buffalo, black buffalo, channel catfish, flathead catfish, black bullhead, yellow bullhead, brown bullhead, freshwater drum, northern redhorse, silver redhorse, spotted sucker, white sucker, river carpsucker, quillback, highfin carpsucker, white amur, bighead carp, silver carp, shovelnose sturgeon, longnose gar, shortnose gar, bowfin, gizzard shad, goldeye, and mooneye.

**82.2(2)** *Size limits.* Fish less than a minimum length or longer than the maximum length shall be returned to the water unharmed. The minimum total length for all catfish is 15 inches. The minimum fork length for shovelnose sturgeon, measured from the tip of the snout to the fork of the tail, is 27 inches. No shovelnose sturgeon longer than 34 inches fork length may be harvested from waters of the Mississippi River bordering Wisconsin. No shovelnose sturgeon less than 27 inches fork length may be possessed in Iowa waters.

**82.2(3)** *Permitted gear.* Hoop nets, trap nets (fyke nets), gill nets, trammel nets, slat nets (basket traps), seines, and trotlines (setlines) may be used by licensed commercial fishers.

**82.2(4)** *Mesh size restrictions.*

*a.* *Hoop nets.* An escape hole with a minimum diameter of 1½ inches all directions shall be provided within 12 inches beyond the last hoop to the tail-line.

*b.* *Trap nets.* An escape hole with a minimum diameter of 1½ inches all directions shall be provided within 12 inches beyond the last hoop to the tail-line.

*c.* *Gill nets.* The webbing shall have a mesh size not less than 3½ inches square measure.

*d.* *Trammel nets.* The webbing shall have a mesh size not less than 2 inches square measure.

*e.* *Seines.* There are no mesh size restrictions.

*f.* *Slat nets.* An escape hole with a minimum diameter of 1½ inches all directions shall be provided in the end opposite the throat.

**82.2(5)** *Gear attendance.* All commercial gear shall be lifted and emptied of catch at the following time intervals, except during periods of inclement weather. Inclement weather is defined as that threatening to life, health, or safety.

*a.* Hoop nets shall be attended at least once every 96 hours and slat nets at least once every 48 hours during open water conditions. Hoop nets shall be attended at least once every 20 days during ice cover conditions.

*b.* Trap nets and trotlines shall be attended at least once every 24 hours.

*c.* Gill nets and trammel nets shall be attended at least once every 24 hours during open water conditions, and at least once every 96 hours during ice cover conditions.

**82.2(6)** *Report of catch.* Licensed commercial fishers must comply with the reporting requirements as set forth in Iowa Code section 482.14.

**82.2(7)** *Duplicate operator's license.* An owner making a request for a duplicate operator's license will be issued one only after records show the owner has purchased a limit of five operator's licenses. The duplicate helper's license will be issued to one individual and is not transferable. The issuing fee is $1.

**82.2(8)** *Seasons.* There is a continuous open season for commercial fishing of all species listed in 82.2(1) except there is a closed season for shovelnose sturgeon from May 16 through October 14. No shovelnose sturgeon may be harvested from gear set prior to midnight on October 15.

**82.2(9)** *Special shovelnose and bowfin regulations.* Shovelnose sturgeon and bowfin must remain intact until the fish reach the final processing facility or business. For the purposes of this subrule, final processing facility does not include vessels or vehicles.

**82.2(10)** *Closed areas.* The use of entanglement gear, including gill and trammel nets, is prohibited from that area extending 600 feet downstream of the 900 foot existing closed areas (Iowa Code section 482.9, subsection 2) located below each of the locks and dams on the Mississippi River.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 482.1, 482.3, 482.5, and 482.14.

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# CHAPTER 83
# SCUBA AND SKIN SPEARING OF ROUGH FISH

[Prior to 12/31/86, Conservation Commission[290] Ch 6]

**571—83.1(481A) When permitted.** The spearing of rough fish by scuba and skin divers will be permitted in accordance with the following seasons and rules.

**571—83.2(481A) Prohibited areas.** Scuba and skin spearing for rough fish shall be lawful in all natural lakes in Iowa year-round.

**83.2(1)** Scuba and skin spearing shall be permitted in all state-owned meandered streams.

*a.* Des Moines River—From Mississippi River to west line of T-95N, R-32W, Palo Alto County, west branch, and north line of T-95N, R-29W, Kossuth County, east branch a point near Algona.

*b.* Iowa River—From Mississippi River to west line T-81N, R-11W, Iowa County near Koszta.

*c.* Cedar River—From Iowa River to west line T-89N, R-13W, Black Hawk County, at Cedar Falls.

*d.* Raccoon River—From Des Moines River to west line Polk County.

A meandered lake or stream is one which at the time of the original government survey was so surveyed as to mark, plat and compute acreage of adjacent fractional section.

*e.* Wapsipinicon River—From Mississippi River to west line T-86N, R-6W, above Central City in Linn County.

*f.* Maquoketa River—From Mississippi River to west line T-84N, R-3E, near Maquoketa in Jackson County.

*g.* Skunk River—From Mississippi River to north line T-73N, R-8W, northeast corner of Jefferson County.

*h.* Turkey River—From Mississippi River to west line T-95N, R-7W, Fayette County near Clermont.

*i.* Nishnabotna River—To north line T-67N, R-42W, Fremont County, northeast of Hamburg.

*j.* Upper Iowa River—From its mouth to west line Section 28-100-4 west, Allamakee County.

*k.* Little Maquoketa River—From Mississippi River to west line Section 35-90N-2 east, Dubuque County.

**83.2(2)** Scuba and skin spearing shall be permitted in streams or impoundments on private land where access is permitted by owner or lessee.

**83.2(3)** Scuba and skin spearing is prohibited in all state-owned artificial lakes.

**83.2(4)** Scuba and skin spearing is prohibited in all state-owned strip mines, county conservation board areas and fish and game management areas where posted as such.

**83.2(5)** Scuba and skin spearing is prohibited within 100 feet of any swimming beach area.

**83.2(6)** A valid fishing license shall be required of all individuals engaged in scuba and skin spearing unless the individual is exempt under the provisions of Iowa Code section 483A.17.

**571—83.3(481A) Permitted equipment.** Permitted equipment to be used in scuba and skin spearing shall be:

1. Hand and pole spears.
2. Rubber band powered spear guns.
3. Spring powered spear guns.
4. Pneumatic spring powered spear guns.
5. All spears used on powered spear guns shall be attached to the gun by a cord lanyard or other device, the overall length of spear gun and cord shall not exceed 20 feet.

**571—83.4(481A) Prohibited equipment.** Prohibited equipment and methods shall be:

1. No power or exploding spear heads will be permitted.
2. No guns powered by gunpowder explosive or explosives or compressed gas will be permitted.
3. A spear gun may not be cocked or fired within 100 feet of any swimming beach area.

**571—83.5(481A) Diver's flag.** The "International Diver's Flag" (a red flag with a white diagonal stripe running from the upper left-hand corner to the lower right-hand corner, minimum size, 12″ × 15″, with a 3″ stripe), shall be displayed by each diver or group of divers on a buoy, float or boat during any diving or underwater spear fishing activity. This diving flag shall be displayed on the water only when underwater diving activity is in progress, the diver or group of divers must stay within a 100-foot circle of the flag. Recognition of this flag by law will not be construed as conferring any rights or privileges on its users nor be construed as restricting the use of the water so marked. Operators of boats shall exercise precaution commensurate with conditions indicated.

**571—83.6(481A) Employees exempt.** Underwater scuba and skin spearing regulations shall not apply to authorized agents of the department of natural resources when engaged in research or management studies or enforcement.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.67.

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# CHAPTER 84
# PROMISCUOUS FISHING

[Prior to 12/31/86, Conservation Commission[290] Ch 11]

**571—84.1(481A) General.** The natural resource commission may, after an investigation, when it is found there is imminent danger of loss of fish through natural causes, authorize by public order the taking of fish from any area and by such means as they may deem advisable to salvage such imperiled fish populations.

**84.1(1)** *Method of take.* Fish may be taken by any means except by use of dynamite, poison, electric shocking devices or any stupefying substances.

**84.1(2)** *Commercial purposes.* This rule shall not authorize the taking of fish for commercial purposes.

This rule is intended to implement Iowa Code chapter 481A.

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# CHAPTER 85
# TROTLINES

[Prior to 12/31/86, Conservation Commission[290] Ch 20]

**571—85.1(481A) Trotlines.**

**85.1(1)** *Where permitted.* It shall be lawful to use trotlines or throw lines in all rivers and streams of the state, except in Mitchell, Howard, Winneshiek, Allamakee, Fayette, Clayton, Delaware, Dubuque, and Jackson Counties. Trotlines or throw lines may be used in the above nine counties in the following stream segments: Maquoketa River, mouth to Backbone State Park dam; North Fork Maquoketa River, mouth to Jones-Dubuque County line; Turkey River, mouth to the Elkader dam; and Upper Iowa River, mouth to the first dam upstream in Winneshiek County.

**85.1(2)** *Removal of lines.* All trotlines and parts thereof shall be removed from the shore when they are not being actively fished. A trotline shall be considered actively fished if at least once daily the trotline is left with at least one baited hook in the water.

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# CHAPTER 86
# TURTLES

[Prior to 12/31/86, Conservation Commission[290] Ch 115]

**571—86.1(481A,482) Taking.** Turtles may be taken from the waters of the state subject to the following regulations.

**86.1(1)** *Permissive catch.* It shall be lawful to take common snapping turtles, softshells, and painted turtles. Possession of alligator snapping turtles is not permitted. The taking of turtle eggs from wild nests is prohibited.

**86.1(2)** *Methods.* The method of taking turtles shall only be by hand, turtle hook, turtle trap, licensed commercial fishing gear in the Mississippi and Missouri Rivers only, and hook-and-line. Turtle traps shall be constructed with no more than one throat or funneling device. The last hoop to the tail-line of turtle traps shall have a functional escape hole provided with a minimum diameter in all directions of 7½ inches to allow passage of fish and small turtles. Barrel- and floating-type turtle traps must have a functional escape hole below the water surface with a minimum diameter in all directions of 7½ inches.

**86.1(3)** *Tags.* Any unattended gear used to take turtles shall have affixed a metal tag provided by the owner bearing the owner's name and address. In addition commercial turtle fishers shall purchase gear tags from the department of natural resources as required in Iowa Code sections 482.4 and 482.11 and affix to each turtle trap.

**86.1(4)** *Gear attendance.* All turtle traps shall be lifted and emptied of catch at least once every 72 hours.

**86.1(5)** *Exclusions.* Chapter 482 does not apply to turtles taken and imported from outside the state. For purposes of this rule "state" does not include the boundary waters.

This rule is intended to implement Iowa Code sections 481A.38, 481A.39, 482.1, 482.4, and 482.11.

[Filed emergency 7/10/86—published 7/30/86, effective 7/10/86]
[Filed 10/17/86, Notice 8/27/86—published 11/5/86, effective 1/1/87]
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[Filed 2/9/95, Notice 11/23/94—published 3/1/95, effective 4/5/95]
[Filed 11/16/05, Notice 8/31/05—published 12/7/05, effective 1/11/06]

# CHAPTER 87
# MUSSEL REGULATIONS

[Prior to 12/31/86, Conservation Commission[290] Ch 12]

**571—87.1(481A) Seasons, areas, methods, species, limits.** The taking and possession of mussels from the public waters of the state shall be limited to the following regulations.

**87.1(1)** *Seasons.* There shall be an open season for taking mussels throughout the year. The taking of mussels is restricted to the hours between sunrise and sunset.

**87.1(2)** *Species.* Species other than those listed as threatened or endangered may be lawfully taken and possessed. Zebra mussels shall not be taken and possessed.

**87.1(3)** *Areas.* Live mussels may be harvested only from the Mississippi River and connected backwaters. Dead mussels may be harvested from all waters of the state.

**87.1(4)** *Limits.* The possession limit is 24 whole mussels or 48 shell halves. The sale of mussels or shells is not permitted. Licensed commercial fishers, licensed sport anglers, and children younger than 16 years of age may take and possess mussels.

**87.1(5)** *Methods.* Mussels may be taken by hand, pole and line, diving, and crowfoot bar not to exceed 20 feet in length.

This rule is intended to implement Iowa Code sections 481A.38, 481A.39, 482.1, 482.3 and 482.12.

[Filed 6/9/70]
[Filed 12/2/83, Notice 10/26/83—published 12/21/83, effective 2/1/84]
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[Filed 3/19/98, Notice 12/31/97—published 4/8/98, effective 5/13/98[1]]
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[Filed 2/8/07, Notice 12/6/06—published 2/28/07, effective 4/4/07]

[1] At its meeting held May 12, 1998, the Administrative Rules Review Committee delayed the effective date of May 13, 1998, until the adjournment of the 1999 Session of the General Assembly.

# CHAPTER 88
# FISHING TOURNAMENTS

**571—88.1(462A,481A) Definition.**

*"Fishing tournament"* means any organized fishing event, except for fishing events held for educational purposes and sponsored by the department of natural resources, involving any of the following:

1. Six or more boats or 12 or more participants, except for waters of the Mississippi River, where the number of boats shall be 20 or more and the number of participants shall be 40 or more.
2. An entry fee is charged.
3. Prizes or other inducements are awarded.

[**ARC 9053B**, IAB 9/8/10, effective 10/13/10]

**571—88.2(462A,481A) Permit required.** A permit issued by the department of natural resources is required to conduct a fishing tournament on public waters under the jurisdiction of the state. The administrative fee for each fishing tournament permit is $25. Fishing clinics and youth fishing days are excluded.

**571—88.3(462A,481A) Application procedures.** The following procedures shall be used to administer fishing tournaments:

1. Application shall be made on an electronic form provided by the department and shall include the name, address and telephone number of the sponsoring organization or individual, the location and date of the tournament, total value of the prizes, and expected number of participants.
2. The application shall be received electronically by the department area fisheries management biologist via the centralized special events application system.
3. Applications shall be accepted beginning January 1 of a given year for requested tournament dates extending to March 1 of the following year and shall not be accepted later than 30 days prior to the requested date for the tournament.
4. The number of tournaments at any one access area during a given day may be restricted if deemed necessary to avoid congestion with the public or competing tournaments. The capacity of facilities such as boat ramps, docks and parking lots shall be considered when assigning tournament sites.
5. Permits are not transferable.

[**ARC 8194B**, IAB 10/7/09, effective 11/11/09]

**571—88.4(462A,481A) Permit conditions.** The department may impose special conditions not specifically covered herein for any fishing tournament if deemed necessary to protect the resource or to ensure public safety. Special conditions may include, but not be limited to:

1. Release of live fish.
2. Fish measured to length and released from boat.
3. Multiple weigh-ins when water temperatures exceed 70°F.
4. Aerated live wells.
5. Designated release areas.
6. Designated release persons.

**571—88.5(462A,481A) Reports.** Rescinded IAB 3/5/03, effective 4/9/03.

These rules are intended to implement Iowa Code sections 462A.16 and 481A.38.

[Filed 10/14/88, Notice 8/24/88—published 11/2/88, effective 1/1/89]
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[Filed ARC 8194B (Notice ARC 8020B, IAB 7/29/09), IAB 10/7/09, effective 11/11/09]
[Filed ARC 9053B (Notice ARC 8882B, IAB 6/30/10), IAB 9/8/10, effective 10/13/10]

# CHAPTER 89
# AQUACULTURE

**571—89.1(481A) Approved aquaculture species.** The following approved aquaculture species may be propagated and sold:

## FISH

| | |
|---|---|
| American Eel | Anguilla rostrata |
| Banded Darter | Etheostoma zonale |
| Banded Killifish | Fundulus diaphanus |
| Bigmouth Buffalo | Ictiobus cyprinellus |
| Bigmouth Shiner | Notropis dorsalis |
| Black Buffalo | Ictiobus niger |
| Black Bullhead | Ictalurus melas |
| Black Crappie | Pomoxis nigromaculatus |
| Blackchin Shiner | Notropis heterodon |
| Blacknose Dace | Rhinicthys atratulus |
| Blackside Darter | Percina maculata |
| Blackstripe Topminnow | Fundulus notatus |
| Blue Catfish | Ictalurus furcatus |
| Blue Sucker | Cycleptus elongus |
| Bluegill & Hybrids | Lepomis macrochirus |
| Bluntnose Minnow | Pimephales notatus |
| Bowfin | Amia calva |
| Brassy Minnow | Hybognathus hankinsoni |
| Brook Silverside | Labidesthes sicculus |
| Brook Stickleback | Culaea inconstans |
| Brook Trout | Salvelinus fontinalis |
| Brown Bullhead | Ictalurus nebulosus |
| Brown Trout | Salmo trutta |
| Bullhead Minnow | Pimephales vigilax |
| Central Mudminnow | Umbra limi |
| Central Stoneroller | Campostoma anomalum |
| Channel Catfish | Ictalurus punctatus |
| Common Carp | Cyprinus carpio |
| Common Shiner | Notropis cornutus |
| Creek Chub | Semotilus atromaculatus |
| Crystal Darter | Ammocrypta asprella |
| Emerald Shiner | Notropis atherinoides |
| Fantail Darter | Etheostoma flabellare |
| Fathead Minnow & Hybrids | Pimephales promelas |
| Flathead Catfish | Pylodictus olivaris |
| Flathead Chub | Hybopsis gracilis |
| Freshwater Drum | Aplodinotus grunniens |
| Ghost Shiner | Notropis buchanani |
| Gilt Darter | Percina evides |

| | |
|---|---|
| Gizzard Shad | Dorosoma cepedianum |
| Golden Redhorse | Moxostoma erythurum |
| Golden Shiner | Notemigonus crysoleucas |
| Goldeye | Hiodon alosoides |
| Goldfish | Carassius auratus |
| Gravel Chub | Hybopsis x-punctata |
| Greater Redhorse | Moxostoma valenciennesi |
| Green Sunfish | Lepomis cyanellus |
| Highfin Carpsucker | Carpiodes velifer |
| Horneyhead Chub | Nocomis biguttatus |
| Iowa Darter | Etheostoma exile |
| Ironcolor Shiner | Notropis chalybaeus |
| Johnny Darter | Etheostoma nigrum |
| Lake Chub | Couesius plumbeus |
| Largemouth Bass | Micropterus salmoides |
| Largescale Stoneroller | Campostoma oligolepis |
| Longear Sunfish | Lepomis megalotis |
| Longnose Dace | Rhinichthys cataractae |
| Longnose Gar | Lepisosteus osseus |
| Mimic Shiner | Notropis volucellus |
| Mississippi Silvery Minnow | Hybognathus nuchalis |
| Mooneye | Hiodon tergisus |
| Mosquito Fish | Gambusia affinis |
| Mottled Sculpin | Cottus bairdi |
| Mud Darter | Etheostoma asprigene |
| Muskellunge & Hybrids | Esox masquinongy |
| Northern Hog Sucker | Hypentelium nigricans |
| Northern Logperch | Percina caprodes |
| Northern Pike | Esox lucius |
| Northern Rock Bass | Ambloplites rupestris |
| Orangespotted Sunfish | Lepomis humilus |
| Ozark Minnow | Notropis nubilus |
| Pallid Shiner | Notropis amnis |
| Pirate Perch | Aphredoderus sayanus |
| Plains Minnow | Hybognathus placitus |
| Plains Topminnow | Fundulus sciadicus |
| Pugnose Minnow | Notropis emiliae |
| Pumpkinseed | Lepomis gibbosus |
| Quillback Carpsucker | Carpiodes cyprinus |
| Rainbow Darter | Etheostoma caeruleum |
| Rainbow Smelt | Osmerus mordax |
| Rainbow Trout | Oncorhynchus mykiss |
| Red Shiner | Notropis lutrensis |
| Redear Sunfish & Hybrids | Lepomis microlophus |
| Redfin Shiner | Notropis umbratilis |

| | |
|---|---|
| Redside Dace | Clinostomus elongatus |
| River Carpsucker | Carpiodes carpio |
| River Darter | Percina shumardi |
| River Redhorse | Moxostoma carinatum |
| River Shiner | Notropis blennius |
| Rosyface Shiner | Notropis rubellus |
| Sand Shiner | Notropis stramineus |
| Sauger & Hybrids | Stizostedion canadense |
| Shorthead Redhorse | Moxostoma macrolepidotum |
| Shortnose Gar | Lepisoteus platostomus |
| Shovelnose Sturgeon | Scaphirhynchus platorynchus |
| Sicklefin Chub | Hybopsis meeki |
| Silver Chub | Hybopsis storeriana |
| Silver Lamprey | Ichthyomyzon unicuspis |
| Silver Redhorse | Moxostoma anisurum |
| Silverband Shiner | Notropis shumardi |
| Skipjack Herring | Alosa chrysochloris |
| Slender Madtom | Noturus exilis |
| Slenderhead Darter | Percina phoxocephala |
| Slimy Sculpin | Cottus cognatus |
| Smallmouth Bass | Micropterus dolomieui |
| Smallmouth Buffalo | lctiobus bubalus |
| Southern Redbelly Dace | Phoxinus erythrogaster |
| Speckled Chub | Hybopsis aestivalis |
| Spotfin Shiner | Notropis spilopterus |
| Spottail Shiner | Notropis hudsonius |
| Spotted Bass | Micropterus punctucatus |
| Spotted Sucker | Minytrema melanops |
| Starhead Topminnow | Fundulus notti |
| Stone Cat | Noturus flavus |
| Striped Bass & Hybrids | Morone saxatilis |
| Sturgeon Chub | Hybopsis gelida |
| Suckermouth Minnow | Phenacobius mirabilis |
| Tadpole Madtom | Noturus gyrinus |
| Topeka Shiner | Notropis topeka |
| Trout Perch | Percopsis omiscomaycus |
| Walleye & Hybrids | Stizostedion vitreum |
| Warmouth | Lepomis gulosus |
| Western Silvery Minnow | Hybognathus argyritis |
| White Amur | Ctenopharyngodon idella |

| | |
|---|---|
| White Bass & Hybrids | Morone chrysops |
| White Crappie | Pomoxis annularis |
| White Sucker | Catostomus commersoni |
| Yellow Bass | Morone mississippiensis |
| Yellow Bullhead | Ictalurus natalis |
| Yellow Perch | Perca flavescens |

AMPHIBIANS

| | |
|---|---|
| Bullfrog | Rana catesbeiana |
| Leopard Frog | Rana pipiens |

REPTILES

| | |
|---|---|
| Common Snapping Turtle | Chelydra serpentina |
| Painted Turtle | Chrysemys picta |
| Smooth Softshell | Trionyx muticus |

**571—89.2(481A) Importation permit.** An importation permit is required to receive, propagate or sell in the state any aquaculture species not listed in subrule 89.1(1). In addition, aquaculture units shall not import live fish, viable eggs, or semen of any species of the salmonid family (trout, salmon or char) and ictalurid family (catfishes and bullheads), unless the owner or operator possesses a fish importation permit. Importation permits may be applied for on forms provided by the department.

**571—89.3(481A) Disease-free certification.** Importation permits will not be issued for live fish, viable eggs, or semen of any species of the salmonid family (trout, salmon or char) unless the owner or operator of an aquaculture unit provides a statement certifying the fish, eggs or semen to be free of the following diseases:

**89.3(1)** *Diseases detrimental to the state's fishery resources.*

Viral Hemmorhagic Septicemia (VHS)
Infectious Pancreatic Necrosis (IPN)
Whirling Disease (Myxosoma cerebralis)
Infectious Hematopoietic Necrosis (IHN)
Ceratomyxosis (Ceratomyxa shasta)
Bacterial Kidney Disease (R. salmoninarium)
Proliferative Kidney Disease (PKD)
Enteric Redmouth (Yersinia ruckeri)
Vibriosis (vibrio sp.)

**89.3(2)** *Reportable diseases.* Reportable diseases are detrimental to individual aquaculture units and may be detrimental to wild fish populations. Reportable diseases are Enteric Septicemia of Catfish (Edwardsiella ictaluri) (ESC), Channel Catfish Virus Disease (CCVD) and Furunculosis (Aeromonas salmonicida). Disease certification statements are required for the diseases prior to importation of any live fish, viable eggs, or semen of any species of the Ictalurid (catfishes and bullheads) and Salmonid (trout, salmon and char) families. Importation permits will be considered on a case-by-case basis for fish with reportable diseases.

**89.3(3)** *Certified pathologists for inspection.* All disease certification statements must be issued by approved certified pathologists. A list of approved certified pathologists will be made available to the owner or operator of the aquaculture unit requesting a fish importation permit.

These rules are intended to implement Iowa Code sections 481A.142 and 481A.143.

[Filed 11/6/92, Notice 9/2/92—published 11/25/92, effective 12/30/92]

# CHAPTER 90
# AQUATIC INVASIVE SPECIES

**571—90.1(456A) Definitions.** As used in this chapter:

*"Commission"* means the natural resource commission.

*"Department"* means the department of natural resources.

*"Director"* means the director of the department of natural resources.

*"Introduce"* means to release a species into waters of the state. "Introduce" does not include the immediate return of a nonnative species to waters of the state from which it was removed.

*"Transport"* means to cause a species to be moved into or within the state, and includes accepting or receiving the species for transportation or shipment. "Transport" does not include the unintentional transport of a species within a water of the state or to a connected water of the state where the species being transported is already present.

*"Watercraft"* means a device used or designed for navigation on water.

**571—90.2(456A) Aquatic invasive species.** For the purposes of this rule, the following species and any hybrids, cultivars, or varieties of the species are designated as aquatic invasive species.

**90.2(1)** *Aquatic invasive plants.*

| | |
|---|---|
| Brittle naiad | Najas minor |
| Curlyleaf pondweed | Potamogeton crispus |
| Eurasian watermilfoil | Myriophyllum spicatum |
| Flowering rush | Butomus umbellatus |
| Purple loosestrife | Lythrum salicaria, Lythrum virgatum |
| Salt cedar | Tamarix spp. |

**90.2(2)** *Aquatic invasive fish.*

| | |
|---|---|
| Bighead carp | Hypophthalmichthys nobilis |
| Black carp | Mylopharyngodon piceus |
| Round goby | Neogobius melanostomus |
| Rudd | Scardinius erythrophthalmus |
| Ruffe | Gymnocephalus cernuus |
| Silver carp | Hypophthalmichthys molitrix |
| White perch | Morone americana |

**90.2(3)** *Aquatic invasive invertebrates.*

| | |
|---|---|
| Fishhook waterflea | Cercopagis pengoi |
| New Zealand mudsnail | Potamopyrgus antipodarum |
| Quagga mussel | Dreissena bugensis |
| Rusty crayfish | Orconectes rusticus |
| Spiny waterflea | Bythotrephes cederstroemi |
| Zebra mussel | Dreissena polymorpha |

**90.2(4)** *Federal noxious weed list.* For purposes of this rule, the aquatic plants listed in Code of Federal Regulations, Title 7, Section 360.200, are also designated as aquatic invasive species.

**90.2(5)** *Injurious wildlife species.* For purposes of this rule, aquatic species listed in Code of Federal Regulations, Title 50, Section 16.11 through 16.15, are also designated as aquatic invasive species.

**571—90.3(456A) Restrictions.**

**90.3(1)** A person shall not possess, introduce, import, purchase, sell, barter, propagate, or transport aquatic invasive species in any form in this state, except:

*a.* By written permission of the director;

*b.* For disposal as part of a harvest or control activity;

*c.* When a species is being transported to the department, or to another destination as directed by the department, in a sealed container for purposes of identifying the species or reporting the presence of the species;

*d.* When the specimen has been lawfully acquired dead and, in the case of plant species, when all seeds are removed or are otherwise secured in a sealed container;

*e.* In the form of herbaria or other preserved specimens;

*f.* When a species is being removed from watercraft and equipment, or when a species is caught by an angler and immediately returned to the water from which it came; or

*g.* When an individual angler possesses a species that has been caught and immediately killed.

**90.3(2)** A conservation officer, other licensed peace officer, or employee of the department may seize or dispose of all specimens of aquatic invasive species unlawfully possessed, introduced, imported, purchased, sold, bartered, propagated, or transported in the state.

**571—90.4(456A) Infested waters.**

**90.4(1)** *Designation of infested waters.* The department shall designate infested waters of the state. The department shall publish the names of infested waters in the fishing regulations brochure each year and provide notice through other available means where practical. At any time, the department may designate additional waters or remove from designation those waters that are no longer infested.

**90.4(2)** *Restricted activities on infested waters.* The department may restrict boating, fishing, swimming, and trapping in infested waters of the state. When determining when to restrict activities in infested waters, the department shall consider:

*a.* The extent of a species' distribution within the state;

*b.* The likely means of spread for a new species; and

*c.* Whether restrictions specific to infested waters containing a specific species will effectively reduce that species' spread.

These rules are intended to implement Iowa Code section 456A.37 as amended by 2004 Iowa Acts, House File 2357.

[Filed 11/17/04, Notice 9/1/04—published 12/8/04, effective 1/12/05]

# CHAPTER 91
# WATERFOWL AND COOT HUNTING SEASONS
[Prior to 12/31/86, Conservation Commission[290] Ch 107]

**571—91.1(481A) Duck hunting.**

**91.1(1)** *Zone boundaries.* The north duck hunting zone is that part of Iowa north of a line beginning on the Nebraska-Iowa border at State Highway 175, east to State Highway 37, southeast to State Highway 183, northeast to State Highway 141, east to U.S. Highway 30, and along U.S. Highway 30 to the Iowa-Illinois border. The south duck hunting zone is the remainder of the state.

**91.1(2)** *Season dates - north zone.* For all ducks: September 18 through September 22 and October 16 through December 9.

**91.1(3)** *Season dates - south zone.* For all ducks: September 18 through September 22 and October 23 through December 16.

**91.1(4)** *Bag limit.* The daily bag limit of ducks is 6, and may include no more than 4 mallards (no more than 2 of which may be females), 1 black duck, 3 wood ducks, 2 pintails, 1 mottled duck, 1 canvasback, 2 redheads, and 2 scaup. The daily bag limit of mergansers is 5, only 2 of which may be hooded mergansers.

**91.1(5)** *Possession limit.* Possession limit is twice the daily bag limit.

**91.1(6)** *Shooting hours.* Shooting hours are one-half hour before sunrise to sunset each day.

[**ARC 8106B**, IAB 9/9/09, effective 8/18/09; **ARC 9055B**, IAB 9/8/10, effective 8/16/10]

**571—91.2(481A) Coots (split season).** Same as duck season dates and shooting hours.

**91.2(1)** *Bag and possession limits.* Daily bag limit is 15 and possession limit is 30.

**91.2(2)** Reserved.

**571—91.3(481A) Goose hunting.**

**91.3(1)** *Zone boundaries.* The north goose hunting zone is that part of Iowa north of a line beginning on the Nebraska-Iowa border at State Highway 175, east to State Highway 37, southeast to State Highway 183, northeast to State Highway 141, east to U.S. Highway 30, and along U.S. Highway 30 to the Iowa-Illinois border. The south goose hunting zone is the remainder of the state.

**91.3(2)** *Season dates - north zone.* Canada geese and brant: September 25 through October 10 and October 16 through January 5, 2011. White-fronted geese: September 25 through December 5. Light geese (white and blue-phase snow geese and Ross' geese): September 25 through January 9, 2011.

**91.3(3)** *Season dates - south zone.* Canada geese and brant: October 2 through October 17 and October 23 through January 12, 2011. White-fronted geese: October 2 through December 12. Light geese (white and blue-phase snow geese and Ross' geese): October 2 through January 14, 2011.

**91.3(4)** *Bag limit.* The daily bag limit for Canada geese is 2 from September 25 through October 31 and 3 from November 1 through the end of the season. The daily bag limits for white-fronted geese, brant, and light geese are 2 white-fronted geese, 1 brant, and 20 light geese (white and blue-phase snow geese and Ross' geese).

**91.3(5)** *Possession limit.* The possession limit is twice the daily bag limit for Canada geese, brant and white-fronted geese. There is no possession limit for light geese.

**91.3(6)** *Shooting hours.* Shooting hours are one-half hour before sunrise until sunset each day.

**91.3(7)** *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 from January 15, 2011, through April 15, 2011.

*a.* *Zone boundaries.* Statewide.

*b.* *Shooting hours.* One-half hour before sunrise to one-half hour after sunset.

*c.* *Bag limit.* Bag limit is 20 light geese.

*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(8)** *Early Canada goose season.* Rescinded IAB 9/10/08, effective 8/20/08.

**91.3(9)** *Cedar Rapids/Iowa City goose hunting zone.*

*a.* *Season dates.* September 4 through September 12.

*b.* *Bag limit.* Daily bag limit is 5 Canada geese.

*c.* *Possession limit.* Twice the daily bag limit.

*d.* *Zone boundary.* The Cedar Rapids/Iowa City goose hunting zone includes portions of Linn and Johnson Counties bounded as follows: Beginning at the intersection of the west border of Linn County and Linn County Road E2W; thence south and east along County Road E2W to Highway 920; thence north along Highway 920 to County Road E16; thence east along County Road E16 to County Road W58; thence south along County Road W58 to County Road E34; thence east along County Road E34 to Highway 13; thence south along Highway 13 to Highway 30; thence east along Highway 30 to Highway 1; thence south along Highway 1 to Morse Road in Johnson County; thence east along Morse Road to Wapsi Avenue; thence south along Wapsi Avenue to Lower West Branch Road; thence west along Lower West Branch Road to Taft Avenue; thence south along Taft Avenue to County Road F62; thence west along County Road F62 to Kansas Avenue; thence north along Kansas Avenue to Black Diamond Road; thence west on Black Diamond Road to Jasper Avenue; thence north along Jasper Avenue to Rohert Road; thence west along Rohert Road to Ivy Avenue; thence north along Ivy Avenue to 340th Street; thence west along 340th Street to Half Moon Avenue; thence north along Half Moon Avenue to Highway 6; thence west along Highway 6 to Echo Avenue; thence north along Echo Avenue to 250th Street; thence east on 250th Street to Green Castle Avenue; thence north along Green Castle Avenue to County Road F12; thence west along County Road F12 to County Road W30; thence north along County Road W30 to Highway 151; thence north along the Linn-Benton County line to the point of beginning.

**91.3(10)** *Des Moines goose hunting zone.*

*a.* *Season dates.* September 4 through September 12.

*b.* *Bag limit.* Daily bag limit is 5 Canada geese.

*c.* *Possession limit.* Twice the daily bag limit.

*d.* *Zone boundary.* The Des Moines goose hunting zone includes those portions of Polk, Warren, Madison and Dallas Counties bounded as follows: Beginning at the intersection of Northwest 158th Avenue and County Road R38 in Polk County; thence south along County Road R38 to Northwest 142nd Avenue; thence east along Northwest 142nd Avenue to Northeast 126th Avenue; thence east along Northeast 126th Avenue to Northeast 46th Street; thence south along Northeast 46th Street to Highway 931; thence east along Highway 931 to Northeast 80th Street; thence south along Northeast 80th Street to Southeast 6th Avenue; thence west along Southeast 6th Avenue to Highway 65; thence south and west along Highway 65 to Highway 69 in Warren County; thence south along Highway 69 to County Road G24; thence west along County Road G24 to Highway 28; thence southwest along Highway 28 to 43rd Avenue; thence north along 43rd Avenue to Ford Street; thence west along Ford Street to Filmore Street; thence west along Filmore Street to 10th Avenue; thence south along 10th Avenue to 155th Street in Madison County; thence west along 155th Street to Cumming Road; thence north along Cumming Road to Badger Creek Avenue; thence north along Badger Creek Avenue to County Road F90 in Dallas County; thence east along County Road F90 to County Road R22; thence north along County Road R22 to Highway 44; thence east along Highway 44 to County Road R30; thence north along County Road R30 to County Road F31; thence east along County Road F31 to Highway 17; thence north along Highway 17 to Highway 415 in Polk County; thence east along Highway 415 to Northwest 158th Avenue; thence east along Northwest 158th Avenue to the point of beginning.

**91.3(11)** *Cedar Falls/Waterloo goose hunting zone.*

*a.* *Season dates.* September 4 through September 12.

*b.* *Bag limit.* Daily bag limit is 5 Canada geese.

*c.* *Possession limit.* Twice the daily bag limit.

*d.* *Zone boundary.* The Cedar Falls/Waterloo goose hunting zone includes those portions of Black Hawk County bounded as follows: Beginning at the intersection of County Roads C66 and V49 in Black Hawk County, thence south along County Road V49 to County Road D38, thence west along County Road D38 to State Highway 21, thence south along State Highway 21 to County Road D35, thence west along County Road D35 to Grundy Road, thence north along Grundy Road to County Road D19, thence

west along County Road D19 to Butler Road, thence north along Butler Road to County Road C57, thence north and east along County Road C57 to U.S. Highway 63, thence south along U.S. Highway 63 to County Road C66, thence east along County Road C66 to the point of beginning.
[**ARC 8106B**, IAB 9/9/09, effective 8/18/09; **ARC 9055B**, IAB 9/8/10, effective 8/16/10]

**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 on the east and west county road running through sections 21 and 22, township 70 north, range 43 west, Fremont County; three miles of U.S. Highway 30, located on the south section lines of sections 14, 15, and 16, township 78 north, range 45 west, Harrison County; on the county roads immediately adjacent to, or through, Union Slough National Wildlife Refuge, Kossuth County; Louisa County Road X61 from the E-W centerline of section 29, township 74 north, range 2 west, on the south, to the point where it crosses Michael Creek in section 6, township 74 north, range 2 west, on the north, and also all roads through or adjacent to sections 7, 18, and 19 of this same township and roads through or adjacent to sections 12 and 13, township 74 north, range 3 west; the levee protecting the Green Island Wildlife Area from the Mississippi River in Jackson County wherever the levee is on property owned by the United States or the state of Iowa; certain dikes at Otter Creek Marsh, Tama County, where posted as such; and the NE¼, section 23, and the N½, section 24, all in township 70 north, range 19 west, Appanoose County, including county roads immediately adjacent thereto; and all privately owned lands in the S½, section 30, township 71 north, range 20 west, Lucas County, including the county road immediately adjacent thereto; Cerro Gordo County Road S14 and its right-of-way, between its junction with U.S. Highway 18 and County Road B-35, and portions of Clear Lake and Ventura Marsh, where posted as such in Cerro Gordo County; that portion of Summit Lake located south of State Highway 25 in the west half of the NW¼ of section 2 (22 acres), and the west half of section 3 (100 acres), T72N, R31W in Union County; and within 300 feet of the center of the Army Road from New Albin to the boat ramp on the Mississippi River in sections 11 and 12, T100N, R4W, and sections 7 and 8, T100N, R3W, as posted.

**91.4(2)** *Canada geese.* There shall be no open season on Canada geese in certain areas described as follows:

*a.* *Area one.* Portions of Emmet County bounded as follows: Beginning at the northwest corner of section 3, township 98 north, range 33 west; thence east on the county road a distance of five miles; thence south on the county road a distance of three and one-half miles; thence west on the county road a distance of four miles; then continuing west one mile to the southwest corner of the northwest one-quarter of section 22, township 98 north, range 33 west; thence north on the county road to the point of beginning.

*b.* *Area two.* Portions of Clay and Palo Alto Counties bounded as follows: Beginning at the junction of County Roads N14 and B17 in Clay County, thence south four miles on N14 (including the road right-of-way), thence east one-half mile, thence east one mile on a county road, thence north one mile on a county road, thence east one mile on a county road to County Road N18, thence south and east approximately one mile on N18, thence east one and one-half miles on a Palo Alto County Road, thence north two miles on a county road, thence east approximately one and one-half miles on a county road, thence north two miles on a county road to County Road B17, thence west six miles to the point of beginning.

*c.* *Area three.* A portion of Dickinson County bounded as follows: Beginning at the junction of State Highways 9 and 86; thence north along State Highway 86 (including the right-of-way) to the Iowa-Minnesota state line; thence east along the Iowa-Minnesota state line approximately 3.5 miles (excluding any road right-of-ways) to 240th Avenue (also known as West Lake Shore Drive in Orleans or Peoria Avenue in Spirit Lake); thence south along 240th Avenue (including the right-of-way) to State Highway 9; thence west along State Highway 9 (including the right-of-way) to the point of beginning.

*d.* *Area four.* Portions of Winnebago and Worth Counties bounded as follows: Beginning at the junction of U.S. Highway 69 and County Road 105 in the city of Lake Mills; thence east along County Road 105 (including the right-of-way and all other road right-of-ways identified in this description) approximately 5 miles to Dogwood Ave.; thence south along Dogwood Ave. to 440th St.; thence east one-fourth mile on 440th St. to Dove Ave.; thence south on Dove Ave. one-half mile to 435th St.; thence

east one-fourth mile on 435th St. to Dove Ave.; thence south on Dove Ave. to County Road A34; thence east one mile on County Road A34 (also named 430th St.) to Evergreen Ave.; thence south one mile to 420th St.; thence west along 420th St. to Cedar Ave.; thence south one-half mile along Cedar Ave. to Lake St.; thence west one-fourth mile along Lake St. to Front St.; thence southeast one-half mile along Front St. to County Road A38 (also named 410th St.); thence west along County Road A38 to County Road R74 (also named 225th Ave.); thence north along County Road R74 to 420th St.; thence west along 420th St. to County Road R72 (also named 210th Ave.); thence north along County Road R72 to U.S. Highway 69; thence east along U.S. Highway 69 to point of beginning.

*e.* *Area five.* On any federal or state-owned lands or waters within the area bounded by the following roads: Beginning at the junction of Lucas County Road S56 and 400th Street; thence west on 400th Street to its intersection with 291st Avenue; thence north on 291st Avenue to its intersection with 410th Street; thence west on 410th Street to its intersection with 280th Avenue; thence north on 280th Avenue to its intersection with 430th Street; thence east on 430th Street to its intersection with 290th Trail; thence south and east on 290th Trail to its intersection with Lucas County Road S56; thence south on Lucas County Road S56 to the point of beginning, including all federal, state, and county roads through or immediately adjacent thereto.

*f.* *Area six.* Rescinded IAB 8/31/05, effective 8/11/05.

*g.* *Area seven.* Portions of Guthrie and Dallas Counties bounded as follows: Beginning at the junction of State Highways 4 and 44 in Panora; thence north along State Highway 4 (including the right-of-way) to County Road F25; thence east along County Road F25 (including the right-of-way) to York Avenue; thence south along York Avenue 1 mile (including the right-of-way) to 170th Street; thence east one-half mile (including the right-of-way) to A Avenue in Dallas County; thence south on A Avenue 5 miles (including the right-of-way) to State Highway 44; thence west along State Highway 44 (including the right-of-way) to the point of beginning.

*h.* *Area eight.* A portion of Adams County bounded as follows: Beginning at the intersection of State Highway 148 and Adams County Road N28; thence east along Adams County Road N28 (including the right-of-way) to Adams County Road N53; thence east and north along Adams County Road N53 (including the right-of-way) approximately 4.5 miles to Adams County Road H24; thence west along Adams County Road H24 (including the right-of-way) about 8 miles to Hickory Avenue; thence south along Hickory Avenue (including the right-of-way) about 2.5 miles to Adams County Road N28; thence east along Adams County Road N28 (including the right-of-way) to the point of beginning.

*i.* *Area nine.* Portions of Monona and Woodbury Counties bounded as follows: For the portion in Monona County, beginning at the junction of County Road K42 and 120th Street; thence south along County Road K42 (including the right-of-way and all other road right-of-ways identified in this description) approximately 4 miles; thence south on Berry Avenue approximately 1 mile to 170th Street; thence east along 170th Street to Cashew Avenue; thence south along Cashew Avenue to 190th Street; thence east along 190th Street to County Road K45; thence north and northwest approximately 7 miles along Monona County Road K45 to 120th Street; thence west along 120th Street to the point of beginning; and for the portion in Woodbury County, beginning at the junction of County Road K45 and State Highway 141; thence northwest along County Road K45 approximately 6 miles to the intersection with Woodbury County Road K25; thence west approximately 3 miles along Woodbury County Road K25 to the intersection with Port Neal Road; thence continuing along the same westerly line approximately 1 mile on the north border of section 6, township 86 north, range 47 west, to the center of the Missouri River; thence southerly along the Missouri River channel approximately 8 miles to a point where 340th Street meets the Iowa-Nebraska state line on the Missouri River except that portion of Nebraska lying on the east side of the Missouri River; thence east to and along 340th Street approximately 5.5 miles to County Road K42; thence north and east along County Road K42 approximately 2.5 miles to the point of beginning.

*j.* *Area ten.* Rescinded IAB 9/5/01, effective 8/17/01.

*k.* *Area eleven.* Starting at the junction of the navigation channel of the Mississippi River and the mouth of the Maquoketa River in Jackson County, proceeding southwesterly along the high-water line on the west side of the Maquoketa River to U.S. Highway 52; thence southeast along U.S. Highway

52 (including the right-of-way) to 607th Avenue; thence east along 607th Avenue (including the right-of-way) to the Sioux Line Railroad; thence north and west along the Sioux Line Railroad to the Green Island levee; thence northeast along a line following the Green Island levee to the center of the navigational channel of the Mississippi River; thence northwest along the center of the navigational channel to the point of beginning.

*l.* *Area twelve.* Rescinded IAB 8/30/06, effective 8/11/06.

*m.* *Area thirteen.* Portions of Van Buren County bounded as follows: Beginning at the junction of Hawk Drive and State Highway 98; thence east and south along Hawk Drive (including the right-of-way and all other road right-of-ways identified in this description) to Lark Avenue; thence north along Lark Avenue to 170th Street; thence east along 170th Street to State Highway 1; thence south along State Highway 1 to State Highway 2; thence west along State Highway 2 to County Road V56; thence north along County Road V56 to County Road J40; thence east along County Road J40 to County Road V64; thence north along County Road V64 to State Highway 98; thence north along State Highway 98 to the point of beginning.

*n.* *Area fourteen.* Portions of Bremer County bounded as follows: Beginning at the intersection of County Road V56 and 140th Street (also named State Highway 93); thence south along County Road V56 (including the right-of-way and all other road right-of-ways identified in this description) to County Road C33; thence west along County Road C33 to Navaho Avenue; thence north along Navaho Avenue to State Highway 93; thence west along State Highway 93 to U.S. Highway 63; thence north 7 miles along U.S. Highway 63 to the Bremer-Chickasaw County line; thence east 3 miles along the Bremer-Chickasaw County line road to Oakland Avenue; thence south along Oakland Avenue to 120th Street; thence east along 120th Street to Piedmont Avenue; thence south along Piedmont Avenue to 140th Street; thence east along 140th Street, which becomes State Highway 93, to the point of beginning.

*o.* *Area fifteen.* Portions of Butler County bounded as follows: Beginning at the junction of State Highway 14 and 245th Street; thence south along State Highway 14 (including the right-of-way and all other road right-of-ways identified in this description) to 280th Street; thence west along 280th Street for 3 miles; continuing on a similar westerly line along the south borders of sections 31, 32, and 33, township 91 north, range 17 west; thence west along 280th Street for 1.5 miles to Evergreen Avenue; thence north along Evergreen Avenue to 270th Street; thence east along 270th Street to Forest Avenue; thence north along Forest Avenue to 230th Street; thence east along 230th Street to Fir Avenue; thence north along Fir Avenue to 225th Street; thence east along 225th Street to County Road T25 (also named Hickory Avenue); thence south along County Road T25 to 230th Street; thence east along 230th Street to Jackson Avenue; thence south along Jackson Avenue to 240th Street; thence east along 240th Street to Jackson Avenue; thence south on Jackson Avenue to 245th Street; thence east along 245th Street to the point of beginning.

*p.* *Area sixteen.* A portion of Union County bounded as follows: Beginning at the intersection of U.S. Highway 34 and County Road P53 near Afton; thence west along U.S. Highway 34 (including the right-of-way and all other road right-of-ways identified in this description) approximately 2.5 miles to Twelve Mile Lake Road; thence north along Twelve Mile Lake Road approximately 5 miles to Union County Road H17; thence north and east along Union County Road H17 to County Road P53; thence south along County Road P53 to the point of beginning.

*q.* *Area seventeen.* Rescinded IAB 9/1/04, effective 8/13/04.

**91.4(3)** *Forney Lake.* The entire Forney Lake area, in Fremont County, north of the east-west county road, shall be closed to waterfowl hunting prior to the opening date for taking geese on the area each year.

[**ARC 8106B**, IAB 9/9/09, effective 8/18/09]

**571—91.5(481A) Canada goose hunting within closed areas.**

**91.5(1)** *Closed areas.* Area one (Emmet Co.), Area two (Clay and Palo Alto Cos.), Area three (Dickinson Co.), Area four (Winnebago and Worth Cos.), Area eleven (Jackson Co.), and Area fifteen (Butler Co.) as 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 for three years. This experimental hunting opportunity will be evaluated by the landowners and the DNR following each season, at which time changes may be made.

(2) Landowners and those individuals named on the permit according to the criteria specified in paragraph (9) of this subrule 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 paragraph (9) of this subrule on their permit. Landowners may assign the permit for their land to any landowner or tenant who owns or farms at least eight acres inside the closed area. 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 paragraph (9) of this subrule 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 including, but not limited to: daily limits, possession limits, shooting hours, methods of take, and transportation. 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 at the wildlife unit headquarters within the closed area at announced times, but 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. Within one week of the close of hunting within the closed area during at least the first three years the hunt is permitted, unused tags must be turned in at the wildlife unit headquarters within the closed area or the permittee must report the number of geese killed. Failure to turn in unused tags or report the number of geese killed within the specified time period may result in the permittee's forfeiting the opportunity to hunt within the closed area the following year.

(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.

**91.5(2)** Reserved.

[**ARC 8106B**, IAB 9/9/09, effective 8/18/09]

**571—91.6(481A) Youth waterfowl hunt.** A special youth waterfowl hunt will be held on October 2 and 3, 2010, in the north duck hunting zone and October 9 and 10, 2010, in the south 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 other 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.

[**ARC 8106B**, IAB 9/9/09, effective 8/18/09; **ARC 9055B**, IAB 9/8/10, effective 8/16/10]

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.48.

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# CHAPTER 92
# MIGRATORY GAME BIRDS
[Prior to 12/31/86, Conservation Commission[290] Ch 105]

**571—92.1(481A) General.** Migratory game birds may be taken only in accordance with the daily bag and possession limits during the open season and shooting hours as prescribed annually by the natural resource commission.

**571—92.2(481A) Duck stamp.** It shall be unlawful for any person who has attained the age of 16 years to take any migratory waterfowl (brant, wild ducks, geese, and swans) unless at the time of such taking that person has with them an unexpired federal migratory bird hunting and conservation stamp (commonly called duck stamp), validated by the person's signature written across the face of the stamp in ink.

**571—92.3(481A) Hunting methods.** Migratory game birds may be taken by any method except those prohibited in this rule. No person shall take migratory game birds (brant, wild ducks, geese, rails, coots, woodcock, and snipe):

**92.3(1)** With a trap, snare, net, crossbow, rifle, pistol, swivel gun, shotgun larger than 10-gauge, punt gun, battery gun, machine gun, fish hook, poison, drug, explosive or stupefying substance;

**92.3(2)** With a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells;

**92.3(3)** On all lands and waters of the state of Iowa while having in one's possession any shot other than nontoxic shot approved by the U.S. Fish and Wildlife Service. This subrule shall not apply to the taking of woodcock.

**92.3(4)** From or by means or use of a sinkbox or any other type of low-floating device, having a depression affording the hunter a means of concealment beneath the surface of the water;

**92.3(5)** From or by means, aid, or use of any motor vehicle, motor-drive land conveyance, or aircraft of any kind, except that paraplegics and single or double amputees of the legs may take from any stationary motor-driven land conveyance. "Paraplegic" means an individual afflicted with paralysis of the lower half of the body with the involvement of both legs, usually due to disease of or injury to the spinal cord;

**92.3(6)** From or by means of any motorboat or other craft having a motor attached, or any sailboat, unless the motor has been completely shut off or the sail furled, and its progress therefrom has ceased: Provided, that a craft under power may be used to retrieve dead or crippled birds. However, crippled birds may not be shot from such craft under power;

**92.3(7)** By the use or aid of live birds as decoys; although not limited to, it shall be a violation of this subrule for any person to take migratory waterfowl on an area where tame or captive live ducks or geese are present unless such birds are and have been for a period of ten consecutive days prior to such taking, confined within an enclosure which substantially reduces the audibility of their calls and totally conceals such birds from the sight of wild migratory waterfowl;

**92.3(8)** By the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds;

**92.3(9)** By means or aid of any motor-driven land, water, or air conveyance or any sailboat used for the purpose of or resulting in the concentrating, driving, rallying, or stirring up of any migratory bird; or

**92.3(10)** By the aid of baiting, or on or over any baited area. As used in this subrule, "baiting" shall mean the placing, exposing, depositing, distributing, or scattering of shelled, shucked or unshucked corn, wheat or other grain, salt, or other feed so as to constitute for such birds a lure, attraction or enticement to, on, or over any areas where hunters are attempting to take them; and "baited area" means any area where shelled, shucked or unshucked corn, wheat or other grain, salt, or other feed capable of luring, attracting, or enticing such birds is directly or indirectly placed, exposed, deposited, distributed, or scattered and such area shall remain a baited area for ten days following complete removal of all such corn, wheat or other grain, salt, or other feed. However, nothing in this subrule shall prohibit:

*a.* The taking of all migratory game birds, including waterfowl, on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; and

*b.* The taking of all migratory game birds, except waterfowl, on or over any lands where shelled, shucked or unshucked corn, wheat or other grain, salt, or other feed has been distributed or scattered solely as the result of valid agricultural operations or procedures.

**92.3(11)** By any of the methods or means prohibited in this rule unless such methods or means have been approved by the U.S. Fish and Wildlife Service for the taking of snow geese during special snow-goose-only seasons or snow-goose-only hunts.

**571—92.4(481A) Restrictions applicable to possession, tagging, and record-keeping requirements.**

**92.4(1)** No person shall possess, have in custody, or transport more than the daily bag limit or aggregate daily bag limit, whichever applies, of migratory game birds, tagged or not tagged, at or between the place, where taken and either:

*a.* The person's automobile or principal means of land transportation; or

*b.* The person's personal abode or temporary or transient place of lodging; or

*c.* A migratory bird preservation facility; or

*d.* A post office; or

*e.* A common carrier facility.

**92.4(2)** No person shall put or leave any migratory game birds at any place other than at the person's personal abode, or in the custody of another person for picking, cleaning, processing, shipping, transportation, or storage (including temporary storage), or for the purpose of having taxidermy services performed, unless such birds have a tag attached, signed by the hunter, stating the person's address, the total number and species of birds, and the date such birds were killed. Migratory game birds being transported in any vehicle as the personal baggage of the possessor shall not be considered as being in storage or temporary storage.

**92.4(3)** No person shall receive or have in custody any migratory game birds belonging to another person unless such birds are tagged as required under 92.4(2).

**92.4(4)** No migratory bird preservation facility shall:

*a.* Receive or have in custody any migratory game birds unless accurate records are maintained showing:

(1) The number of each species;

(2) The date such birds were received;

(3) The name and address of the person from whom such birds were received;

(4) The date such birds were disposed of;

(5) The name and address of the person to whom such birds were delivered.

*b.* Destroy any records required to be maintained under this rule for period of one year following the last entry on the record.

*c.* No migratory bird preservation facility shall prevent any person authorized to enforce this part from entering such facilities at all reasonable hours and inspecting the records and the premises where such operations are being carried on.

**571—92.5(481A) Transportation within the state or between states.**

**92.5(1)** No person shall transport or ship any migratory game birds, unless the head or one fully feathered wing remains attached to each such bird at all times while being transported or shipped from the place where taken until they have arrived at the personal abode of the possessor or a migratory bird preservation facility.

**92.5(2)** Reserved.

**571—92.6(481A) Wounded, live migratory game birds.**

**92.6(1)** Every migratory game bird wounded by hunting and reduced to possession by the hunter shall be immediately killed and become a part of the daily bag limit.

**92.6(2)** Wanton waste. No person shall kill or cripple any migratory game bird pursuant to this chapter without making a reasonable effort to retrieve the bird and include it in the daily bag limit.

**571—92.7(481A) Harvest information program (HIP).**

**92.7(1)** Beginning January 1, 1998, no persons shall hunt migratory game birds (brant, wild ducks, geese, rails, coots, snipe, woodcock or any other migratory game bird) without carrying proof that they have first registered with the HIP. Hunters must supply their name, address, and information on the number of migratory game birds taken during the previous year, or other information that may be requested.

**92.7(2)** The natural resource commission will develop methods for collecting information from hunters at the time they purchase their hunting license or prior to going hunting, either by written or electronic means, and develop a method for validating in the field that hunters have registered.

These rules are an adoption of the federal waterfowl method to take regulations, and are intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.48.

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[1] Effective date of 105.3(3) delayed 70 days by the Administrative Rules Review Committee.

[2] Effective date of 105.3(3) delayed by the Administrative Rules Review Committee 45 days after convening of the next General Assembly pursuant to §17A.8(9).

# CHAPTER 93
# COMMERCIAL USE OF CAPTIVE-REARED WATERFOWL

[Prior to 12/31/86, see Conservation Commission[290] Ch 10]

**571—93.1(481A) General.** Nothing in this chapter shall be construed to permit the taking of live waterfowl or their eggs from the wild.

**571—93.2(481A) Required markings.** All waterfowl released for shooting purposes or sold by a licensed taxidermist must be captive-reared and marked pursuant to Iowa Code section 481A.22 and these rules.

**571—93.3(481A) Definitions.** In addition to definitions contained in Iowa Code section 481A.1, as used in this chapter:

*"Bred in captivity"* or *"captive-reared"* refers to waterfowl, including eggs hatched in captivity from parents that mated or otherwise transferred gametes in captivity.

*"Captivity"* means that live waterfowl are held in a controlled environment that is intensively manipulated by man for the purpose of producing waterfowl of selected species, and that has boundaries designed to prevent waterfowl, eggs or gametes of the selected species from entering or leaving the controlled environment. General characteristics of captivity may include, but are not limited to, artificial housing, waste removal, health care, protection from predators, and artificially supplied food.

*"Waterfowl"* means any goose, brant, or duck.

**571—93.4(484B) Marked for shooting.** All waterfowl released for shooting purposes shall be physically marked by removal of the hind toe from the right foot at not more than four weeks of age.

**571—93.5(481A) Commercial sale of captive-reared waterfowl by a taxidermist.**

**93.5(1)** Taxidermist permit required. A taxidermist permit is required before any person may perform taxidermy services on migratory birds or their parts, nests, or eggs for any reason other than personal use.

**93.5(2)** In addition to the records required by Iowa Code section 481A.126, the permittee must maintain files containing the original of federal Form 3-186, Notice of Waterfowl Sale or Transfer, confirming acquisition of captive-reared, properly marked waterfowl from the holder of a current waterfowl sale and disposal permit. Properly marked, captive-reared mallards are exempt from this requirement.

**93.5(3)** All captive-reared waterfowl being purchased or held by a taxidermist for mounting and resale shall have been physically marked by at least one of the following methods:

*a.* Removal of the hind toe from the right foot.

*b.* Pinioning of a wing: Provided, this method shall be the removal of the metacarpal bones of one wing or a portion of the metacarpal bones which renders the bird permanently incapable of flight.

*c.* Banding of one metatarsus with a seamless metal band.

*d.* Tattooing of a readily discernible number or letter or combination thereof on the web of one foot.

**93.5(4)** When any mounted captive-bred waterfowl (except captive-red, properly marked mallards) are acquired from a taxidermist, the taxidermist shall furnish a copy of federal Form 3-186, Notice of Waterfowl Sale or Transfer, indicating all information required by the form and the method or methods by which individual birds are marked as required in subrule 93.5(3).

**93.5(5)** The buyer shall retain Form 3-186 on file for the duration of the buyer's possession of such mounted, captive-reared waterfowl.

These rules are intended to implement Iowa Code sections 481A.55, 481A.126, and 484B.8.

[Filed 8/23/67]

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# CHAPTER 94
# NONRESIDENT DEER HUNTING

**571—94.1(483A) Licenses.** Every hunter must have in possession a valid nonresident deer license, a valid nonresident hunting license, and proof that the hunter has paid the current year's wildlife habitat fee when hunting, possessing, or transporting deer. No person, while hunting deer, shall carry or have in possession any license or transportation tag issued to another person. No one who is issued a deer hunting license and transportation tag shall allow another person to use or possess that license or transportation tag while deer hunting or tagging a deer.

**94.1(1)** *Types of 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 rule 94.8(483A).

*b. Mandatory antlerless-only licenses.* Each hunter who is successful in drawing an any-deer license must also purchase an antlerless-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-only license will be issued.

*c. Optional antlerless-only licenses.* A hunter who is not successful in drawing an any-deer license may purchase an antlerless-only license as described in rule 571—94.8(483A).

*d. Antlerless deer defined.* Antlerless-only licenses shall be valid for taking deer that have no forked antler.

**94.1(2)** *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.

**94.1(3)** *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.

**94.1(4)** *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.

**94.1(5)** *Special licenses.* The commission shall issue licenses in conformance with Iowa Code section 483A.24(10) 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.

[**ARC 8252B**, IAB 11/4/09, effective 12/9/09]

**571—94.2(483A) Season dates.** Deer may be taken only during the following periods.

**94.2(1)** *Bow season.* Deer may be taken by bow and arrow only in accordance with the type and zone 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.

**94.2(2)** *Regular gun seasons.* Deer may be taken with gun only in accordance with the type, season, and zone of license issued, from the first Saturday in December and continuing for five consecutive days or from the second Saturday in December and continuing for nine consecutive days.

**94.2(3)** *Muzzleloader season.* Deer may be taken by muzzleloader only in accordance with the type and zone of license issued from the Monday following the third Saturday in December through January 10 of the following year.

**571—94.3(483A) Shooting hours.** Legal shooting hours shall be from one-half hour before sunrise to one-half hour after sunset in all seasons.

**571—94.4(481A) Limits.**

**94.4(1)** *Bow season.* The daily bag limit is one deer per license. The 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.

**94.4(2)** *Muzzleloader season.* The daily bag limit is one deer per license. The 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.

**94.4(3)** *Regular gun seasons.* The bag limit is one deer for each hunter in the party who has a valid deer transportation tag. The possession limit is one deer per license. "Possession" shall mean that the deer is in the possession of the person whose license number matches the number of the transportation tag on the carcass of the deer.

**94.4(4)** *Maximum annual possession limit.* The maximum annual possession limit for a nonresident deer hunter is one deer for each legal license and transportation tag obtained.

**571—94.5(483A) Zones open to hunting.** Licenses will be valid only in designated areas as follows:

**94.5(1)** *Zone descriptions.* The zones are described as areas bounded as follows:

*a.* *Zone 1.* Beginning at a point where U.S. Highway 169 crosses the Minnesota-Iowa state line; thence along U.S. Highway 169 to state Highway 3; thence along state Highway 3 to U.S. Highway 71; thence along U.S. Highway 71 to U.S. Highway 20; thence along U.S. Highway 20 to the Nebraska-Iowa state line; thence along the Nebraska-Iowa, South Dakota-Iowa and Minnesota-Iowa state lines to the point of beginning.

*b.* *Zone 2.* Beginning at the point where state Highway 3 and Interstate Highway 35 intersect; thence along Interstate Highway 35 to its eastern junction with Interstate Highways 80 and 235; thence along Interstate Highway 235 to its western junction with Interstate Highways 80 and 35; thence along Interstate Highway 80 to U.S. Highway 59; thence along U.S. Highway 59 to U.S. Highway 20; thence along U.S. Highway 20 to U.S. Highway 71; thence along U.S. Highway 71 to state Highway 3; thence along state Highway 3 to the point of beginning.

*c.* *Zone 3.* Beginning at the point where U.S. Highway 20 crosses the Nebraska-Iowa state line; thence along U.S. Highway 20 to U.S. Highway 59; thence along U.S. Highway 59 to the Missouri-Iowa state line; thence along the Missouri-Iowa and Nebraska-Iowa state lines to the point of beginning.

*d.* *Zone 4.* Beginning at the western junction of Interstate Highway 235 with Interstate Highways 80 and 35; thence along Interstate Highway 35 to the Missouri-Iowa state line; thence along the Missouri-Iowa state line to U.S. Highway 59; thence along U.S. Highway 59 to Interstate Highway 80; thence along Interstate Highway 80 to the point of beginning.

*e.* *Zone 5.* Beginning at the point where Interstate Highway 235 and state Highway 163 intersect; thence along state Highway 163 to state Highway 92; thence along state Highway 92 to U.S. Highway 218; thence along U.S. Highway 218 to U.S. Highway 34; thence along U.S. Highway 34 to U.S. Highway 63; thence along U.S. Highway 63 to the Missouri-Iowa state line; thence along the Missouri-Iowa state line to Interstate Highway 35; thence along Interstate Highway 35 to its western junction with Interstate Highways 80 and 235; thence along Interstate Highway 235 to the point of beginning.

*f.* *Zone 6.* Beginning at the point where U.S. Highway 63 crosses the Missouri-Iowa state line; thence along U.S. Highway 63 to U.S. Highway 34; thence along U.S. Highway 34 to U.S. Highway 218; thence along U.S. Highway 218 to state Highway 92; thence along state Highway 92 to the Illinois-Iowa state line; thence along the Illinois-Iowa and Missouri-Iowa state lines to the point of beginning.

*g.* *Zone 7.* Beginning at the point where U.S. Highway 61 intersects with state Highway 92 at its northern junction; thence along state Highway 92 to state Highway 163; thence along state Highway 163 to Interstate Highway 235; thence along Interstate Highway 235 to its eastern junction with Interstate Highways 80 and 35; thence along Interstate Highway 35 to state Highway 3; thence along state Highway

3 to state Highway 38; thence along state Highway 38 to U.S. Highway 61; thence along U.S. Highway 61 to the point of beginning.

*h.* *Zone 8.* Beginning at the point where state Highway 92 intersects with the Illinois-Iowa state line; thence along state Highway 92 to U.S. Highway 61; thence along U.S. Highway 61 to state Highway 38; thence along state Highway 38 to state Highway 3; thence along state Highway 3 to the Illinois-Iowa state line; thence along the Illinois-Iowa state line to the point of beginning.

*i.* *Zone 9.* Beginning at the point where state Highway 3 intersects with the Illinois-Iowa state line; thence along state Highway 3 to U.S. Highway 63; thence along U.S. Highway 63 to the Minnesota-Iowa state line; thence along the Minnesota-Iowa, Wisconsin-Iowa, and Illinois-Iowa state lines to the point of beginning.

*j.* *Zone 10.* Beginning at the point where U.S. Highway 63 crosses the Minnesota-Iowa state line; thence along U.S. Highway 63 to state Highway 3; thence along state Highway 3 to U.S. Highway 169; thence along U.S. Highway 169 to the Minnesota-Iowa state line; thence along the Minnesota-Iowa state line to the point of beginning.

**94.5(2)** *Closed areas.* There shall be no open season for hunting deer on the county roads immediately adjacent to or through Union Slough National Wildlife Refuge, Kossuth County, where posted accordingly.

**571—94.6(483A) License quotas.** A limited number of nonresident deer licenses will be issued in zones as follows:

**94.6(1)** *Zone license quotas.* Nonresident license quotas are as follows:

| | Any-deer licenses | | Mandatory Antlerless-only | Optional Antlerless-only |
|---|---|---|---|---|
| | All Methods | Bow | | |
| Zone 1. | 180 | 63 | 180 | |
| Zone 2. | 180 | 63 | 180 | |
| 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. | 600 | 210 | 600 | |
| Zone 10. | 200 | 70 | 200 | |
| Total | 6000 | 2100 | 6000 | 3500 |

**94.6(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-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-only licenses, no more than 35 percent in any zone can be bow licenses. A maximum of 4,500 optional antlerless-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-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.

**94.6(3)** *Antlerless defined.* Rescinded IAB 3/1/06, effective 4/5/06.

[**ARC 7687B**, IAB 4/8/09, effective 5/13/09]

**571—94.7(483A) Method of take.** Permitted weapons and devices vary according to the type of season.

**94.7(1)** *Bow season.* Except for crossbows for persons with certain afflictions of the upper body, as provided in 571—15.5(481A), only longbow, compound or recurve bows shooting broadhead arrows are

permitted. Arrows must be at least 18 inches long. No explosive or chemical devices may be attached to the arrow or broadhead.

**94.7(2)** *Regular gun season.* Only 10-, 12-, 16-, or 20-gauge shotguns, shooting single slugs only, and flintlock or percussion cap lock muzzleloaded rifles or muskets of not less than .44 nor larger than .775 caliber, shooting single projectiles only, and handguns as described in 571—subrule 106.7(3), will be permitted in taking deer during the regular gun season.

**94.7(3)** *Muzzleloader and holiday seasons.* During the muzzleloader and holiday seasons, deer may be taken with a muzzleloader, handgun, or bow as described in 94.7(1). Muzzleloading rifles are defined as flintlock or percussion cap lock muzzleloaded rifles and muskets of not less than .44 and not larger than .775 caliber, shooting single projectiles only. Centerfire handguns must be .357 caliber or larger shooting straight-walled cartridges propelling an expanding-type bullet (no full-metal jacket) and complying with all other requirements provided in Iowa Code section 481A.48. Legal handgun calibers are listed on the department of natural resources list of "Acceptable Handgun Calibers for Hunting Deer in Iowa." Revolvers, pistols and black powder handguns must have a 4-inch minimum barrel length. There can be no shoulder stock or long-barrel modifications to handguns. Muzzleloading handguns must be .44 caliber or larger, shooting single projectiles only.

**94.7(4)** *Prohibited weapons and devices.* The use of dogs, domestic animals, salt or bait, rifles other than muzzleloaded, handguns except as provided in 94.7(3), crossbows except as provided in 571—15.5(481A), automobiles, aircraft, or any mechanical conveyances 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 or mineral blocks or any other 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 have on their person a rifle other than a muzzleloading rifle that meets the requirements of 571—subrule 106.7(3).

**94.7(5)** *Discharge of firearms from highway.* No person shall discharge a shotgun shooting slugs or a rifle, including a muzzleloading rifle or musket, or a handgun from a highway during the regular gun seasons in all counties and parts of counties north of 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).

**94.7(6)** *Hunting from blinds.* No person shall use a blind for hunting deer during the regular gun deer seasons as defined in 94.2(2), unless such blind exhibits a solid blaze orange marking visible in all directions with a minimum height of 12 inches and a minimum width of 12 inches. 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 a place of concealment 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.

[**ARC 7687B**, IAB 4/8/09, effective 5/13/09; **ARC 8887B**, IAB 6/30/10, effective 8/18/10]

**571—94.8(483A) 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 Web site.

**94.8(1)** *Any-deer licenses.* Applications for any-deer and mandatory antlerless-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-only licenses has not been filled, the excess any-deer and mandatory antlerless-only licenses will be sold on a first-come, first-served basis through the telephone ordering system or the Internet license sales Web site. Excess any-deer and mandatory antlerless-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 is rejected may purchase licenses individually if excess any-deer and mandatory antlerless-only licenses or optional antlerless-only licenses are available.

**94.8(2)** *Optional antlerless-only licenses.* Optional antlerless-only licenses must be purchased through the ELSI telephone ordering system or the ELSI Internet license sales Web site. Licenses for taking only antlerless deer will be available on the same date as excess any-deer licenses are sold as explained in 94.8(1). Optional antlerless-only licenses will only be issued for one of the two regular gun seasons and for qualified disabled hunters (571—94.10(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-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-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-only licenses. Nonresidents must qualify as landowners following the criteria stated in 571—subrule 106.12(1) and 571—subrules 106.12(3) through 106.12(6), except that nonresident tenants and family members of nonresident landowners and tenants do not qualify and nonresident optional antlerless-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-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-only license can be purchased and must be resubmitted each year in which an optional antlerless-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-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.

**94.8(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 subrule 94.8(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.

**94.8(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.
[**ARC 8887B**, IAB 6/30/10, effective 8/18/10]

**571—94.9(483A) 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 the carcass of each deer, in such a manner that the tag cannot be removed without mutilating or destroying the tag, within 15 minutes of the time the deer is killed or before the carcass of the deer is moved in any manner, whichever first occurs. 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 all 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.

**571—94.10(481A) Deer hunting season for severely disabled persons.**

**94.10(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 DNR form signed by a physician that verifies their disability.

**94.10(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.

**94.10(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.

**94.10(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.

**94.10(5)** *License quotas.* Licenses for the special hunting season for severely disabled persons shall be issued from the quotas established in 571—94.6(483A). A special quota will not be set aside for severely disabled persons.

**94.10(6)** *Method of take and other regulations.* Deer may be taken with shotgun, bow, muzzleloading rifle or pistol as defined in 571—94.7(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.

**94.10(7)** *Application procedures.* Persons meeting the requirements for this season must apply following the procedures described in 571—94.8(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 15.11(1). License agent writing fees, department administrative fees, Internet sales charges and telephone order charges will not be refunded.

**571—94.11(481A) Harvest reporting.** Each hunter who bags a deer must report that kill according to procedures described in 571—95.1(481A).

**571—94.12(481A) January antlerless season.** Beginning on January 11, nonresident hunters may obtain antlerless-only licenses for the January antlerless season specified in 571—subrule 106.2(5). Licenses will be available only in those counties specified in 571—subrule 106.6(4) until the quota provided in 571—subrule 106.6(6) is filled. All regulations specified in 571—Chapter 106 for the

January antlerless season for resident hunters including limits, shooting hours, method of take, tagging and reporting requirements will also apply to nonresident hunters during this season.
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# CHAPTER 95
# GAME HARVEST REPORTING AND LANDOWNER-TENANT REGISTRATION

**571—95.1(481A) Harvest reporting system.** Deer and turkey hunters must report each deer and wild turkey harvested to the department of natural resources (DNR) harvest reporting system. The hunter whose name is on the transportation tag is responsible for making the report. Hunters who do not bag a deer or wild turkey do not report.

**95.1(1)** *Reporting deadlines for deer and turkey.* A harvest report must be made by midnight on the day after the animal is tagged or before the animal is taken to a locker or taxidermist, is processed for consumption, or is transported out of state, whichever occurs first.

**95.1(2)** *Method of reporting.* Hunters may report the harvest in one of three ways:

*a.* *By calling the DNR toll-free harvest reporting telephone number.* The telephone number will be in operation from 6 a.m. to midnight each day during hunting seasons and for the legal reporting period after the season.

*b.* *By reporting through the Internet using the DNR online harvest reporting system.* The system will function 24 hours a day, seven days a week during hunting seasons and for the legal reporting period after the season.

*c.* *By visiting an electronic licensing system for Iowa (ELSI) license agent during the license agent's normal business hours.* Reports may be made through ELSI whenever hunting seasons are open and for the legal reporting period after the seasons.

**95.1(3)** *Report confirmation.* After the report is made, the hunter will be given a confirmation number to write on the harvest report tag to verify that the hunter has reported the kill. The harvest report tag and confirmation number must remain attached to the deer or wild turkey until the deer or turkey is processed for consumption.

**571—95.2(481A) Verifying eligibility for free landowner or tenant licenses.** Eligibility for free and reduced-fee deer and wild turkey hunting licenses, which are hereafter referred to as free licenses, is defined in Iowa Code section 483A.24, rule 571—98.5(483A) and rule 571—106.12(481A). The electronic licensing system for Iowa (ELSI) will not issue free licenses to persons who have not registered their eligibility with ELSI.

**95.2(1)** *Farm unit.* As provided in 571—subrule 106.12(6), all the land under the lawful control of the landowner or tenant is considered one farm unit no matter how it is subdivided for business purposes. No one may be registered as eligible for free licenses on more than one farm unit. Registering on one parcel of land within the farm unit will allow the landowner, tenant or family member to hunt on all land in the farm unit.

**95.2(2)** *Who may obtain free licenses.* One member of the landowner family (the landowner or an eligible family member) may obtain a free any-deer license. Members of the landowner family may divide the free antlerless-deer-only licenses for which the family is eligible among themselves in any way they choose. If there is a tenant on the same property, one member of the tenant family (the tenant or an eligible family member) may also obtain a free any-deer license. Members of the tenant family may divide the free antlerless-deer-only licenses for which they may be eligible among themselves in any way they choose. One member of the landowner family and one member of the tenant family may each obtain one free spring turkey hunting license and one free fall turkey hunting license.

**95.2(3)** *Method of registration.* A landowner or tenant may register in one of the following ways:

*a.* *Landowners.* Persons who own at least one parcel of qualifying land may register on the Internet through ELSI or by mailing or faxing an affidavit obtained from DNR. The online system is available 24 hours a day, seven days a week. An online registrant may immediately obtain a free license once the registration process is complete. A person who registers through the mail or by fax may have to wait up to ten business days after the form is received by DNR to obtain a free license.

*b.* *Tenants.* A person who qualifies as a tenant but does not own any qualifying land may register on the Internet through ELSI or by mailing or faxing an affidavit obtained from DNR. A tenant may have to wait up to ten business days after the affidavit is received by DNR before obtaining a free license.

**95.2(4)** *Information verifying eligibility.* In order to register, a landowner, tenant or qualifying family member must have a customer record in ELSI, i.e., have already purchased a license through ELSI. A person without an ELSI customer record must call the ELSI telephone ordering system to establish a customer record before registering. When registering, landowners, tenants and family members will be required to provide their ELSI customer number or their Iowa driver's license number or social security number and their date of birth to identify their ELSI customer record.

*a.* *Landowners.* A landowner shall provide the parcel identification number (PIN) from the landowner's current property tax statement for one parcel of qualifying land owned by the landowner and the number of the county where the land is located. Qualifying family members shall be registered to the same parcel of qualifying land as the landowner.

*b.* *Partnerships, corporations or other forms of joint land ownership.* Each owner of a jointly owned farm unit and the owner's qualifying family members who wish to receive free licenses for that farm unit shall register with the same county number and PIN. Only one joint owner or family member may obtain the one any-deer license available for the farm unit. The other joint owner(s) and family members may divide any other free licenses to which they are entitled among themselves in any way they choose.

*c.* *Tenants.* A tenant shall provide an affidavit that contains the name, address, and telephone number of the owner of the qualifying land rented by the tenant; the county number where the land is located; and the landowner's PIN from one parcel of that qualifying land. If a tenant rents land from more than one landowner, the tenant shall provide the required information about only one landowner. The tenant's qualifying family members shall be registered to the same parcel of qualifying land as the tenant.

*d.* *Signature required.* Pursuant to Iowa Code section 483A.24(2)*"f,"* all affidavits submitted to register eligibility for free licenses shall bear the signature of the landowner, tenant, or family member attesting that the information contained therein is true.

**95.2(5)** *Forms.* Instructions and affidavits may be obtained online at www.iowadnr.com, at DNR offices, or by calling (515)281-5918.

**95.2(6)** *Registration expiration and renewal.* A registered landowner, tenant, or eligible family member may obtain free licenses as allowed in subrule 95.2(2) provided the registration information and eligibility status remain valid. If the registration information or eligibility status of a registered landowner, tenant, or eligible family member changes, that individual must send by U.S. mail or by fax a DNR affidavit form or contact the DNR by telephone. The DNR will periodically review registration information to verify eligibility status and will inactivate registrations when the registration information fails to indicate eligibility.

**95.2(7)** *Penalties.* Free licenses will not be issued to an applicant until a legible and complete affidavit is received by DNR. An illegible or incomplete affidavit will be returned to the applicant for correction. A person who has made a false attestation in obtaining a license in violation of Iowa Code Supplement section 483A.24(2)*"f"* shall be guilty of a simple misdemeanor and subject to license revocation, as provided in Iowa Code section 483A.21, Iowa Code supplement section 483A.24(2)*"f"* and 571—subrule 106.8(3).

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# CHAPTER 96
# PHEASANT, QUAIL AND GRAY (HUNGARIAN) PARTRIDGE HUNTING SEASONS

[Prior to 12/31/86, Conservation Commission[290] Ch 103]

**571—96.1(481A) Pheasant season.**

**96.1(1)** *Open season.* Open season for hunting pheasants shall be the last Saturday in October through January 10 of succeeding year. Bag limit 3 cock birds daily; possession limit 12 cock birds. Shooting hours shall be from 8 a.m. to 4:30 p.m. Entire state open.

**96.1(2)** *Transportation.* No person shall transport a pheasant within the state without a leg and foot, or fully feathered wing, or fully feathered head attached to the body.

**96.1(3)** *Youth pheasant hunt.* A special two-day youth pheasant hunt for residents only will be held statewide on the weekend preceding the last Saturday in October. Youth hunters must be 15 years old or younger. 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. Only the youth hunter may shoot pheasants. The daily bag limit is 1 cock bird and possession limit is 2 cock birds after the first day. All other hunting regulations in effect for the regular pheasant season apply to the youth hunt.

**571—96.2(481A) Gray (Hungarian) partridge season.** Open season for hunting gray partridge shall be the second Saturday in October through January 31 of succeeding year. Bag limit 8 birds daily; possession limit 16 birds. Shooting hours shall be from 8 a.m. to 4:30 p.m. Entire state open.

**571—96.3(481A) Quail season.** Open season for hunting quail shall be the last Saturday in October through January 31 of succeeding year. Bag limit 8 birds daily; possession limit 16 birds. Shooting hours shall be from 8 a.m. to 4:30 p.m. Entire state open.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.48.

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# CHAPTER 97
# COMMON SNIPE, VIRGINIA RAIL AND SORA, WOODCOCK AND RUFFED GROUSE HUNTING SEASONS

[Prior to 12/31/86, Conservation Commission[290] Ch 109]

**571—97.1(481A) Common snipe season.** Open season for hunting common snipe shall be from the first Saturday in September through November 30. Shooting hours shall be from one-half hour before sunrise to sunset each day. Daily bag limit 8 birds; possession limit 16 birds. Entire state open.

**571—97.2(481A) Virginia rail and sora season.** Open season for hunting Virginia rail and sora shall be from the first Saturday in September and continue for 70 consecutive days. Shooting hours shall be from one-half hour before sunrise to sunset each day. Daily bag limit 12 and possession limit 24 in aggregate of both species. Entire state open.

**571—97.3(481A) Woodcock season.** Open season for hunting woodcock shall be from the first Saturday in October and continue for 45 consecutive days. Shooting hours shall be from sunrise to sunset each day. Daily bag limit 3; possession limit 6. Entire state open.

**571—97.4(481A) Ruffed grouse season.** Open season for hunting ruffed grouse shall be from the first Saturday in October through January 31 of the succeeding year. Shooting hours shall be from sunrise to sunset each day. Daily bag limit 3; possession limit 6.

**97.4(1)** *Portion of the state open to hunting.* The area open to hunting shall be that portion of the state lying north and east of a line described as follows: beginning at Sabula, Iowa; thence west along State Highway 64 to U.S. Highway 151; thence west along U.S. Highway 151 to State Highway 13; thence north along State Highway 13 to U.S. Highway 20; thence west along U.S. Highway 20 to U.S. Highway 63; thence north along U.S. Highway 63 to the state line.

**97.4(2)** Reserved.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48.

These rules are based on the best biological data available as determined by research conducted by the department of natural resources.

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# CHAPTER 98
# WILD TURKEY SPRING HUNTING
[Prior to 12/31/86, Conservation Commission[290] Ch 111]

## RESIDENT WILD TURKEY SPRING HUNTING

**571—98.1(483A) General.** Wild turkey may be taken during the spring season subject to the following:

**98.1(1)** *License.* When hunting wild turkey, all hunters must have in possession a wild turkey spring hunting license valid for the current year, the unused transportation tag issued with that license, a hunting license, and evidence of having paid the habitat fee (if normally required to have a hunting license and to pay the habitat fee to hunt). No one, while hunting wild turkey, shall carry or have in possession any license or transportation tag issued to another hunter. No one who is issued a wild turkey license and transportation tag shall allow another person to use or possess that license or transportation tag while turkey hunting or tagging a turkey. A hunter having a license valid for one of the spring turkey seasons may accompany, call for, or otherwise assist any other hunter who has a valid turkey hunting license for any of the spring seasons. The hunter who is assisting may not shoot a turkey or carry a firearm or bow unless the hunter has a valid license with an unused tag for the current season.

*a. Two types of licenses will be issued.*

(1) Combination shotgun-or-archery license. Combination shotgun-or-archery licenses shall be issued by season and shall be valid statewide in the designated season only.

(2) Archery-only license. Archery-only licenses shall be valid statewide and shall be valid during all seasons open for spring turkey hunting, except the youth season.

*b. Number of licenses.* No one may apply for or obtain more than two paid spring wild turkey hunting licenses. A hunter may obtain no more than two combination shotgun-or-archery licenses, or two archery-only licenses, or one of each. If two paid combination shotgun-or-archery licenses are obtained, at least one must be for season 4. If one paid combination shotgun-or-archery license and one archery-only license are obtained, the combination shotgun-or-archery license must be for season 4.

**98.1(2)** *Daily bag and possession limit.* Season possession limit, including daily bag limit, is one bearded (or male) wild turkey per license.

**98.1(3)** *Shooting hours.* Shooting hours shall be from one-half hour before sunrise to sunset.

**571—98.2(483A) Means and method of take.**

**98.2(1)** *Permitted weapons.* Wild turkey may be taken in accordance with the type of license issued as follows:

*a. Combination shotgun-or-archery license.* Wild turkey may be taken by shotgun or muzzleloading shotgun not smaller than 20-gauge and shooting only shot sizes number 2 or 3 nontoxic shot or number 4, 5, 6, 7½, or 8 lead or nontoxic shot; and by bow and arrow as defined in paragraph 98.2(1)*"b."* A person shall not have shot shells containing shot of any size other than number 2 or 3 nontoxic shot or number 4, 5, 6, 7½, or 8 lead or nontoxic shot on the person while hunting wild turkey.

*b. Archery-only license.* Except for crossbows for persons with certain afflictions of the upper body, as provided in 571—15.5(481A), only longbow, compound or recurve bows shooting broadhead arrows are permitted. Blunthead arrows with a minimum diameter of 9/16 inch may also be used. Arrows must be at least 18 inches long. No explosive or chemical devices may be attached to the arrow, broadhead, or blunthead.

**98.2(2)** *Prohibited devices.* The use of live decoys, dogs, horses, motorized vehicles, aircraft, bait, crossbows, except as otherwise provided, and the use or aid of recorded or electronically amplified bird calls or sounds, or recorded or electronically amplified imitations of bird calls or sounds are prohibited. Paraplegics and single or double amputees of the legs may hunt from any stationary motor-driven land conveyance. "Paraplegic" means an individual afflicted with paralysis of the lower half of the body with the involvement of both legs, usually due to disease of or injury to the spinal cord. "Bait" means grain, fruit, vegetables, nuts or any other natural food materials; commercial products containing natural food

products; or by-products of such materials transported to or placed in an area for the intent of attracting wildlife.

**98.2(3)** *Zones.* A person with a resident wild turkey spring hunting license may take wild turkey statewide.

**98.2(4)** *Seasons.* Seasons will be established in accordance with the type of license issued.

*a.* *Combination shotgun-or-archery licenses.* Consecutive seasons are 4, 5, 7, and 19 days, respectively, with the first season beginning on the Monday closest to April 13. These seasons shall be designated as seasons 1, 2, 3 and 4, respectively.

*b.* *Archery-only licenses.* The season shall be 35 days beginning on the Monday closest to April 13.

**571—98.3(483A) Procedures to obtain licenses.** All spring wild turkey hunting licenses will be sold using the electronic licensing system for Iowa (ELSI). Licenses may be purchased through ELSI license agents, by calling the ELSI telephone ordering system, or through the ELSI Internet license sales Web site.

**98.3(1)** Spring wild turkey hunting licenses will be sold beginning December 15 through the last day of the season for which the license is valid.

**98.3(2)** License quotas. There will be no quotas for combination shotgun-or-archery licenses or for archery-only licenses for resident hunters.

**98.3(3)** Landowner/tenant licenses. An eligible landowner or tenant may obtain a free combination shotgun-or-archery license or a free archery-only license. Nonresident landowners are not eligible for free turkey hunting licenses.

*a.* *Free combination shotgun-or-archery licenses.* A free combination shotgun-or-archery license will be issued by season and will be valid only on the farm unit of the landowner or tenant.

*b.* *Free archery-only licenses.* A free archery-only license will be valid for all seasons but only on the farm unit of the landowner or tenant.

*c.* *Number of licenses.* One paid combination shotgun-or-archery license or one paid archery-only license may be obtained in addition to the free shotgun-or-archery license or the free archery-only license. If a free archery-only license and a paid combination shotgun-or-archery license are obtained, the shotgun-or-archery license must be for season 4. If a free shotgun-or-archery license and a paid shotgun-or-archery license are obtained, one of the licenses must be for season 4.

**571—98.4(483A) Transportation tag.** Immediately upon the killing of a wild turkey, the transportation tag issued with the license and bearing the license number of the licensee, year of issuance, and date of kill properly shown shall be visibly attached to one leg of the turkey. The hunter who shot the turkey must use the transportation tag issued to that hunter to tag the turkey. No one may tag a turkey with a transportation tag issued to another hunter. The tag must be attached in such a manner that it cannot be removed without mutilating or destroying the tag. The tag must be attached before the carcass can be moved in any manner from the place of kill. The transportation tag shall remain affixed to the leg of the turkey until the turkey is processed for consumption. The leg that bears the tag must be attached to the carcass of any wild turkey being transported within the state during any wild turkey spring hunting season. The tag shall be proof of possession of the carcass by the above-mentioned licensee.

**571—98.5(483A) Eligibility for free landowner/tenant turkey licenses.**

**98.5(1)** *Who qualifies for a free turkey hunting license.*

*a.* Owners and tenants of a farm unit and the spouse or domestic partner as defined by the Iowa department of administrative services and juvenile child of an owner or tenant who reside with the owner or tenant are eligible for free turkey 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" 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.

**98.5(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.

**98.5(3)** *Definition of "actively engaged in farming."* 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 that 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.

**98.5(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.

**98.5(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.

**98.5(6)** *Where free licenses are valid.* A free license is valid only on the farm unit of the landowner or tenant. "Farm unit" means all parcels of land that are at least two contiguous acres in size, that are operated as a unit for agricultural purposes, and that 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.

**98.5(7)** *How many free licenses may be obtained.* The maximum number of free licenses for the spring turkey season is two per farm unit, one for the landowner (or family member) and one for the tenant (or family member). If there is no tenant, the landowner's family may obtain only one license. A tenant or the tenant's family is entitled to only one free license even if the tenant farms land for more than one landowner.

**98.5(8)** *Registration of landowners and tenants.* Landowners and tenants and their eligible family members who want to obtain free spring wild turkey hunting licenses must register with DNR before the free licenses will be issued. Procedures for registering are described in 571—95.2(481A).

**571—98.6(483A) Youth spring wild turkey hunt.**

**98.6(1)** *Licenses.* A special youth spring wild turkey hunting license valid statewide may be issued to any Iowa resident who is 15 years old or younger on the date the youth purchases 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 license for which the youth's family is eligible. Each participating youth must be accompanied by an adult who possesses a valid wild turkey spring hunting license for one of the seasons and a 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). 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 turkey hunting license but may also obtain one archery-only license or one combination shotgun-or-archery license for season 4.

**98.6(2)** *Youth season dates.* The youth turkey hunting license shall be valid during the Friday, Saturday and Sunday immediately before the first turkey season.

**98.6(3)** *Limits and license quotas.* An unlimited number of licenses may be issued. The daily and season bag and possession limit is one bearded (or male) wild turkey.

**98.6(4)** *Method of take and other regulations.* Wild turkeys may be taken with shotguns, muzzleloaded shotguns or bows as described in 571—98.2(483A). All other spring wild turkey hunting regulations for residents shall apply.

**98.6(5)** *Procedures for obtaining licenses.* Paid and free youth season licenses may be obtained through ELSI beginning December 15 through the last day of the youth season.

**571—98.7(481A) Harvest reporting.** Each hunter who bags a turkey must report that kill according to procedures described in 571—95.1(481A).

**571—98.8** Reserved.

NONRESIDENT WILD TURKEY SPRING HUNTING

**571—98.9(483A) General.** Wild turkey may be taken during the spring season subject to the following:

**98.9(1)** *License.* When hunting wild turkey, all hunters must have in possession a valid nonresident wild turkey spring hunting license, the unused transportation tag issued with that license, a valid nonresident hunting license, and proof of having paid the current year's habitat fee. No one, while hunting turkey, shall carry or have in possession any license or transportation tag issued to another hunter. No one who is issued a wild turkey license and transportation tag shall allow another person to possess that license or transportation tag while turkey hunting or tagging a turkey. Licenses will be issued by zone and season and will be valid in the designated zone and season only. No one shall obtain more than one nonresident wild turkey spring hunting license. A hunter having a license valid for one of the spring turkey seasons may accompany, call for, or otherwise assist any other hunter who has a valid turkey hunting license in that season and zone. The hunter who is providing assistance may not shoot a turkey or carry a firearm or bow unless that hunter has a valid license and an unused tag for the current season and zone. Two types of licenses will be issued:

*a. Combination shotgun-or-archery license.* Shotguns, muzzleloading shotguns and archery equipment as defined in subrule 98.12(1) may be used.

*b. Muzzleloading shotgun-only license.* Only muzzleloading shotguns as defined in subrule 98.12(1) may be used.

**98.9(2)** *Seasons.* Bearded (or male) wild turkey may be taken only by the use of shotguns, muzzleloading shotguns, and bow and arrow during the first, second, third or fourth seasons as defined in 98.2(4)*"a."*

**98.9(3)** *Daily bag, possession and season limits.* The daily bag limit is one bearded (or male) wild turkey; the possession and season limit is one bearded (or male) wild turkey.

**98.9(4)** *Shooting hours.* Shooting hours shall be from one-half hour before sunrise to sunset each day.

**98.9(5)** *Special licenses.* The commission shall issue licenses in conformance with Iowa Code section 483A.24(10) 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.
[**ARC 8253B**, IAB 11/4/09, effective 12/9/09]

**571—98.10(483A) Zones open to hunting.** Licenses shall be valid only in designated areas as follows:

1. Zone 4. Zone 4 is that portion of Iowa bounded on the north by Interstate Highway 80 and on the west by U.S. Highway 59.
2. Zone 5. Zone 5 is that portion of Iowa bounded on the north by U.S. Highway 20 and on the east by U.S. Highway 59.
3. Zone 6. Zone 6 is that portion of Iowa lying east of U.S. Highway 63 and north of Interstate Highway 80.
4. Zone 7. Zone 7 is that portion of Iowa bounded on the north by U.S. Highway 20, on the west by U.S. Highway 59, on the south by Interstate Highway 80, and on the east by U.S. Highway 63.
5. Zone 8. Zone 8 is that portion of Iowa north of U.S. Highway 20 and west of U.S. Highway 63.

**571—98.11(483A) License quotas.** A limited number of wild turkey hunting licenses will be issued in each zone in each season as follows:

**98.11(1)** *Combination shotgun-or-archery licenses.*

*a. Zone 4. 262.*
*b. Zone 5. 55.*
*c. Zone 6. 165.*
*d. Zone 7. 35.*
*e. Zone 8. 20.*

**98.11(2)** *Muzzleloading shotgun-only licenses.* 150 statewide. A hunter purchasing a muzzleloading shotgun license must declare a zone and season and hunt only in that zone and season.

**571—98.12(483A) Means and method of take.**

**98.12(1)** *Permitted weapons.* Wild turkey may be taken only with shotguns and muzzleloading shotguns not smaller than 20-gauge and shooting shot sizes 2 or 3 nontoxic shot or 4, 5, 6, 7½, and 8 lead shot. No person may have shot shells containing shot of any size other than 2 or 3 nontoxic shot or 4, 5, 6, 7½, or 8 lead shot on the person while hunting wild turkey. Except for crossbows for persons with certain afflictions of the upper body, as provided in 571—15.5(481A), only longbow, compound or recurve bows shooting broadhead arrows are permitted. Blunthead arrows with a minimum diameter of 9/16 inch may also be used. Arrows must be at least 18 inches long. No explosive or chemical devices may be attached to the arrow, broadhead, or blunthead.

**98.12(2)** *Prohibited devices.* The use of live decoys, dogs, horses, motorized vehicles, aircraft, bait, crossbows, except as otherwise provided, and the use or aid of recorded or electronically amplified bird calls or sounds, or recorded or electronically amplified imitations of bird calls or sounds are prohibited, except that paraplegics and single or double amputees of the legs may hunt from any stationary motor-driven land conveyance. "Paraplegic" means an individual afflicted with paralysis of the lower half of the body with the involvement of both legs, usually due to disease of or injury to the spinal cord. "Bait" means grain, fruit, vegetables, nuts 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.

**571—98.13(483A) Application procedure.** Applications for nonresident wild turkey spring hunting licenses must be made through the electronic licensing system for Iowa (ELSI) telephone ordering system or the ELSI Internet license sales Web site. Applications will be accepted from December 15 through the last Sunday in January. No one may submit more than one application during the application period. If applications have been sold in excess of the license quota for any license type, 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, Internet sales charges and telephone order charges will not be refunded. If any license

quota has not been filled, the excess licenses will be sold first-come, first-served through the telephone ordering system or the Internet license sales Web site beginning at 6 a.m. the second Saturday after the close of the application period until the quota has been filled or the last day of the season for which the license is valid, whichever occurs first. No one may obtain more than one nonresident wild turkey spring hunting license. Hunters may apply individually or as a group of up to 15 applicants. All members of a group will be accepted or rejected as a group in the drawing. If a group is rejected, members of that group may purchase licenses individually if excess licenses are available.

Each individual applicant who is unsuccessful in the drawing will be assigned one preference point for each year in which the individual applies and is unsuccessful. 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. Once an applicant receives a license, all preference points will be erased. Preference points will apply to any zone or season for which a hunter applies. The first license drawing 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 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.

**571—98.14(483A) Transportation tag.** Immediately upon the killing of a wild turkey, the transportation tag issued with the license and bearing the license number of the licensee, year of issuance, and date of kill properly shown shall be visibly attached to one leg of the turkey. The hunter who shot the turkey must use the transportation tag issued to that hunter to tag the turkey. No one may tag a turkey with a transportation tag issued to another hunter. The tag must be attached in such a manner that it cannot be removed without mutilating or destroying the tag. The tag must be attached before the carcass can be moved in any manner from the place of kill. The transportation tag shall remain affixed to the leg of the turkey until the turkey is processed for consumption. The leg that bears the tag must be attached to the carcass of any wild turkey being transported within the state during any wild turkey spring hunting season. The tag shall be proof of possession of the carcass by the above-mentioned licensee.

**571—98.15(481A) Harvest reporting.** Each hunter who bags a turkey must report that kill according to procedures described in 571—95.1(481A).

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1, 483A.7 and 483A.24.

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# CHAPTER 99
# WILD TURKEY FALL HUNTING

**571—99.1(481A) General.** When hunting wild turkey, all hunters must have in possession a fall wild turkey hunting license valid for the current year, the unused transportation tag issued with that license, a hunting license, and evidence of having paid the habitat fee (if normally required to have a hunting license and to pay the habitat fee to hunt). No person shall carry or have in possession a fall wild turkey hunting license or transportation tag issued to another person while hunting wild turkey. No one who is issued a wild turkey hunting license and transportation tag shall allow another person to use or possess that license or transportation tag while turkey hunting or tagging a turkey. Licenses for the fall turkey season will only be issued to Iowa residents except as specified in subrule 99.2(4).
[**ARC 8254B**, IAB 11/4/09, effective 12/9/09]

**571—99.2(481A) Licenses.**

**99.2(1)** *Paid combination shotgun-or-archery licenses.* Paid combination shotgun-or-archery licenses shall be valid for taking turkeys of either sex in the zone designated on the license.

**99.2(2)** *Paid archery-only licenses.* Paid archery-only licenses shall be valid statewide for taking turkeys of either sex.

**99.2(3)** *Number of licenses.* No one may apply for or obtain more than two wild turkey fall hunting licenses, whether free or paid. A hunter may obtain no more than two combination shotgun-or-archery licenses, or two archery-only licenses, or one of each. One license of either type may be free to eligible landowners or tenants.

**99.2(4)** *Special licenses.* The commission shall issue licenses in conformance with Iowa Code section 483A.24(10) 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.
[**ARC 7920B**, IAB 7/1/09, effective 8/5/09; **ARC 8254B**, IAB 11/4/09, effective 12/9/09]

**571—99.3(481A) Seasons.** Wild turkey may be taken only during specified periods as follows:

**99.3(1)** *Combination shotgun-or-archery season.* The dates for the combination shotgun-or-archery season shall be from the Monday following the second Saturday in October through the Friday before the first Saturday in December of the same year.

**99.3(2)** *Archery-only season.* The dates for the fall archery-only wild turkey hunting season shall be the same as the dates for the bow season for deer as defined in 571—Chapter 106.

**571—99.4(481A) Zones.** Wild turkey may be taken with a combination shotgun-or-archery license only in the following zones:

**99.4(1)** *Zone 4.* Zone 4 is that portion of Iowa bounded on the north by Interstate Highway 80 and on the west by U.S. Highway 59.

**99.4(2)** *Zone 5.* Zone 5 is that portion of Iowa bounded on the east by U.S. Highway 59 and on the north by U.S. Highway 20.

**99.4(3)** *Zone 6.* Zone 6 is that portion of Iowa bounded on the south by Interstate Highway 80 and on the west by U.S. Highway 63.

**99.4(4)** *Zone 7.* Zone 7 is that portion of Iowa bounded on the north by U.S. Highway 20, on the west by U.S. Highway 59, on the south by Interstate Highway 80, and on the east by U.S. Highway 63.

**99.4(5)** *Zone 8.* Zone 8 is that portion of Iowa bounded on the south by U.S. Highway 20, on the east by U.S. Highway 63, and on the west by U.S. Highway 69.

**99.4(6)** *Zone 9.* Zone 9 is that portion of Iowa bounded on the south by U.S. Highway 20 and on the east by U.S. Highway 69.

**571—99.5(481A) Quotas.**

**99.5(1)** *Combination shotgun-or-archery licenses.* A limited number of paid combination shotgun-or-archery licenses will be issued by zone as follows:

*a.* Zone 4. 1,500
*b.* Zone 5. 650
*c.* Zone 6. 1,400
*d.* Zone 7. 250
*e.* Zone 8. 150
*f.* Zone 9. 200

**99.5(2)** *Archery-only licenses.* The number of archery-only licenses shall not be limited.

**99.5(3)** *Free landowner-tenant licenses.* The number of free licenses shall not be limited.

**99.5(4)** *Additional licenses.* Additional combination shotgun-or-archery licenses may be added to zone quotas if turkey surveys indicate that annual brood production and turkey populations are high enough to warrant additional hunting opportunity. The licenses will be added at the discretion of the natural resource commission upon advice from the wildlife bureau.

[**ARC 7920B**, IAB 7/1/09, effective 8/5/09]

**571—99.6(481A) Daily, season, and possession bag limits.** The daily, season, and possession bag limit is one wild turkey per license.

**571—99.7(481A) Shooting hours.**

**99.7(1)** *Combination shotgun-or-archery season.* Shooting hours shall be from one-half hour before sunrise to sunset each day.

**99.7(2)** *Archery-only season.* Shooting hours shall be from one-half hour before sunrise to one-half hour after sunset each day.

**571—99.8(481A) Means and method of take.**

**99.8(1)** *Permitted weapons.* In accordance with the type of license issued, wild turkey may be taken by shotgun and muzzleloading shotgun not smaller than 20-gauge and shooting only shot sizes 2 or 3 nontoxic shot or 4, 5, 6, 7½, or 8 lead or nontoxic shot; and by longbow, recurve or compound bow shooting broadhead or blunthead (minimum diameter 9/16 inch) arrows only. No person may carry or have in possession shotshells containing shot of any size other than 2 or 3 nontoxic shot or 4, 5, 6, 7½, or 8 lead or nontoxic shot while hunting wild turkey. Arrows with chemical or explosive pods are not permitted.

**99.8(2)** *Prohibited devices.* The use of live decoys, horses, motorized vehicles, aircraft, bait and the use or aid of recorded or electronically amplified bird calls or sounds, or recorded or electronically amplified imitations of bird calls or sounds are prohibited. Paraplegics and single or double amputees of the legs may hunt from any stationary motor-driven land conveyance. "Paraplegic" means an individual afflicted with paralysis of the lower half of the body with the involvement of both legs, usually due to disease of or injury to the spinal cord. "Bait" means grain, fruit, vegetables, nuts 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.

**571—99.9(481A) Procedures to obtain licenses.** All paid and free resident fall turkey hunting licenses must be obtained using the electronic licensing system for Iowa (ELSI). Licenses may be purchased from ELSI license agents or by calling the ELSI telephone ordering system.

**99.9(1)** *Licenses with quotas.* All paid turkey hunting licenses for which a quota is established may be obtained from ELSI agents 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.

**99.9(2)** *Licenses without quotas.* All paid and free turkey hunting licenses that have no quota may be obtained from ELSI agents beginning August 15 through the last day of the hunting period for which a license is valid.

**99.9(3)** *Providing false information.* If anyone provides false information when obtaining any fall turkey hunting license, that license and transportation tag and any other fall turkey hunting license and transportation tag obtained during the same year shall be invalid.

**571—99.10(481A) Transportation tag.** Immediately upon the killing of a wild turkey, the transportation tag issued with the license and bearing the license number of the licensee, year of issuance, and date of kill properly shown shall be visibly attached to one leg of the turkey. The hunter who shot the turkey must use the transportation tag issued to that hunter to tag the turkey. No one may tag a turkey with a transportation tag issued to another hunter. The tag must be attached in such a manner that it cannot be removed without mutilating or destroying the tag. The tag must be attached before the carcass can be moved in any manner from the place of kill. The transportation tag shall remain affixed to the leg of the turkey until the turkey is processed for consumption. The leg that bears the tag must be attached to the carcass of any wild turkey being transported within the state during any wild turkey hunting season. The tag shall be proof of possession of the carcass by the above-mentioned licensee.

**571—99.11(481A) Eligibility for free landowner/tenant turkey licenses.**

**99.11(1)** *Who qualifies for free turkey hunting license.*

*a.* Owners and tenants of a farm unit and the spouse or domestic partner as defined by the Iowa department of administrative services and juvenile child of an owner or tenant who reside with the owner or tenant are eligible for free turkey 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" 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.

**99.11(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.

**99.11(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.

**99.11(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.

**99.11(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.

**99.11(6)** *Where free licenses are valid.* A free license is valid only on the farm unit of the landowner or tenant. "Farm unit" means all parcels of land that are at least two contiguous acres in size, that are operated as a unit for agricultural purposes, and that 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., nurseries, orchards, truck farms, or Christmas tree plantations), and land managed for timber production.

**99.11(7)** *How many free licenses may be obtained.* The maximum number of free licenses for the fall turkey season is two per farm unit, one for the landowner (or family member) and one for the tenant (or family member). If there is no tenant, the landowner's family may obtain only one license. A tenant or the tenant's family is entitled to only one free license even if the tenant farms land for more than one landowner.

**99.11(8)** *Registration of landowners and tenants.* Landowners and tenants and their eligible family members who want to obtain free fall wild turkey hunting licenses must register with DNR before the free licenses will be issued. Procedures for registering are described in 571—95.2(481A).

**571—99.12(481A) Harvest reporting.** Each hunter who bags a turkey must report that kill according to procedures described in 571—95.1(481A).

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.7 and 483A.24.

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# CHAPTER 100
# CROW AND PIGEON REGULATIONS

[Ch 101—formally related to Mourning Dove Season]
[Prior to 12/31/86, Conservation Commission [290] Ch 101]

**571—100.1(481A) Crow season.** Open season for hunting crows shall be from October 15 through November 30 and January 14 through March 31 of each year. No bag or possession limit. Entire state open.

**571—100.2(481A) Pigeons.**

**100.2(1)** Pigeon season. There is a continuous open season for the taking of pigeons except the season for taking pigeons with firearms shall be October 1 to March 31. However, within 100 yards of buildings and bridges pigeons may be taken with firearms the year around. No bag or possession limit. Entire state open.

**100.2(2)** Pigeons causing a health or safety hazard may be taken by trapping, or any current EPA and Iowa registered pesticide repellent, or toxic perches. Strychnine-based products cannot be used. The person or organization engaging in such a program will provide for proper removal and disposal of all pigeons taken by such means.

**100.2(3)** If a specific problem involving the use of a toxic substance or a procedure designed to destroy problem pigeons proves not to be species specific, the director, conservation officer or wildlife biologist will issue an immediate order to stop the particular method being employed or the substance being used.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.48.

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# CHAPTER 101
# FALCONRY REGULATIONS

[Prior to 12/31/86, Conservation Commission[290] Ch 18]

**571—101.1(481A) Falconry regulations.** No person may take, transport, or possess any raptor without having first obtained a valid state/federal falconer's permit. Falconry permit holders shall comply with the department's rules and with the current Code of Federal Regulations pertaining to falconry. Only the following raptors may be taken from the wild: American kestrel, Cooper's hawk, Ferruginous hawk, Goshawk, Great horned owl, Gyrfalcon, Harris' hawk, Merlin, Prairie falcon, Red-tailed hawk, Rough-legged hawk, and Sharp-shinned hawk. Raptors taken from the wild shall not be sold, bartered or traded. All wild raptors legally trapped or taken by a resident or nonresident falconer must be marked with an Iowa marker band provided by the department.

**101.1(1)** A falconry permit allows for the purchase, capture, possession and use of designated legal raptors in hunting, subject to state regulations.

**101.1(2)** A falconry permit may be issued to any person 14 years of age or older who has successfully passed a written examination provided by the department and approved by the U.S. Department of the Interior covering basic biology, care and handling of raptors, laws, regulations or other appropriate subject matter, with a minimum score of 80 percent, and who has satisfied the minimum requirements for keeping raptors as determined by inspection of the applicant's facilities. In the event an individual fails the examination, this individual may reapply.

**101.1(3)** There shall be three classes of falconer permits as follows:

*a.* *Apprentice falconer.*

(1) An applicant shall be at least 14 years old and shall have a sponsor who is a holder of a general or master falconry permit and who has at least two years of active experience as a general falconer. A qualifying sponsor must submit a signed letter to the department in which the sponsor agrees to assist and mentor the apprentice falconer for the duration of the apprenticeship. A sponsor may have no more than two apprentices at any one time.

(2) Apprentice permit holders shall not possess more than one raptor and may not obtain more than one raptor for replacement during any 12-month period. Apprentice permit holders shall possess only a red-tailed hawk (Buteo jamaicensis). Apprentice permit holders shall be restricted from taking nestling or fledgling birds.

(3) A sponsor has the right to withdraw sponsorship at any time and, upon withdrawal, must submit a signed letter to the department requesting withdrawal of sponsorship. If an apprentice falconer fails to successfully complete the required two-year apprenticeship, the red-tailed hawk shall be transferred to the sponsor of record. The sponsor will be required to properly care for the bird until it is transferred to another falconer or hacked back into the wild.

(4) Upon completion of the apprenticeship requirements, the apprentice's sponsor must submit a signed letter of endorsement confirming that the apprentice has satisfied the terms and conditions of the apprenticeship as required by these rules and approved by the department and the Iowa Falconers Association (IFA) Apprenticeship Guideline Manual.

*b.* *General falconer.* An applicant shall be at least 18 years old. An applicant shall have at least two years of field experience in the practice of falconry at the apprentice level or its equivalent; the mere keeping of raptors shall not count as field experience and is strongly discouraged. General permit holders shall not possess more than three raptors and may not take more than one raptor for a replacement bird from the wild during any 12-month period. Licensed general class falconers may purchase properly marked captive-bred raptors only from federally licensed raptor propagators.

*c.* *Master falconer.* An applicant shall have at least five years of field experience in the practice of falconry at the general level or its equivalent. The keeping of raptors without actively hunting the bird(s) shall not be considered field experience. A master falconer shall possess no more than five raptors at any one time and be permitted to take no more than two replacement birds from the wild in any 12-month period. Master class falconers may purchase properly marked captive-bred raptors only from federally licensed raptor propagators.

**101.1(4)** Falconry permits are $61.50, are valid for a three-year period, and are nontransferable. Permits shall expire June 30 of the third year after issuance. Permits may be renewed without examination following the falconer's submission of an annual report of birds possessed during the previous year and provided that the department of natural resources is satisfied as to the competency of the applicant whose permit has expired.

**101.1(5)** A federal raptor propagation permit is required before any raptor propagator may take, possess, transport, sell, purchase, barter, or transfer any captive-bred raptor, raptor egg, or raptor semen for propagation or sale purposes.

This rule is intended to implement Iowa Code section 481A.48 and conforms to the federal regulations promulgated under the "Migratory Bird Treaty Act."

[**ARC 9189B**, IAB 11/3/10, effective 12/8/10]

**571—101.2(481A) Facilities and equipment.** Before any individual shall be issued a falconry permit, the applicant's raptor housing facilities and falconry equipment shall be inspected and certified by a representative of the department of natural resources as meeting the following standards:

**101.2(1)** *Facilities.* The primary consideration for raptor housing facilities, whether indoors (mews) or outdoors (weathering area), is protection from the environment, predators or undue disturbance. Depending upon climatic conditions, the applicant shall have either or both of the following facilities:

*a.* *Indoor facilities.* Indoor facilities (mews) shall be a minimum of 6 feet high, with a floor area at least 6 feet square for each bird. If more than one raptor is to be kept in the mews, the raptors shall be tethered or separated by partitions. There shall be at least one window, protected on the inside by vertical bars spaced narrower than the width of the bird's body and a door that can be easily closed and secured. The floor of the mews shall permit easy cleaning. Falcons are to be kept on perches with a flat perching surface while accipiters, buteos and eagles are to be kept on perches that have a perching surface round in cross section and all perches should provide a good grasping surface satisfactory to the bird in possession.

*b.* *Indoor facilities—exception.* An exception may be allowed from the standard size requirements listed in 101.2(1)*"a"* to General and Master Class permittees only for housing the smaller species of raptors; however, the facilities shall be large enough to allow the bird to fully extend its wings without touching the walls of the mew.

*c.* *Outdoor facilities.* Outdoor facilities (weathering area) shall be fenced and covered with netting or wire, or roofed to protect the birds from disturbance and attack by predators. The enclosed area shall be large enough to ensure the birds cannot strike the fence when flying from the perch. Protection from excessive sun, wind, and inclement weather shall be provided for each bird. Adequate perches shall be provided.

**101.2(2)** *Equipment.* The following items shall be in the possession of the applicant before the applicant can obtain a permit.

*a.* *Jesses.* At least one pair of Alymeri jesses or similar-type jesses constructed of pliable, high-quality leather or suitable synthetic material to be used when any raptor is flown free. (Traditional one-piece jesses may be used on raptors when the raptors are not being flown.)

*b.* *Leashes and swivels.* At least one flexible, weather-resistant leash and one strong swivel of acceptable falconry design.

*c.* *Bath container.* At least one suitable container, 2 to 6 inches deep and wider than the length of the raptor, for drinking and bathing for each raptor.

*d.* *Outdoor perches.* At least one weathering area perch of an acceptable design shall be provided for each raptor.

*e.* *Weighing device.* A working scale or balance suitable for weighing the raptor(s) held and graduated to increments of not more than two-tenths of an ounce, or five grams, shall be provided by the falconer.

*f.* *Maintenance and inspection.* All facilities and equipment shall be kept at or above the preceding standards at all times and shall be available for inspection by representatives of the department of natural resources at all reasonable hours.

*g. Transportation—temporary holding.* A raptor may be transported or held in temporary facilities which shall be provided with an adequate perch and protected from extreme temperatures and excessive disturbance for a period not to exceed 30 days.
[**ARC 9189B**, IAB 11/3/10, effective 12/8/10]

**571—101.3(481A) Taking and possession provision.** The taking of raptors from the wild by resident falconers shall be limited to the following conditions:

**101.3(1)** Nestling birds may be taken only by general class or master class permit holders.

**101.3(2)** Young birds not yet capable of flight may be taken at any time following hatch by a general class or master class falconer. The falconer may take no more than two nestlings, and at least one nestling shall be left in any nest from which a nestling is taken. The taking of nestlings and branchers is permitted only between April 1 and July 31. Removal of eggs from nests is prohibited.

**101.3(3)** First year (passage) birds shall be taken only from August 1 through March 31.

**101.3(4)** Only American kestrels (Falco sparverius) and great horned owls (Bubo virginianus) may be taken when over one year old; however, the permissible period for taking shall be no different than that prescribed for passage birds of all other legal species.

**101.3(5)** No permittee shall employ any method of taking raptors which is injurious to the bird.

**101.3(6)** Any species except endangered or threatened species or exotic birds, the import of which has been banned by the international convention, federal regulation or the department of natural resources, may be possessed and used for falconry provided the license holder can provide evidence that the bird was legally acquired. No one may import a raptor into Iowa or export a raptor out of Iowa for a period greater than 30 days without having first obtained written permission of the department of natural resources.

**101.3(7)** Recapture. Banded raptors that are lost to the wild through accident may be retrapped provided that the department of natural resources has been advised of the loss and is notified of the attempt to recapture. If the banded raptor is recaptured, the department of natural resources shall be notified of the recovery within 48 hours.

**101.3(8)** Nonresident raptor trapping. A permit may be issued upon application by a nonresident for the purpose of taking a raptor in Iowa, provided that the applicant's resident state is listed in Paragraph (K), Subpart C, Part 21-29, Chapter 1, of Title 50, Code of Federal Regulations, as a participating state, and the applicant's resident state provides for the taking of raptors by nonresidents. Nonresidents shall submit a photocopy of a valid state or federal falconry permit. Nonresident raptor trapping permits shall be issued only in the general class or master class.

*a. Trapping provisions.* Trapping of raptors in Iowa by permitted nonresident falconers shall be limited to the legal species listed in these rules.

*b. Marking requirements.* Raptors legally trapped by nonresidents must be marked with an Iowa marker band provided by the department. No raptor shall be transported from Iowa without first having had the Iowa marker band attached. Permittees may, with written permission from the department, provide their own marker band issued by their state of residency. Permittees who provide their own marker band shall place the band on the raptor immediately upon capture and must notify the department within five days of the capture and of the corresponding marker band number.

*c. Fees.* Fees for nonresident raptor trapping applications shall be reciprocal to the fee charged by the applicant's resident state. If the applicant's resident state does not provide for a nonresident raptor trapping fee, then the Iowa nonresident raptor trapping application fee shall be $100.

*d. Restrictions.* Nonresident falconers may apply for one raptor trapping permit per trapping season. All nonresident raptor trapping permits shall be valid for a period not to exceed 60 consecutive days, beginning on the date of issuance. No nestlings or raptor eggs may be taken. First year (passage) birds may be taken only from September 1 through January 31. The nonresident raptor trapping permit shall be valid for only one raptor of the species designated on the permit. The raptor trapping permit shall be carried by the permittee while in the act of trapping and the transportation of any subsequently trapped raptor.
[**ARC 9189B**, IAB 11/3/10, effective 12/8/10]

**571—101.4(481A) Annual reports.** Each holder of a falconer's permit shall submit an annual report to the department of natural resources by July 31 of each year. This report shall list all raptors in possession on the preceding thirtieth day of June and any raptor held during the year by species, sex (if known), age (if known), date acquired and where or from whom acquired, and whether the raptor escaped, died, was recaptured, or was released during this time period and the date on which the event occurred.
[**ARC 9189B**, IAB 11/3/10, effective 12/8/10]

**571—101.5(481A) Other provisions.**

**101.5(1)** Any raptor captured with a research radio transmitter attached must be reported to the department within five days, and the raptor shall be released immediately.

**101.5(2)** No permittee may take, purchase, receive or otherwise acquire, sell, barter, transfer, or otherwise dispose of any raptor unless such permittee submits federal Form 3-186A (Migratory Bird Acquisition/Disposition Report), completed in accordance with the instructions on the form, to the issuing regional fish and wildlife service office within five days of such transaction. A falconry permittee shall notify the department of natural resources in writing of the death, replacement, loss, release or temporary transfer or other such change in the status of the permittee's raptors within five days of such occurrence. Written authorization shall be obtained from the department of natural resources before a replacement raptor may be secured. Each dead raptor shall be surrendered to the department of natural resources or disposed of at the department's direction. Primary, secondary, and tail feathers may be retained and exchanged from these birds to imp or repair broken feathers.

**101.5(3)** Raptor exportation and importation permits may be issued to resident and nonresident falconers licensed to practice falconry in other states. Such permits shall be issued only when the export or import term will exceed 30 days. In the case of exportation or importation terms of less than 30 days, the permittee shall have in possession a photocopy of raptor possession documentation (Form 3-186A) and a photocopy of a valid state or federal falconry permit. Persons wishing to participate in hunting will be required to possess appropriate hunting licenses or permits.

**101.5(4)** A falconry permit holder shall obtain written authorization from the department of natural resources before any raptor not indigenous to the state is intentionally released to the wild, at which time the marker band from the released raptor shall be removed and surrendered to the department of natural resources. The marker band from an intentionally released raptor which is indigenous to the state shall also be removed and surrendered to the department of natural resources. A standard federal bird band shall be attached to such raptors by the state or a service-authorized federal bird bander whenever possible. A falconer shall not permanently release a captive-bred raptor to the wild.

**101.5(5)** A raptor possessed under a state or federal falconry permit may be temporarily held by a person other than the permittee only if that person is otherwise authorized to possess raptors and only if the raptor is accompanied at all times by the properly completed Form 3-186A (Migratory Bird Acquisition/Disposition Report) designating the permittee as the possessor of record and by a signed, dated statement from the permittee authorizing the temporary possession.

**101.5(6)** A general or master falconer may charge a fee for presentation of a raptor education program to the public. The fee cannot exceed the amount required to cover the falconer's expenses.

**101.5(7)** When a hybrid or exotic falconry bird is flown free, it must be fitted with two working radio telemetry transmitters.
[**ARC 9189B**, IAB 11/3/10, effective 12/8/10]

**571—101.6(481A) Compliance.** Permits will be revoked for any individual failing to comply with the provisions of these rules.

These rules are intended to implement Iowa Code sections 481A.39 and 481A.42.

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# CHAPTER 102
# FALCONRY REGULATIONS FOR HUNTING GAME
[Prior to 12/31/86, Conservation Commission[290] Ch 100]

**571—102.1(481A) General.** Game may be taken annually, by permitted falconers only, subject to the following:

**102.1(1)** *Definitions.* For the purposes of this rule, the following definitions are used:

*"Falconer"* means any person permitted under the provisions of 571—Chapter 101, Iowa Administrative Code, who pursues the sport of falconry.

*"Falconry"* means the sport of taking game by means of a raptor.

*"Raptor"* means any of the following wild species: American kestrel, Cooper's hawk, Ferruginous hawk, Goshawk, Great horned owl, Gyrfalcon, Harris' hawk, Merlin, Prairie falcon, Red-tailed hawk, Rough-legged hawk, Sharp-shinned hawk and any captive-bred species used for falconry.

**102.1(2)** *Licenses and permits.* In addition to the falconry permit, a falconer must have all other licenses, stamps, and permits required by law. A falconry observer is not required to be licensed for hunting, but an observer shall not assist in the hunt.

**102.1(3)** *Other requirements.* Except for the provisions of rule 571—102.2(481A), any person taking game by falconry must comply with all other statutes and rules governing this activity.
[**ARC 9188B**, IAB 11/3/10, effective 12/8/10]

**571—102.2(481A) Migratory bird regulations.** Seasons and limits for taking migratory birds by means of falconry shall be as follows:

**102.2(1)** *Ducks and coots.* The season for taking ducks and coots statewide by means of falconry may vary among duck hunting zones. Falconry seasons for ducks and coots shall be open whenever the conventional (gun) duck and coot hunting season is open in each zone, as described in rules 571—91.1(481A) and 571—91.2(481A), and shall also be open beginning December 15 in each zone and remain open until the combined total of the conventional hunting season days plus falconry hunting season days reaches 107 for the zone or February 28, whichever occurs first.

**102.2(2)** *Geese.* The season for taking geese by means of falconry may vary among goose hunting zones. Falconry seasons for white-fronted geese and light geese (white and blue-phase snow geese and Ross' geese) shall begin each year on the first day of the conventional (gun) hunting season for these geese in each zone, as described in rule 571—91.3(481A), and continue in each zone for 107 consecutive days. Falconry seasons for Canada geese and brant shall be open concurrently with the conventional (gun) hunting season for these geese as well as any days between the first, second, or third segments of the conventional (gun) hunting season for Canada geese and brant.

**102.2(3)** *Rails, snipe and woodcock.* The seasons for taking rails, snipe and woodcock by means of falconry shall begin each year on the first day of the conventional (gun) hunting seasons for these species, as described in rules 571—97.1(481A), 571—97.2(481A), and 571—97.3(481A), and continue for 107 consecutive days. The entire state is open for these species.

**102.2(4)** *Hawking hours and limits.* Hawking hours for migratory game birds are one-half hour before sunrise to sunset. The daily bag limit shall include no more than three migratory game birds, singly or in aggregate. The possession limit is twice the daily bag limit. There are no hawking hour restrictions for nonmigratory game during the legal season.
[**ARC 9188B**, IAB 11/3/10, effective 12/8/10]

**571—102.3(481A) Small game.** Seasons and limits for the taking of pheasant (both sexes), quail, gray partridge, ruffed grouse, squirrels, cottontail rabbit and jackrabbit, by falconry only, shall be as follows:

**102.3(1)** *Seasons.*

*a.* *Pheasant (both sexes), quail, gray partridge, ruffed grouse, and jackrabbit.* The season for the taking of pheasant, quail, gray partridge, ruffed grouse, and jackrabbit shall be from October 1 of each year through March 31 of the following year.

*b.* *Cottontail rabbit and squirrel.* The season for the taking of cottontail rabbits and squirrels shall be from September 1 of each year through March 31 of the following year.

**102.3(2)** *Limits.*

*a.* *Pheasants (both sexes) and jackrabbit.* The daily limit shall be two pheasants, no more than one of which may be a hen, and one jackrabbit; possession limit shall be four pheasants and two jackrabbits.

*b.* *Quail, gray partridge, ruffed grouse, squirrels and cottontail rabbit.* The daily limit shall be two quail, two gray partridge, two ruffed grouse, four cottontail rabbits and four squirrels; possession limit shall be four quail, four gray partridge, four ruffed grouse, eight cottontail rabbits, and eight squirrels.

**571—102.4(481A) Means and methods of take.** No falconer or observer may carry a firearm while in the field with a raptor or in the act of falconry.
[**ARC 9188B**, IAB 11/3/10, effective 12/8/10]

**571—102.5(481A) Exclusions.** Nothing in this chapter shall pertain to the taking of game under 571—Chapters 91, 96, 97 and 107, Iowa Administrative Code.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48.

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# CHAPTER 103
# MOBILE RADIO TRANSMITTERS

**571—103.1(481A) Definitions.**

*"One-way mobile radio transmitters"* means radios capable of transmitting a radio signal only. The signal is tracked or located by radio telemetry or by location of an audible sound signal. The system is not capable of transmitting voice signals.

*"Two-way mobile radio transmitters"* means radios capable of transmitting and receiving voice messages. An example would be a CB radio or a cellular telephone.

**571—103.2(481A) Falconry.** Licensed falconers may use one-way mobile radio transmitters to recover free-flying birds of prey properly banded and covered on their falconry permit.

**571—103.3(481A) Hunting dogs.** Any person hunting with the aid of a dog may use, at any time, a one-way mobile transmitter designed to track or aid in the recovery of the dog.

These rules are intended to implement Iowa Code section 481A.24.

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# CHAPTER 104
# WILDLIFE IMPORTATION, TRANSPORTATION AND DISEASE MONITORING

**571—104.1(481A) Definitions.**

*"Accredited veterinarian"* means a veterinarian approved by the deputy administrator of veterinary services, Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), and the state veterinarian in accordance with Part 161 of Title 9, Chapter 1, of the Code of Federal Regulations, revised as of January 1, 2000, to perform functions required by cooperative state/federal animal disease control and eradication programs.

*"Adjacent herd"* means one of the following:

1. A herd of Cervidae occupying premises that border an affected herd, including herds separated by roads or streams.

2. A herd of Cervidae occupying premises that were previously occupied by an affected herd within the past five years as determined by the department.

*"Affected herd"* means a cervid herd from which any animal has been diagnosed as affected with chronic wasting disease (CWD) and which has not been in compliance with the control program for CWD as described in rules 571—104.2(481A) through 571—104.22(481A).

*"Approved laboratory"* means an American Association of Veterinary Laboratory Diagnosticians (AAVLD) accredited laboratory or the National Veterinary Services Laboratory, Ames, Iowa.

*"Brucellosis"* means bovine brucellosis.

*"Captive cervid"* means all cervidae that are legally acquired and held on private property for personal use or use by others.

*"Certificate"* means an official document, issued by a state veterinarian or federal animal health official or an accredited veterinarian at the point of origin, containing information on the individual identification of each animal being moved, the number of animals, the purpose of the movement, the points of origin and destination, the consignor, the consignee, and any other information required by the department.

*"Certificate of veterinary inspection"* means an approved certificate of veterinary inspection which is a legible record accomplished on an official form of the state or province of origin, issued by a licensed, accredited veterinarian and approved by the livestock sanitary official of the state or province of origin; or an equivalent form of the U.S. Department of Agriculture issued by a federally employed veterinarian.

*"Certified CWD cervid herd"* means a herd of Cervidae that has met the qualifications for and has been issued a certified CWD cervid herd certificate signed by the department.

*"Cervidae"* or *"cervids"* means any member of the Cervidae family, whether free ranging or captive, except those classified as farm deer by Iowa Code section 481A.1(20)*"h."* Only members of the species dama dama (fallow deer), cervus nippon (sika deer), and captive cervus elaphus (elk and red deer) are not included. "Farm deer" does not include any unmarked free ranging elk, moose or caribou.

*"Cervid CWD surveillance identification program"* or *"CCWDSI program"* means a CWD surveillance program that requires identification and laboratory diagnosis on all deaths of Cervidae over six months of age including, but not limited to, deaths by slaughter, hunting, illness, and injury. A copy of approved laboratory reports shall be maintained by the owner for purposes of completion of the annual inventory examination for recertification. Such diagnosis shall include examination of brain and any other tissue as directed by the department. If there are deaths for which tissues were not submitted for laboratory diagnosis due to postmortem changes or unavailability, the department shall determine compliance.

*"Cervid herd"* means a group of Cervidae or one or more groups of Cervidae maintained on common ground or under common ownership or supervision that are geographically separated but can have interchange or movement.

*"CWD"* means chronic wasting disease, an infectious and contagious disease of cervids.

*"CWD affected"* means a designation applied to Cervidae diagnosed as affected with CWD based on laboratory results, clinical signs, or epidemiological investigation.

*"CWD exposed"* or *"exposed"* means a designation applied to Cervidae that are either part of an affected herd or for which epidemiological investigation indicates contact with CWD affected animals or contact with animals from a CWD affected herd in the past five years.

*"CWD suspect"* means a designation applied to Cervidae for which laboratory evidence or clinical signs suggest a diagnosis of CWD but for which laboratory results are inconclusive.

*"Department"* means the department of natural resources or its designee.

*"Designated epidemiologist"* means a person who has demonstrated the knowledge and ability to perform the functions required under these rules and who has been selected by the department.

*"Endemic area"* means an area or portion of a state or province where CWD or TB has been confirmed in either wild or captive cervids. The endemic area shall be determined by the state veterinarian or designee of the state or province of the cervid's origin.

*"Group"* means one or more Cervidae.

*"Herd of origin"* means a cervid herd or any farm or other premises where the animals were born or where they currently reside.

*"Herd plan"* means a written herd management and testing plan that is designed by the herd owner, the owner's veterinarian, if requested, and a designated epidemiologist to identify and eradicate CWD from an affected, exposed, or adjacent herd.

*"Monitored CWD cervid herd"* means a herd of Cervidae that is in compliance with the CCWDSI program as defined in this rule. Monitored herds are defined as one-year, two-year, three-year, four-year, and five-year monitored herds in accordance with the time in years such herds have been in compliance with the CCWDSI program.

*"Permit"* means an official document that is issued by the department or USDA area veterinarian-in-charge or an accredited veterinarian for movement of affected, suspect, or exposed animals.

*"Quarantine"* means an imposed restriction prohibiting movement of cervids to any location without specific written permits.

*"State"* means any state of the United States; the District of Columbia; Puerto Rico; the U.S. Virgin Islands; or Guam.

*"TB"* means bovine tuberculosis.

*"Trace back"* means the process of identifying the herd of origin of CWD positive animals, including herds that were sold for slaughter.

**571—104.2(481A) Chronic wasting disease in captive cervids.**

**104.2(1)** *Testing required.* A person who keeps captive cervids in this state shall have chronic wasting disease tests performed on the following:

*a.* Any captive cervid that dies or is killed on the premises. A person trained and authorized shall collect the test sample before any part of the carcass is removed from the herd premises and shall submit the sample for testing at an approved laboratory. This paragraph does not apply to cervids less than six months old.

*b.* Any captive cervid that is shipped to slaughter from the herd premises. A person trained and authorized shall collect the test sample after the cervid is slaughtered and shall submit the sample for testing at an approved laboratory. This paragraph does not apply to cervids less than six months old.

**104.2(2)** *Moving live captive cervids from herds in this state.* A person shall not move a live captive cervid from a herd in this state unless the movement complies with these rules.

**104.2(3)** *Collecting test samples.* One of the following persons shall collect a test sample and submit it for testing:

*a.* A certified veterinarian.

*b.* An employee of the department authorized by the department.

*c.* A person approved by the department. Before a person collects a test sample, that person shall complete training approved by the department. The person shall comply with standard veterinary procedures when collecting a test sample.

**104.2(4)** *Reporting disease findings.* Whenever any person receives a laboratory test result for chronic wasting disease, that person shall immediately report that result to the department. The person shall report by telephone, fax or other rapid means within one day after receiving the test result and shall report in writing within ten days. The person shall provide a copy of the test result to the owner of the tested cervid. This reporting requirement applies to any laboratory test result for chronic wasting disease. Telephone and fax reports should be made to the following telephone numbers: (515)281-7127 or fax (515)281-6794. Written reports should be sent to: Iowa Department of Natural Resources, 502 E. 9th Street, Des Moines, Iowa 50319-0034, Attn: Wildlife Bureau.

**571—104.3(481A) Chronic wasting disease in captive cervids—herd monitoring program.** A person who keeps captive cervids in this state may enroll the herd in the cervid CWD surveillance identification (CCWDSI) program under this rule. A person shall not move a live captive cervid from a herd in this state unless the herd is enrolled in the CCWDSI program under this rule. To enroll a herd in the CCWDSI program under this rule, a person shall complete and submit a form as provided by the department. No person may enroll a herd in this program prior to October 15, 2002. All animals enrolled in this program must be identified as prescribed in 104.4(481A).

**571—104.4(481A) Identification of animals.** Beginning May 1, 2003, each captive cervid must be identified with two individual permanent identifications that are unique identifying numbers or marks and that can be a combination of any two of the following: ear tag, tattoo, microchip or other permanent identifier approved by the department in writing. Tags or marks shall be used to identify the herd premises and uniquely identify the individual animal. Licensed hunting preserves are exempt from this requirement except in regard to those cervids purchased or otherwise acquired after October 15, 2002.

**571—104.5(481A) Supervision of the CCWDSI program.** The department will conduct an annual inventory of Cervidae in a herd enrolled in the CCWDSI program.

**571—104.6(481A) Surveillance procedures.** For cervid herds enrolled in this mandatory certification program, surveillance procedures shall include the following:

**104.6(1)** *Slaughter establishments.* All slaughtered Cervidae over six months of age must have brain tissue and other appropriate tissues submitted at slaughter and examined for CWD by an approved laboratory. These tissue samples will be obtained by the department or accredited veterinarian on the premises at the time of slaughter.

**104.6(2)** *Cervid herds.* All cervid herds must be under continuous surveillance for CWD as defined in the CCWDSI program.

**571—104.7(481A) Official cervid CWD tests.** The following are recognized as official cervid tests for CWD:

1. Histopathology.
2. Immunohistochemistry.
3. Western blot.
4. Negative stain electron microscopy.
5. Bioassay.
6. Any other tests performed by an approved laboratory to confirm a diagnosis of CWD.

**571—104.8(481A) Investigation of CWD affected animals identified through surveillance.** Trace back must be performed for all animals diagnosed at an approved laboratory as affected with CWD. All herds of origin and all adjacent herds having contact with affected animals as determined by the CCWDSI program must be investigated epidemiologically. All herds of origin, adjacent herds, and herds having contact with affected animals or exposed animals must be quarantined.

**571—104.9(481A) Duration of quarantine.** Quarantines placed in accordance with these rules shall be removed as follows:

1. For herds of origin, quarantines shall be removed after five years of compliance with rules 571—104.2(481A) through 571—104.22(481A).

2. For herds having contact with affected or exposed animals, quarantines shall be removed after five years of compliance with rules 571—104.2(481A) through 571—104.22(481A).

3. For adjacent herds, quarantines shall be removed as directed by the department in consultation with a designated epidemiologist.

**571—104.10(481A) Herd plan.** The herd owner, the owner's veterinarian, if requested, and a designated epidemiologist shall develop a plan for eradicating CWD in each affected herd. The plan must be designed to reduce and then eliminate CWD from the herd, to prevent spread of the disease to other herds, and to prevent reintroduction of CWD after the herd becomes a certified CWD cervid herd. The herd plan must be developed and signed within 60 days after the determination that the herd is affected. The plan must address herd management and adhere to rules 571—104.2(481A) through 571—104.22(481A). The plan must be formalized as a memorandum of agreement between the owner and program officials, must be approved by the department, and must include plans to obtain certified CWD cervid herd status.

**571—104.11(481A) Identification and disposal requirements.** Affected and exposed animals must remain on the premises where they are found until they are identified and disposed of in accordance with this rule.

**104.11(1)** The carcasses of affected or exposed animals may be disposed of at a permitted sanitary disposal project, incinerated in a department-approved incinerator, or buried on the premises. Appropriate disposal method(s) will be determined by the department. If burial is the approved method, it must be done in accordance with all of the following:

*a.* A maximum loading rate of 20 Cervidae per acre per year may be buried on the premises. Animals or parts thereof that are less than 40 pounds may be buried without regard to number.

*b.* The animals are buried in soils listed in tables contained in the county soil surveys and soil interpretation records (published by the Natural Resources Conservation Service) as being moderately well drained, well drained, somewhat excessively well drained, or excessively drained.

*c.* The lowest elevation of the burial pit is 6 feet or less below the surface.

*d.* The animals are immediately covered with a minimum of 6 inches of soil and finally covered with a total minimum of 30 inches of soil.

**104.11(2)** In addition to the disposal methods listed in 104.11(1), the Cervidae carcasses, or portions thereof, which come into the possession of the department for the purpose of disease testing or for any other reason may be disposed of by burial on public property under the jurisdiction of the department provided that burial is done in accordance with 104.11(1)*"a"* through *"d"* and the location of burial is situated to minimize the impact on public use of the property.

**571—104.12(481A) Cleaning and disinfecting.** Premises must be cleaned and disinfected under department supervision within 15 days after affected animals have been removed.

**571—104.13(481A) Methods for obtaining certified CWD cervid herd status.** Certified CWD cervid herd status must include all Cervidae under common ownership. They cannot be commingled with other cervids that are not certified, and a minimum geographic separation of 30 feet between herds of different status must be maintained in accordance with the USDA Uniform Methods and Rules as defined in APHIS manual 91-45-011, revised as of January 22, 1999. A herd owner may qualify a herd for status as a certified CWD cervid herd by one of the following means:

**104.13(1)** *Purchasing a certified CWD cervid herd.* Upon request and with proof of purchase, the department shall issue a new certificate in the new owner's name. The anniversary date and herd status for the purchased animals shall be the same as for the herd to which the animals are added; or if part or all of the purchased herd is moved directly to premises that have no other Cervidae, the herd may retain the certified CWD status of the herd of origin. The anniversary date of the new herd is the date of the most recent herd certification status certificate.

**104.13(2)** *Complying with the CCWDSI program.* Upon request and with proof by records, a herd owner shall be issued a certified CWD cervid herd certificate by complying with the CCWDSI program for a period of five years.

**571—104.14(481A) Recertification of CWD cervid herds.** A herd is certified for 12 months. Annual inventories conducted by the department are required every 9 to 15 months from the anniversary date. For continuous certification, adherence to the provisions in these rules and all other state laws and rules pertaining to raising cervids is required. A herd's certification status is immediately terminated and a herd investigation shall be initiated if CWD affected or exposed animals are determined to originate from that herd.

**571—104.15(481A) Movement into a certified CWD cervid herd.**

**104.15(1)** Animals originating from certified CWD cervid herds may move into another certified CWD cervid herd.

**104.15(2)** Animals originating from noncertified or nonmonitored herds that are moving into certified CWD cervid herds will change the status of the certified CWD cervid herd to the same level as the animals that are imported into that herd.

**104.15(3)** Animals originating from CWD monitored herds cannot be certified until the years in the CCWDSI program total five years.

**571—104.16(481A) Movement into a monitored CWD cervid herd.**

**104.16(1)** Animals originating from a monitored CWD cervid herd may move into another monitored CWD cervid herd of the same status.

**104.16(2)** Animals originating from a herd which is not a monitored CWD cervid herd or from a lower status monitored CWD cervid herd will change the status of the monitored CWD cervid herd to the same level as the animals that are imported into that herd until completion of CWD certification.

**571—104.17(481A) Recognition of monitored CWD cervid herds.** The department shall issue a monitored CWD cervid herd certificate including CWD monitored herd status as CWD monitored Level A during the first calendar year, CWD monitored Level B during the second calendar year, CWD monitored Level C during the third calendar year, CWD monitored Level D during the fourth calendar year, CWD monitored Level E during the fifth calendar year, and CWD certification at the end of the fifth year and thereafter.

**571—104.18(481A) Recognition of certified CWD cervid herds.** The department shall issue a certified CWD cervid herd certificate when the herd first qualifies for recertification. The department shall issue a renewal form annually.

**571—104.19(481A) Intrastate movement requirements.**

**104.19(1)** All intrastate movements of Cervidae other than to a state-inspected or federally inspected slaughter establishment shall be accompanied by an intrastate movement certificate of veterinary inspection signed by a licensed, accredited veterinarian.

**104.19(2)** Such intrastate movement certificate shall include all of the following:

*a.* Consignor's name and address.

*b.* Consignee's name and address.

*c.* Individual identification of each animal as prescribed in 571—104.4(481A).

*d.* The following statement: "There has been no diagnosis, sign, or epidemiological evidence of CWD in this herd for the past two years."

**571—104.20(481A) Import requirements.**

**104.20(1)** All Cervidae transported into Iowa must be accompanied by all of the following:

*a.* An official certificate of veterinary inspection.

*b.* A permit number requested by the licensed, accredited veterinarian signing the certificate and issued by the Iowa department of agriculture and land stewardship prior to movement.

*c.* One of the following statements must appear on the certificate:

"All Cervidae on this certificate have been part of the herd of origin for at least two years or were natural additions to this herd. There has been no diagnosis, sign, or epidemiological evidence of CWD in this herd for the past five years"; or

"All Cervidae on this certificate originate from a CWD monitored or certified herd in which these animals have been kept for at least two years or were natural additions. There has been no diagnosis, sign, or epidemiological evidence of CWD in this herd for the past five years."

**104.20(2)** All cervids transported into Iowa must be in compliance with the uniform methods and rules set forth in U.S. Department of Agriculture, Animal and Plant Health Inspection Service bulletins 91-45-001, "Tuberculosis Eradication in Cervidae," (effective February 3, 1989), 91-45-005 (effective May 15, 1994, including 1996 amendments) and 91-45-12, "Brucellosis in Cervidae," (effective September 30, 1998).

**104.20(3)** Animal health officials of the state of origin must have access to herd records for the past five years including records of cervid deaths and causes of death.

**104.20(4)** If the Cervidae listed on the certificate are enrolled in a CWD program, the anniversary date and program status for each individual animal must be listed.

**571—104.21(481A) Prohibited movement of cervid carcasses.** The importation into Iowa of cervid carcasses from a CWD endemic area is prohibited, except for the meat from which all bones have been removed, the cape (skin), and antlers. Antlers may be attached to a clean skull plate from which all brain tissue has been removed.

**571—104.22(481A) Inspection.** The department may inspect any shipment of cervids and accompanying certificate of veterinary inspection or shipment documentation. The department may quarantine or destroy any cervids that are found to be infected with CWD or TB.

These rules are intended to implement Iowa Code sections 481A.47, 481A.62 and 484B.12.

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# CHAPTER 105
# DEER POPULATION MANAGEMENT ZONES

**571—105.1(481A) Purpose.** The purpose of this chapter is to establish special deer management zones, including educational hunts in those zones, on selected properties managed by the department, county conservation boards, cities, or other governmental jurisdictions, and on private lands. The purpose of the hunts shall be to ensure the harvest of an adequate number of deer to reduce economic and biological damage caused by high deer populations. Selected hunts in deer management zones may be educational hunts and limited to novice hunters to introduce them to deer hunting as a method of deer population control and to encourage safe and ethical hunting.

**571—105.2(481A) Definitions.**

*"Commission"* means the natural resource commission.

*"Department"* means the department of natural resources.

*"Educational hunts"* means hunts in special deer management zones that are limited to hunters who are being introduced to deer hunting.

*"Special deer management zones"* means defined units of public and private land, including state parks, state recreation areas, county parks, urban areas, and areas managed by other governmental jurisdictions.

*"Urban deer management zones"* means areas mostly within incorporated city limits including city, county, state, and private land.

**571—105.3(481A) Special deer management zones.** Special deer management zone boundaries, seasons, permitted weapons, and other conditions for hunting shall be designated annually by the commission.

**105.3(1)** *Seasons.* Deer hunting in a special deer management zone may occur only on dates established by the commission. Season dates may or may not coincide with seasons for general deer hunting outside special deer management zones.

**105.3(2)** *Licenses.* Every hunter must have in possession a paid special hunting license valid only for the specific special deer management zone. The hunting license shall specify dates of hunting and the type of deer that may be taken as designated by the commission. The special licenses will be issued at locations and on dates announced by the commission. Special licenses shall be issued to Iowa residents only and shall cost the same as deer licenses issued during the general deer seasons. The commission may establish procedures for issuing more than one license per person if quotas for any hunt do not fill, or if special circumstances limit the number of hunters that can be safely accommodated. Incentives, including but not limited to issuing additional antlerless-only or any-deer licenses, may be used to attract hunters to a special hunt.

**105.3(3)** *Permitted weapons.* Only weapons permitted during the general deer seasons may be used. The commission may limit the use of specific weapons in some deer management zones and seasons on a case-by-case basis to improve the safety of hunters and the surrounding area.

**105.3(4)** *Hunter safety and proficiency.* Hunters may be required to pass a weapons proficiency test or attend a meeting prior to hunting in special deer management zones. The meeting will be used to familiarize hunters with zone boundaries, location of private lands, safety areas around buildings, access points, objectives of the hunt and other aspects of hunting in a special deer management zone.

**105.3(5)** *Checking deer.* A hunter who takes a deer may be required to check the deer at a designated headquarters prior to leaving the area.

**105.3(6)** *Penalty for violating regulations.* A hunter who violates the hunting regulations in a deer population management zone may forfeit the license for the remainder of the hunt and may forfeit the right to participate in a future year in addition to the imposition of any legal penalties.

**105.3(7)** *Educational hunts.* Hunts in designated special deer management zones may be restricted to youth or novice hunters to introduce them to safe and ethical deer hunting.

*a.* Age, experience or other eligibility restrictions may be designated by the commission. Zones, seasons and other conditions for hunting will be designated the same as specified in 571— 105.3(481A).

*b.* An adult must accompany each youth participating in an educational hunt. The adult must be licensed as specified in 571—subrule 106.10(1).

*c.* A novice, nonyouth hunter may be accompanied by an adult mentor. The mentor must have a valid hunting license and have paid the habitat fee, if otherwise required to do so.

**571—105.4(481A) State parks and recreation areas.** A public meeting shall be held in the vicinity of each state park or state recreation area before the park or recreation area is designated as a special deer management zone for the first time. The purpose of the meeting will be to assess the need for and interest in holding a deer population control hunt in that park or recreation area. A summary of public comments received at the meeting shall be included with other recommendations to the commission related to hunting in the state park or state recreation area.

**571—105.5(481A) Urban deer management zones.** Urban deer management zones will be established only upon request from a city government or special urban deer task force and when approved by the natural resource commission. Zones, seasons and other conditions for hunting will be designated the same as specified in 571—105.3(481A).

**105.5(1)** *Special restrictions.* Cities, deer task forces, or other public entities may require hunters to do one or more of the following: pass a hunter safety and education course, pass a weapons proficiency test, or be approved by the appropriate police department or conservation officer.

**105.5(2)** *Other methods.* The natural resource commission in cooperation with the city government may approve other methods of deer removal in urban areas.

**571—105.6(481A) Iowa Army Ammunition Plant (IAAP) deer management zone.** The IAAP deer management zone is defined as all federal land administered by the IAAP. Licenses, season dates and other conditions for hunting in the IAAP zone will be designated the same as specified in 571—105.3(481A). The IAAP may establish special restrictions for entering and hunting in the IAAP deer management zone.

**571—105.7(481A) County park deer management zones.**

**105.7(1)** Deer management zones will be established in county parks only after a request from county government and when approved by the commission. Zones, seasons and other conditions for hunting will be designated the same as specified in 571—105.3(481A).

**105.7(2)** Special restrictions. County park managers may require hunters to do one or more of the following: pass a hunter safety and education course, pass a weapons proficiency test, or be approved by the appropriate county sheriff or conservation officer.

**571—105.8(481A) Special deer management zones on private land.** Special deer management zones may be established on private land when approved by the commission. Zones, seasons, and other conditions for hunting will be determined by the commission. Hunters will be required to comply with all applicable regulations specified in 571—Chapter 106.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.8.

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# CHAPTER 106
# DEER HUNTING BY RESIDENTS

[Prior to 12/31/86, Conservation Commission[290] Ch 106]

**571—106.1(481A) Licenses.** When hunting deer, all hunters must have in their possession a valid deer hunting license and a valid resident 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). No person while hunting deer shall carry or have in possession any license or transportation tag issued to another person. No one who is issued a deer hunting license and transportation tag shall allow another person to use or possess that license or transportation tag while that person is deer hunting or tagging a deer.

**106.1(1)** *Type of license.*

*a. Any-deer licenses.* Any-deer licenses shall be valid for taking deer of either sex in one season selected at the time the license is purchased. Paid any-deer licenses shall be valid statewide except where prohibited in deer population management zones established under 571—Chapter 105. Free any-deer licenses shall be valid 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.

**106.1(2)** *Bow season licenses.* Any-deer and antlerless-deer-only licenses, paid or free, shall be valid in both segments of the bow season.

**106.1(3)** *Regular gun season licenses.* Paid any-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 any-deer licenses and antlerless-deer-only licenses shall be valid in both the first and second regular gun seasons.

**106.1(4)** *Muzzleloader season licenses.* Any-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(5)** *November antlerless-deer-only licenses.* Only antlerless-deer-only licenses, paid or free, will be issued for the November antlerless-deer-only season. Free antlerless-deer-only licenses shall be available only for the portion of the farm unit located in a county where paid antlerless-deer-only licenses are available during that season.

**106.1(6)** *January antlerless-deer-only licenses.* Only antlerless-deer-only licenses, paid or free, will be issued for the January antlerless-deer-only season. 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 that season.

**106.1(7)** *Free and reduced-fee deer licenses for landowners and tenants.* A maximum of one free any-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—106.12(481A). The free any-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, first and second regular gun seasons, or November antlerless-deer-only season. 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, November antlerless-deer-only season or January antlerless-deer-only season. 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.

**106.1(8)** *Antlerless-deer-only crossbow licenses for senior citizens.* Persons 70 years old or older may obtain one paid antlerless-deer-only license valid statewide for taking antlerless deer with a crossbow. The license will be valid only during the bow season.

**106.1(9)** *Nonambulatory deer hunting licenses.* The commission shall issue licenses in conformance with 2009 Iowa Acts, Senate File 187. 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 is nonambulatory using the criteria listed in 2009 Iowa Acts, Senate File 187. 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.

[**ARC 7921B**, IAB 7/1/09, effective 8/5/09; **ARC 8255B**, IAB 11/4/09, effective 12/9/09; **ARC 8888B**, IAB 6/30/10, effective 8/18/10]

**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)** *November antlerless-deer-only season.* Antlerless deer may be taken for three days beginning the Friday after Thanksgiving.

**106.2(5)** *January antlerless-deer-only season.* Antlerless deer may be taken from January 11 through the third following Sunday.

**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. A person may shoot and tag a deer only by utilizing the license and tag issued in the person's name.

**106.4(2)** *Muzzleloader seasons.* The daily bag limit is one deer per license. The 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.

**106.4(3)** *Regular gun seasons.* The bag limit is one deer for each hunter in the party who has a valid deer transportation tag. The possession limit is one deer per license. "Possession" shall mean that the deer is in the possession of the person whose license number matches the number of the transportation tag on the carcass of the deer.

**106.4(4)** *November antlerless-deer-only season.* The bag and possession limits and the tagging requirements are the same as for the regular gun seasons.

**106.4(5)** *January antlerless-deer-only season.* The daily bag and possession limit and the tagging requirements are the same as for the regular gun seasons.

**106.4(6)** *Maximum annual possession limit.* The maximum annual possession limit for a resident 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(481A) 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.

**106.6(1)** *Paid any-deer licenses.* Residents may purchase no more than two paid any-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 any-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 any-deer licenses issued in the bow season, late muzzleloader season, first regular gun season, or second regular gun season.

**106.6(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 106.6(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 any-deer licenses.

*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 106.6(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.

**106.6(3)** *November antlerless-deer-only season.* Antlerless-deer-only licenses for the November antlerless-deer-only season shall be available in the following counties: Adair, Adams, Allamakee, Appanoose, Cass, Clarke, Clayton, Dallas, Davis, Decatur, Des Moines, Fayette, Fremont, Guthrie, Harrison, Henry, Jasper, Jefferson, Keokuk, Lee, Louisa, Lucas, Madison, Mahaska, Marion, Mills, Monona, Monroe, Montgomery, Page, Polk, Pottawattamie, Ringgold, Taylor, Union, Van Buren, Wapello, Warren, Washington, Wayne, Winneshiek, and Woodbury. Beginning the second Saturday prior to the opening of the November antlerless-deer-only season, an unlimited number of paid antlerless-deer-only licenses may be purchased for the November antlerless-deer-only season. These licenses may be obtained regardless of any other paid any-deer or paid antlerless-deer-only licenses that may have been obtained. Licenses will be sold until county quotas are filled. Licenses issued for this season are valid only on private property.

**106.6(4)** *January antlerless-deer-only licenses.* Antlerless-deer-only licenses for the January antlerless-deer-only season shall be available in the following counties: Adair, Adams, Allamakee, Appanoose, Cass, Clarke, Clayton, Dallas, Davis, Decatur, Des Moines, Fayette, Fremont, Guthrie, Harrison, Henry, Jasper, Jefferson, Keokuk, Lee, Louisa, Lucas, Madison, Mahaska, Marion, Mills, Monona, Monroe, Montgomery, Page, Polk, Pottawattamie, Ringgold, Taylor, Union, Van Buren, Wapello, Warren, Washington, Wayne, Winneshiek, and Woodbury. Beginning December 15, an unlimited number of paid antlerless-deer-only licenses may be purchased for the January antlerless-deer-only season. These licenses may be obtained regardless of any other paid any-deer or paid antlerless-deer-only licenses that may have been obtained.

**106.6(5)** *Free 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—106.12(481A).

**106.6(6)** *Antlerless-deer-only licenses.* Paid antlerless-deer-only licenses will be available by county as follows:

| County | Quota | County | Quota | County | Quota |
|---|---|---|---|---|---|
| Adair | 2400 | Floyd | 0 | Monona | 2500 |
| Adams | 1950 | Franklin | 0 | Monroe | 3000 |
| Allamakee | 4500 | Fremont | 1500 | Montgomery | 1300 |
| Appanoose | 3300 | Greene | 150 | Muscatine | 1700 |
| Audubon | 100 | Grundy | 0 | O'Brien | 0 |
| Benton | 1000 | Guthrie | 3300 | Osceola | 0 |
| Black Hawk | 0 | Hamilton | 100 | Page | 1800 |
| Boone | 650 | Hancock | 0 | Palo Alto | 0 |
| Bremer | 700 | Hardin | 200 | Plymouth | 100 |
| Buchanan | 250 | Harrison | 2500 | Pocahontas | 0 |
| Buena Vista | 0 | Henry | 2000 | Polk | 1500 |
| Butler | 0 | Howard | 350 | Pottawattamie | 2100 |
| Calhoun | 0 | Humboldt | 0 | Poweshiek | 650 |
| Carroll | 100 | Ida | 0 | Ringgold | 2600 |
| Cass | 1300 | Iowa | 1200 | Sac | 0 |
| Cedar | 1300 | Jackson | 1800 | Scott | 800 |
| Cerro Gordo | 0 | Jasper | 1700 | Shelby | 400 |
| Cherokee | 0 | Jefferson | 2150 | Sioux | 0 |
| Chickasaw | 450 | Johnson | 2000 | Story | 500 |
| Clarke | 2500 | Jones | 1500 | Tama | 650 |
| Clay | 0 | Keokuk | 1900 | Taylor | 2650 |
| Clayton | 5800 | Kossuth | 0 | Union | 2100 |
| Clinton | 1200 | Lee | 2500 | Van Buren | 5400 |
| Crawford | 300 | Linn | 1900 | Wapello | 2150 |
| Dallas | 2700 | Louisa | 1500 | Warren | 4200 |
| Davis | 3600 | Lucas | 2800 | Washington | 2250 |
| Decatur | 2800 | Lyon | 0 | Wayne | 3000 |
| Delaware | 1550 | Madison | 4000 | Webster | 100 |
| Des Moines | 2000 | Mahaska | 1350 | Winnebago | 0 |
| Dickinson | 0 | Marion | 2250 | Winneshiek | 3500 |
| Dubuque | 2000 | Marshall | 500 | Woodbury | 2500 |
| Emmet | 0 | Mills | 1350 | Worth | 0 |
| Fayette | 2500 | Mitchell | 0 | Wright | 0 |

[**ARC 7921B**, IAB 7/1/09, effective 8/5/09; **ARC 8888B**, IAB 6/30/10, effective 8/18/10]

**571—106.7(481A) Method of take.** Permitted weapons and devices vary according to the type of season.

**106.7(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 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—15.5(481A); and

(2) By persons over the age of 70 with an antlerless-deer-only license as provided in Iowa Code section 483A.8A.

*b.* No explosive or chemical devices may be attached to the arrow, broadhead or bolt (if used with a crossbow).

**106.7(2)** *Regular gun seasons.* Only 10-, 12-, 16- and 20-gauge shotguns shooting single slugs and muzzleloaders and handguns as described in 106.7(3) will be permitted for taking deer during the regular gun seasons.

**106.7(3)** *Muzzleloader seasons.* Only muzzleloading rifles and muzzleloading pistols will be permitted for taking deer during the early muzzleloader season. During the late muzzleloader season, deer may be taken with a muzzleloader, centerfire handgun, or bow as described in 106.7(1). Muzzleloading rifles are defined as flintlock or percussion cap lock muzzleloaded rifles and muskets of not less than .44 and not larger than .775 caliber, shooting single projectiles only. Centerfire handguns must be .357 caliber or larger shooting straight-walled cartridges propelling an expanding-type bullet (no full-metal jacket) and complying with all other requirements provided in Iowa Code section 481A.48. Legal handgun calibers are listed on the department of natural resources list of Acceptable Handgun Calibers for Hunting Deer in Iowa. Revolvers, pistols and black powder handguns must have a 4-inch minimum barrel length. There can be no shoulder stock or long-barrel modifications to handguns. Muzzleloading handguns must be .44 caliber or larger, shooting single projectiles only.

**106.7(4)** *November antlerless-deer-only season.* Bows, shotguns, muzzleloaders and handguns as described in this rule may be used.

**106.7(5)** *January antlerless-deer-only season.* Bows, shotguns, muzzleloaders and handguns as described in this rule may be used during the January antlerless-deer-only season. Centerfire rifles .24 caliber or larger may be used in the southern two tiers of counties.

**106.7(6)** *Prohibited weapons and devices.* The use of dogs, domestic animals, bait, rifles other than muzzleloaded or as provided in 106.7(5), handguns except as provided in 106.7(3), crossbows except as provided in 106.7(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 106.7(3) and 106.7(5). It shall be unlawful for a person hunting with a bow license to carry a handgun unless that person also has a valid deer hunting license and an unfilled transportation tag that permits a handgun to be used to take deer.

**106.7(7)** *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).

**106.7(8)** *Hunting from blinds.* No person shall use a blind for hunting deer during the regular gun deer seasons as defined in 106.2(3), unless such blind exhibits a solid blaze orange marking visible in all directions with a minimum height of 12 inches and a minimum width of 12 inches. 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 a place of concealment 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—106.8(481A) Procedures to obtain licenses.** All resident deer hunting licenses must be obtained using the electronic licensing system for Iowa (ELSI). Licenses may be purchased from ELSI license agents, or online at www.iowadnr.com, or by calling the ELSI telephone ordering system.

**106.8(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.

**106.8(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.

**106.8(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 Supplement section 483A.24(2)*"f"* and rule 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—106.9(481A) 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 the carcass of each 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 is killed or before the carcass is moved in any manner, whichever occurs first. No person shall tag a deer with a transportation tag issued to another person. During the youth/disabled hunter season, bow season, early muzzleloader season and late muzzleloader season, the hunter who killed the deer must tag the deer by using the transportation tag issued in that person's name. During the first and second regular gun seasons and the November and January antlerless-deer-only seasons, anyone present in the hunting party may tag a deer with a tag issued in that person's name. 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.

**571—106.10(481A) Youth deer and severely disabled hunts.**

**106.10(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 any-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 any-deer license but may also obtain any other paid or free any-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 106.6(2).

*b.* *Severely disabled hunt.* Any severely disabled Iowa resident meeting the requirements of Iowa Code section 321L.1(8) may be issued one any-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). Forms are available online at www.iowadnr.com, by visiting the DNR central office or any district office, or by calling (515)281-5918. 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 any-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 106.6(2).

**106.10(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 the early muzzleloader, late muzzleloader, and one of the shotgun 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. A youth hunting in one of the other seasons must obtain a hunting license and habitat stamp or hunt with a licensed adult if required by Iowa Code section 483A.24. If the tag is filled during one of the seasons, the license will not be valid in subsequent seasons.

**106.10(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.

**106.10(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.

**106.10(5)** *Method of take and other regulations.* Deer may be taken with shotgun, bow or muzzleloaded rifles as permitted in 571—106.7(481A). 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.

**106.10(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—106.11(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.

**106.11(1)** *Method of take and other regulations.* Legal weapons and restrictions will be governed by 571—106.7(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.

**106.11(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.

**106.11(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 sustained from deer. If 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 written 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 written for producers of typical agricultural crops may require preventive measures such as harassment of deer with pyrotechnics and cannons, guard dogs, and temporary fencing, as well as allowing more hunters, increasing the take of antlerless deer, and other measures that may prove effective.

(2) Depredation plans written for producers of high-value horticultural crops may include all of the measures in (1) above, plus permanent fencing where necessary. Fencing will not be required if the cost of a fence exceeds $1,000.

(3) 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.

**106.11(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 the regular deer license fee 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. No other individual may initially obtain more than three depredation licenses per management plan. When a deer is reported harvested on one of these licenses, then another license may be obtained.

(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) Hunters may keep any deer legally tagged with a depredation license.

(5) All other regulations for the hunting season specified on the license will apply.

(6) Depredation licenses will be 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 subparagraph (7). Other parcels of land in the farm unit not adjacent to the parcels receiving damage will not qualify.

(7) 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 DNR deer depredation plan, and on areas such as airports where public safety may be an issue.

(1) Deer shooting permits will be issued at no cost 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.

**106.11(5)** *Disposal.* Rescinded IAB 7/16/08, effective 8/20/08.

[**ARC 7921B**, IAB 7/1/09, effective 8/5/09]

**571—106.12(481A) Eligibility for free landowner/tenant deer licenses.**

**106.12(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.

**106.12(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.

**106.12(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.

**106.12(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.

**106.12(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.

**106.12(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.

**106.12(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—106.13(481A) Harvest reporting.** Each hunter who bags a deer must report that kill according to procedures described in 571—95.1(481A).

**571—106.14(481A) Extension to the regular gun seasons.** Rescinded IAB 7/16/08, effective 8/20/08.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.24, and 483A.24B and 2009 Iowa Acts, Senate File 187.

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†See HJR 5 of 2003 Session of Eightieth General Assembly.

# CHAPTER 107
# RABBIT AND SQUIRREL HUNTING
[Prior to 12/31/86, Conservation Commission[290] Ch 102]

**571—107.1(481A) Cottontail rabbit season.** Open season for hunting cottontail rabbits shall be from the Saturday before Labor Day through February 28 of the succeeding year. Bag limit shall be 10 per day; possession limit 20. Legal hunting hours shall be from sunrise to sunset. Entire state open.

**571—107.2(481A) Jackrabbit season.** Open season for hunting jackrabbits shall be from the last Saturday in October through December 1 of each year. Bag limit shall be 1 per day; possession limit 2. Legal hunting hours shall be from sunrise to sunset. Entire state open.

**571—107.3(481A) Squirrel season.** Open season for hunting squirrels (fox and gray) shall be from the Saturday before Labor Day through January 31 of the succeeding year. Bag limit shall be 6 squirrels per day; possession limit 12. Entire state open.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.48.

These rules are based on the best biological data available as determined by research conducted by the department of natural resources.

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# CHAPTER 108
# MINK, MUSKRAT, RACCOON, BADGER, OPOSSUM, WEASEL, STRIPED SKUNK, FOX (RED AND GRAY), BEAVER, COYOTE, RIVER OTTER, BOBCAT, GRAY (TIMBER) WOLF AND SPOTTED SKUNK SEASONS

[Prior to 12/31/86, Conservation Commission[290] Ch 104]

**571—108.1(481A) Mink, muskrat and weasel.** Open season for the taking of mink, muskrat and weasel shall be from 8 a.m. on the first Saturday in November through January 31 of succeeding year. Entire state open. No bag or possession limit.

**108.1(1)** *Molesting or disturbing muskrat houses.* Any department of natural resources officer, natural resource biologist, or county conservation board director may permit trappers to molest or disturb muskrat houses on specific state or county game management areas as provided in Iowa Code section 481A.90, after finding that muskrats are causing excessive damage by destroying the vegetation essential to the welfare of a marsh and after so posting the area.

**108.1(2)** *Game management areas.* Open season for taking muskrats on certain state game management areas, certain federal national wildlife refuges, and certain county conservation board areas, only where approved by the wildlife bureau and posted accordingly, shall be from 8 a.m. the day after the regular muskrat trapping season ends until April 1. The use of leg-hold traps during this season is prohibited unless each trap is placed completely inside a muskrat house. No bag or possession limit.

[**ARC 7933B**, IAB 7/1/09, effective 8/5/09]

**571—108.2(481A) Raccoon, badger, opossum and striped skunk.** Open season for the taking of raccoon, badger, opossum, and striped skunk shall be from 8 a.m. on the first Saturday in November through January 31 of succeeding year. Entire state open. No bag or possession limit.

**571—108.3(481A) Red and gray fox.** Open season for the taking of red and gray fox shall be from 8 a.m. on the first Saturday in November through January 31 of succeeding year. Entire state open. No bag or possession limit.

**571—108.4(481A) Beaver.** Open season for the taking of beaver shall be from 8 a.m. on the first Saturday in November through April 1 of succeeding year. No bag or possession limit.

**571—108.5(481A) Coyote.**

**108.5(1)** *Hunting.* Continuous open season. Entire state open. No bag or possession limit.

**108.5(2)** *Trapping.* Open season for trapping coyote shall be 8 a.m. on the first Saturday in November through January 31 of succeeding year. Entire state open. No bag or possession limit. Any conservation officer or wildlife biologist may authorize a landowner, tenant or designee to trap coyotes causing damage outside the established trapping season dates.

**571—108.6(481A) Gray (timber) wolf and spotted skunk.** Continuous closed season.

**571—108.7(481A) River otter and bobcat.**

**108.7(1)** *License requirements.* Each person who takes river otters or bobcats shall have a valid fur harvester license and pay the habitat fee if normally required to have a license to hunt or trap.

**108.7(2)** *Open area.* River otters may be taken statewide. Bobcats may be taken in the following counties: Adair, Adams, Appanoose, Cass, Clarke, Davis, Decatur, Des Moines, Fremont, Guthrie, Harrison, Henry, Jefferson, Keokuk, Lee, Louisa, Lucas, Madison, Mahaska, Marion, Mills, Monona, Monroe, Montgomery, Page, Pottawattamie, Ringgold, Taylor, Union, Van Buren, Wapello, Warren, Washington, Wayne, and Woodbury.

**108.7(3)** *Quotas and seasonal bag limit.*

*a.* *Seasonal bag limit.* The seasonal bag limit is 2 river otters and 1 bobcat per person.

*b.* *Quotas.* The quota for the number of river otters that may be taken is 500 statewide. The quota for the number of bobcats that may be taken is 250 in the open area. The season shall end for river otters

when the number of river otters trapped, as determined by the harvest reporting system, reaches 500. The season shall end for bobcats when the number of bobcats taken, as determined by the harvest reporting system, reaches 250. Trappers shall be allowed a 48-hour grace period after the quota is reached to clear their traps of river otters or bobcats. River otters or bobcats found in traps during the grace period may be kept even though the quota is exceeded provided that the trapper has not reached the trapper's personal bag limit. River otters or bobcats trapped after the grace period or in excess of the seasonal bag limit must be turned over to the department; the trapper shall not be penalized.

**108.7(4)** *Season dates.* The season for taking river otters and bobcats opens on the first Saturday in November and closes when the quota has been reached, as explained in this rule, or on January 31 of the following year, whichever occurs first.

**108.7(5)** *Reporting requirements.*

*a.* Anyone, including a landowner or tenant not required to have a fur harvester license, who takes a river otter or bobcat must report the harvest to a DNR conservation officer or designated DNR employee within 24 hours. The fur harvester must arrange to receive a CITES tag from the officer or designated DNR employee within 48 hours of the time the harvest is reported or before the river otter or bobcat is skinned, whichever occurs first.

*b.* Upon receiving a telephone report that a river otter or bobcat has been legally taken, the conservation officer or DNR employee will call the department's harvest reporting system. The number of river otters and bobcats taken will be updated daily, and a message will be recorded on the department's telephone system. The number taken will be available 24 hours a day. Fur harvesters may check the message daily to determine when the season closes and when the grace period begins and ends. The department will use all practical means to publicize these dates.

**108.7(6)** *Tagging requirements.* Every river otter or bobcat that may legally be kept must have a CITES tag attached. Tags will be supplied by the conservation officer or designated DNR employee. The tag must remain with the pelt until the pelt is sold or used for other purposes that render it no longer available for sale. Persons displaying river otters or bobcats as taxidermy mounts or as other decorative items must keep the tags in their possession as proof of legal harvest.

[**ARC 7933B**, IAB 7/1/09, effective 8/5/09; **ARC 8889B**, IAB 6/30/10, effective 8/18/10]

**571—108.8(481A) Accidental capture of a river otter or bobcat during a closed season.** A person who accidentally captures a river otter or bobcat during a closed season or in a closed area or after the person's individual bag limit has been reached shall not be penalized provided that:

1. The river otter or bobcat is captured during a legal trapping season or as part of a legal depredation control process; and

2. A conservation officer is contacted within 24 hours and the river otter or bobcat and all parts thereof are turned over to a conservation officer as soon as practical.

**571—108.9(481A) Trapping restrictions.** Trapping for all furbearers will be restricted as follows:

**108.9(1)** *Exposed bait.* No person shall set or maintain any leghold, body-clasping trap, or snare within 20 feet of exposed bait on land anywhere in the state or over water in the following areas:

*a.* Mississippi River corridor—Allamakee, Clayton, Dubuque, Jackson, Clinton, Scott, Muscatine, Louisa, Des Moines and Lee Counties.

*b.* Missouri River corridor—Those portions of Woodbury, Monona, Harrison, Pottawattamie, Mills and Fremont Counties west of Interstate 29.

*c.* Des Moines River corridor—Boone, Dallas, Polk, Marion, Mahaska, Wapello and Van Buren Counties.

Exposed bait means meat or viscera or any animal, bird, fish, amphibian, or reptile with or without skin, hide, or feathers visible to soaring birds.

**108.9(2)** *Trapping near beaver lodges and dens.* Rescinded IAB 7/16/08, effective 8/20/08.

These rules are intended to implement Iowa Code sections 481A.6, 481A.38, 481A.39, 481A.87, and 481A.90.

These rules are based on the best biological data available as determined by research conducted by the department of natural resources.

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# CHAPTER 109
# GROUNDHOG SEASON

[Previously Ch 17, renumbered IAC 2/1/84]
[Prior to 12/31/86, Conservation Commission[290] Ch 113]

**571—109.1(481A) Groundhog.** Open season for groundhog (woodchuck) shall be from June 15 through October 31 of each year. Entire state open. No daily bag or possession limit.

This rule is intended to implement Iowa Code chapter 481A.

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# CHAPTER 110
# TRAPPING LIMITATIONS
[Prior to 12/31/86, Conservation Commission[290] Ch 114]

**571—110.1(481A) Public roadside limitations—snares, body-gripping, and conibear type traps.** No person shall set or maintain any snare, body-gripping, or conibear type trap within any public road right-of-way within 200 yards of buildings inhabited by human beings unless a resident of the dwelling adjacent to the public road right-of-way has given permission or unless the body-gripping or conibear type trap is completely underwater or at least one-half of the loop of a snare is underwater. Nothing in this rule shall be construed as limiting the use of foothold traps or box-type live traps in public road rights-of-way. No person shall place or leave any trap, stake, or nonindigenous set making material upon any public road right-of-way except during a period of time that begins two weeks before the trapping season opens and ends on the last day of the season.
[**ARC 7922B**, IAB 7/1/09, effective 8/5/09]

**571—110.2(481A) Snares.**

**110.2(1)** *Placement.* No person shall set or maintain any snare in any public road right-of-way so that the snare when fully extended can touch any fence. Snares may not be attached to a drag.

**110.2(2)** *Loop size.* No snare when set will have a loop larger than 8 inches in horizontal measurement except for snares set with at least one-half of the loop underwater or snares set on private land other than roadsides within 30 yards of a pond, lake, drainage ditch, creek, stream or river shall not have a loop larger than 11 inches in horizontal measurement.

**110.2(3)** *Deer locks.* All snares must have a functional deer lock that will not allow the snare loop to close smaller than 2½ inches in diameter.

**110.2(4)** *Mechanical snares.* It shall be illegal to set any mechanically powered snare designed to capture an animal by the neck or body unless such snares are placed completely underwater.

**571—110.3(481A) Body-gripping and conibear type traps.** No person shall set or maintain any body-gripping or conibear type trap on any public road right-of-way within 5 feet of any fence.

**571—110.4(481A) Foothold and leghold traps.** No person shall set or maintain on land any foothold or leghold trap with metal-serrated jaws, metal-toothed jaws or a spread inside the set jaws of greater than 7 inches.

**571—110.5(481A) Removal of animals from traps and snares.** All animals or animal carcasses caught in any type of trap or snare, except those which are placed entirely underwater and designed to drown the animal immediately, must be removed from the trap or snare by the trap or snare user immediately upon discovery and within 24 hours of the time the animal is caught.

**571—110.6(481A) Trap tag requirements.** All traps and snares, whether set or not, possessed by a person who can reasonably be presumed to be trapping shall have a metal tag attached plainly labeled with the user's name and address.

**571—110.7(481A) Colony traps.** All colony traps must be set entirely under water.

These rules are intended to implement Iowa Code sections 481A.38 and 481A.92.

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# CHAPTER 111
# SCIENTIFIC COLLECTING AND WILDLIFE REHABILITATION

**571—111.1(481A) Definitions.**

*"Educational project permit"* means a permit which may authorize the holder to take and possess live state-protected birds, mammals, amphibians, reptiles, fish, or invertebrates for educational or zoological displays.

*"Permit holder"* means an organization or person that possesses a valid permit issued by the Iowa department of natural resources under Iowa Code section 481A.65.

*"Raptor"* means hawks, owls, eagles, falcons, vultures, harriers, kites, accipiters, and ospreys.

*"Scientific collector's license"* means a license which authorizes the holder to take, for scientific purposes only, any birds, nests, eggs or mammals, amphibians, reptiles, fish, invertebrates, plants or parts thereof which are protected by state regulations.

*"Wildlife rehabilitation permit"* means a permit which authorizes the holder to take and temporarily possess injured, sick or orphaned state-protected species of birds, mammals, amphibians or reptiles with the intent to return the animal to its natural habitat as soon as possible.

*"Wildlife salvage permit"* means a permit which authorizes the holder to possess, for natural resource education programs, any state-protected species of birds, mammals, amphibians, reptiles, fish, or invertebrates which have died as the result of natural causes or accidents (i.e., road-kills, window-kills or tower-kills) or specimens which have been donated by the department of natural resources.

**571—111.2(481A) Scientific collector's license.** A scientific collector's license may, after investigation, be issued to any university, college or person engaged in a scientific project approved by the department of natural resources.

This license may be issued for a period of up to three years.

Species, numbers, geographic location, and collection methods must be identified in the application narrative and approved by the department of natural resources.

**571—111.3(481A) Wildlife salvage permit.** A wildlife salvage permit may be issued to any university, college, school, county conservation board, public agency, other organization or person engaged in a natural resource education program approved by the department of natural resources.

This permit may be issued for a period of up to three years.

Special approval is required for the salvage of abandoned bird nests, not including raptor nests. This permit does not authorize any taking or possession of live animals.

**571—111.4(481A) Educational project permit.** The following classes of educational project permits may be issued by the department:

**111.4(1)** An apprentice educational project permit may be issued to a person serving a one-year internship with and being sponsored by a person possessing a master wildlife rehabilitation permit and having two years' experience using raptors under a state or federal educational project permit, or a person possessing a master class state or federal falconry permit. This permit is required only for state and federally protected raptor species. An apprentice permit will be required for each individual providing day-to-day care and for each person presenting educational programs using live raptors. An apprentice will be limited to the possession of one American kestrel and one screech owl that are permanently crippled or human imprinted. In the case where an apprentice will be in charge of an existing facility with additional birds, the sponsor and the conservation officer must approve the possession of the additional species and individuals. This permit may be issued for a period of up to two years.

**111.4(2)** A general educational project permit for protected animal species other than raptors may be issued to any university, college, school, county conservation board, public agency, other organization or person engaged in a natural resource education program approved by the department of natural resources. The limitation on the number of animals in possession shall be established by the ability of the permit holder to provide adequate facilities and care.

**111.4(3)** A general educational project permit for raptors may be issued to a person who has served the appropriate apprenticeship and is recommended by the person's sponsor; or has previously held an educational project permit for raptors issued by the Iowa department of natural resources or the U.S. Fish and Wildlife Service; or has held a master class state and federal falconry permit within the last five years.

Any mammals, reptiles, amphibians, or fish which are not state listed endangered or threatened species and are obtained from legal sources outside the state of Iowa are exempt from these permit requirements. Proof of origin of each animal is the responsibility of the owner.

This permit may be issued for a period of up to three years.

**571—111.5(481A) Wildlife rehabilitation permit.** The following classes of wildlife rehabilitation permits may be issued by the department:

**111.5(1)** An apprentice wildlife rehabilitation permit may be issued to a person serving a one-year internship with and being sponsored by a person possessing a master wildlife rehabilitation permit, or to a person serving a two-year internship with and being sponsored by a person possessing a general wildlife rehabilitation permit.

This permit may be issued for a period of up to two years.

**111.5(2)** A general wildlife rehabilitation permit may be issued to a person who has served the appropriate apprenticeship; has graduated with a degree in veterinary medicine; or has previously held a rehabilitation permit issued by the Iowa department of natural resources, U.S. Fish and Wildlife Service, or any other state natural resource agency.

A general wildlife rehabilitator may sponsor up to four apprentices.

This permit may be issued for a period of up to three years.

**111.5(3)** A master wildlife rehabilitation permit may be issued to a person who has completed five consecutive years of extensive rehabilitation work and has received a recommendation from the local state conservation officer, or who is a licensed veterinarian with specific training and experience in wildlife rehabilitation. The department of natural resources may issue a master wildlife rehabilitation permit to individuals who have demonstrated special ability, knowledge, training and experience in wildlife rehabilitation.

A master wildlife rehabilitator may sponsor up to six apprentices.

This permit may be issued for a period of up to three years.

**571—111.6(481A) Application qualifications.** All applicants for a wildlife rehabilitation permit must possess adequate facilities to temporarily house and properly confine species held under the permit. The facilities of all applicants should follow the minimum housing guidelines as established for the various species by the National Wildlife Rehabilitator's Association and the International Wildlife Rehabilitation Council in 1993, or be approved by the local state conservation officer. Applicants must provide written documentation of access to a licensed veterinarian willing to provide professional counsel to the rehabilitator. Applicants must list species or groups of species such as but not limited to: rabbits, squirrels, songbirds, snakes or turtles, for which they will be providing rehabilitation services on their permit application narrative.

The application narrative for an educational project permit must list the species and number of each species that will be held. Facilities for raptors must meet the design and size criteria listed in the 1994 Iowa Association of Naturalists' publication "Educating With Raptors—A Resource Booklet."

**571—111.7(481A) Evaluation committee.** For the purpose of evaluating facilities and standards of care employed by holders of educational project permits and wildlife rehabilitation permits, the director may establish an ad hoc committee of persons with expertise in wildlife care, rehabilitation, veterinary medicine and wildlife education. Upon request by the director, the committee shall inspect the facilities, care procedures and educational programs and provide the department with appropriate recommendations. The recommendations may be used as a basis for placing certain conditions on a permit or modifying or terminating a permit.

**571—111.8(481A) Disposition of animals.** Injured or orphaned animals which cannot be returned to their natural environment shall be transferred to someone with an educational project permit or, after being euthanized by or under the guidance of a licensed veterinarian, handled as follows:

- Transferred to someone with a scientific collector's license or a wildlife salvage permit after obtaining permission from the local state conservation officer, or
- Buried or burned according to Iowa Code chapter 167.

Specimens held under a wildlife salvage permit may be transferred to someone holding a scientific collector's license, a wildlife salvage permit, or burned or buried according to Iowa Code chapter 167 after obtaining permission from the local conservation officer.

All threatened and endangered species which have died, which must be euthanized, or which cannot be released shall be referred to the department of natural resources. The department of natural resources shall provide these specimens to persons who hold a scientific collector's license, a wildlife salvage permit, or an educational project permit or shall provide for proper disposal.

**571—111.9(481A) General conditions for permits.**

1. Applications will not be approved for private collections or for commercial use of protected species.
2. Any costs incurred by the permittee for the administration of any permit authorized by this chapter of rules will be the responsibility of the permittee.
3. Scientific collecting licenses, wildlife salvage permits, general educational project permits, with the exception of those for raptors, will generally be issued in the name of the institution or organization. The principal collector or permit holder will be listed on the permit and be responsible for administering the license or permit. All persons collecting or working under the authority of the license or permit shall carry a copy of the permit and a letter of authorization from the principal license or permit holder.
4. Educational project permits for raptors and wildlife rehabilitation permits may list an institution or organization, but also must list the person or persons with the qualifications for that particular permit. These permits do not necessarily continue with the institution or organization if the person or persons listed on the permits leave. If replacement personnel with the proper qualifications for the permit or permits are found, then the permit or permits will stay in the institution's or organization's name.
5. Specimens collected or possessed under any license or permit authorized by this chapter of rules remain the property of the state of Iowa. The department of natural resources reserves the right to determine the disposition of all specimens collected under authority of these permits.
6. Records, facilities and inventories must be made available for inspection by officers of the department of natural resources during reasonable hours.
7. Records of collections and the manner in which specimens have been acquired and their disposition must be kept current at all times. Rehabilitation permits must be updated within 24 hours of the event. All other permits must be updated within 48 hours of the event.
8. Authorization to collect or possess endangered or threatened species requires special permission and must comply with provisions established in Iowa Code chapter 481B.
9. A representative of the department of natural resources must be notified within 72 hours of taking or holding of threatened or endangered species that are found dead and within 24 hours for those that are injured or sick.
10. A licensed rehabilitator or veterinarian must determine if a raptor is permanently crippled before it can be held under an educational project permit.
11. License or permit fees will be $5 for one year, $10 for two years, and $15 for three years.
12. Applicants for scientific collecting, wildlife rehabilitation, and educational projects must be 18 years old or provide written permission from a parent or guardian.
13. No animals being rehabilitated may be used for educational programs.
14. Applicants for scientific collecting licenses, wildlife rehabilitation, wildlife salvage, and educational project permits that are requesting permission to possess, hold, or collect bird species as

listed in the Code of Federal Regulations, 50 CFR 10.13 (April 5, 1985), may also be required to obtain a federal permit issued by the U.S. Fish and Wildlife Service.

These rules are intended to implement Iowa Code section 481A.65.

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[Filed 6/14/96, Notice 2/28/96—published 7/3/96, effective 10/21/96]

# CHAPTER 112
# HUNTING PRESERVES

**571—112.1(484B) Definitions.** As used in these rules:

*"Annual activity report"* means Annual Report Form provided by the department.

*"Boundary sign"* means a sign prescribed by the department which, when posted, designates hunting preserve boundaries.

*"Game birds"* means pen-reared birds of the family gallinae and mallard ducks.

*"Hunting preserve operator's license"* means a seasonal license which authorizes the holder to establish a hunting preserve for the purpose of holding, propagating, and releasing game birds and ungulates for hunting purposes.

*"Lease"* means a land-lease document for hunting preserve purposes.

*"Licensee"* means a person or organization that possesses a valid hunting preserve operator's license issued by the Iowa department of natural resources under Iowa Code section 484B.4.

*"Pen-reared"* means the propagation and holding of game birds and game animals whose origins are from captive populations.

*"Tag"* means a self-adhesive, numbered transportation tag for marking individual game birds and ungulates taken.

*"Ungulate"* means pen-reared, hoofed, nondomesticated mammal (big game).

**571—112.2(484B) Hunting preserve operator's license.** A hunting preserve operator's license may, following review and inspection, be issued to a person or organization who, upon application, complies with all requirements established in Iowa Code section 484B.4 and this chapter.

**571—112.3(484B) Land leases required.** All hunting preserve applications which include leased tract(s) of land shall be accompanied by a legible copy of the land-lease document(s). The lease document(s) shall include, but not be limited to, the following information: name/address of lessee and lessor, term of the lease (not less than five years), purpose of the lease, description/location of the leased tract(s) (acreage—section—township—county), one copy of plat map depicting location of leased tract(s), and dated signatures by both parties.

**571—112.4(484B) Boundary signs required.** All licensed hunting preserves shall provide, post, and maintain boundary signs which meet the following minimum specifications: 160-square-inch surface area; sign material of wood, steel, aluminum or heavy poly-plastic; and white/red sign color combination with the message "Licensed Hunting Preserve." Boundary sign spacing shall be no more than 500 feet apart.

**571—112.5(484B) Fencing required—ungulates.** All licensed hunting preserves possessing a valid hunting preserve license for ungulates shall construct and maintain a "deer-proof" boundary fence. Such fence shall be constructed and maintained with a minimum fence height of 8 feet above ground level.

**571—112.6(484B) Records and annual report.** All licensed hunting preserves shall submit a completed annual activity report no later than April 30 of the license year to the Law Enforcement Bureau, Iowa Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034. All licensed hunting preserves shall retain sales/shipping receipts involving the purchase and delivery of any game birds or ungulates to the licensee. All licensed hunting preserves shall record any transaction involving the sale of game birds or ungulates by the licensee. All original sales receipts for harvested game birds and ungulates shall remain with the licensee as a part of the permanent record and a copy shall be provided to the purchasing hunter/client. This record requirement shall also apply to any sale of live birds or ungulates for private or commercial use and must be recorded immediately following the event.

Any licensed hunting preserve having a valid license for ungulates shall maintain an inventory record of all ungulates released and being held on the licensed property at any given time.

**571—112.7(484B) Game bird transportation tags.** Numbered, self-adhesive bird tags shall be placed on a leg of all birds harvested on a licensed hunting preserve prior to the bird being transported from the licensed area. The bird tag shall remain attached to the bird until the time it is processed for consumption.

Bird tags shall be purchased from the License Bureau of the Iowa Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034, at a cost of $5 per 100 bird tags.

**571—112.8(484B) Ungulate transportation tags.** Numbered, self-adhesive ungulate tags shall be placed on a leg of each ungulate harvested on a licensed hunting preserve prior to moving the carcass in any manner. The hunter shall, upon taking an ungulate, immediately validate the ungulate tag by including the following information in the space provided: species and sex of animal taken and the hunter's signature. The hunter shall also notch or punch a hole in the corresponding blocks on the ungulate tag designating the year, month and day the animal was taken. The ungulate tag shall remain attached to the ungulate until it is processed for consumption.

Ungulate tags shall be purchased from the License Bureau of the Iowa Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034, at a cost of $1 per ungulate tag.

**571—112.9(484B) Processed game birds.** Licensed hunting preserves may prepare game birds for hunters/clients by cleaning, dressing, preserving, and packaging whole birds or bird parts. Packaging material shall be a see-through plastic bag. The plastic bag shall be sealed and the bird tag placed around the opening of the bag or attached to the bag in such a manner so that the bird tag number(s) is completely legible. The number of game birds or combination of bird parts shall correspond to the number of bird tags affixed to the clear plastic bag.

**571—112.10(484B) Processed ungulates.** Licensed hunting preserves may prepare ungulates for hunters/clients by cleaning, dressing, preserving, and packaging the meat. Packaging material shall be a freezer-type paper wrap which shall be sealed and bear the species name, date killed, and hunting preserve name in a legible fashion on the outside of the package. The ungulate tag shall remain with the meat during processing and shipment.

**571—112.11(484B) Health requirements—game birds and ungulates.** No game birds or ungulates shipped or transported into Iowa shall be affected with, or recently exposed to, any infectious, contagious, or communicable disease, or originate from a guaranteed area.

All game birds and their hatching eggs shipped or transported into Iowa shall have proof of origination from flocks or hatcheries that have a pullorum-typhoid clean rating given by the official state agency of the National Poultry Improvement Plan or its equivalent and shall be in accordance with the United States Department of Agriculture and the Iowa department of agriculture and land stewardship.

All ungulates shipped or transported into Iowa for hunting preserve purposes shall be accompanied by an approved Certificate of Veterinary Inspection. Ungulates that are livestock are subject to regulations administered by the Iowa department of agriculture and land stewardship. All veterinary inspection certificates shall be retained as a part of licensee's permanent records.

**571—112.12(484B) General conditions for permits.**

1. Records and facilities shall be available for inspection by officers of the department during reasonable hours.
2. All records and reports must be kept current and shall reflect a true and accurate account of the licensee's activities.
3. The department's law enforcement bureau must be notified within 30 days in writing if the licensee ceases operation as a hunting preserve.
4. Licensees must seek to renew their hunting preserve operator's license within 30 days following the expiration date. Renewal requests received after this period may be considered as a new application pursuant to rules 112.2(484B) and 112.3(484B).

5. All new hunting preserve operator's license applications shall be considered on a first-come, first-served basis following April 30 of each year.

These rules are intended to implement Iowa Code chapter 484B.

[Filed 1/29/93, Notice 11/25/92—published 2/17/93, effective 3/24/93]

# CHAPTER 113
# RESTITUTION FOR POLLUTION CAUSING INJURY TO WILD ANIMALS

**571—113.1(481A) Applicability.** These rules apply to persons who cause, by water pollution, the destruction of or injury to wild animals held in trust by the state for the public. In most cases this would involve the destruction of aquatic life or other wildlife under the ownership of the state, as provided in Iowa Code section 481A.2. These rules relate to the compensation to the state and public for the natural resource damages and are in addition to any other legal recourse for the event or action that caused the destruction or damage. The administration of this chapter shall not result in a duplication of damages collected by the department under Iowa Code section 455B.392, subsection 1, paragraph *"c."*

**571—113.2(481A) Definitions.**

*"AFS"* means the Special Publication 30, "Investigation and Monetary Values of Fish and Freshwater Mussel Kills," published by the American Fisheries Society.

*"Damages"* means the costs of restoration, rehabilitation, and replacement of resources or acquisition of equivalent resources, as determined in accordance with this chapter; the reasonable and necessary costs of the assessment, to include the cost of performing the assessment and administrative costs and expenses necessary for, and incidental to, the assessment; lost services to the public; and, in the event the damages claim is not resolved within six months after the incident leading to the damages, interest at the current rate published in the Iowa Administrative Bulletin by the department of revenue pursuant to Iowa Code section 421.7. The interest amount shall be computed from the date the amount of the claim is confirmed by a final ruling of the commission in a contested case decision.

*"Priority watershed"* means a watershed for which:

1. The department of natural resources, in partnership with other state or federal agencies, the agriculture community or nonprofit organizations, creates and implements plans, programs or projects to sustain and enhance watershed and stream functions; and
2. The principal objective is to manage wild animals and their habitats.

*"Surface water resources"* means the waters of the state, including the sediments suspended in water or lying on the bank, bed, or shoreline. This term does not include groundwater or water or sediments in ponds, lakes, or reservoirs designed for waste treatment under applicable laws regulating waste treatment.

*"Wild animals"* means fish, wildlife and other biota belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the state of Iowa, the United States, or local government. Fish and wildlife include freshwater aquatic and terrestrial species; game, nongame, and commercial species; and threatened and endangered species. Other biota encompass shellfish and other living organisms not otherwise listed in this definition.

[**ARC 8464B**, IAB 1/13/10, effective 2/17/10; **ARC 9054B**, IAB 9/8/10, effective 10/13/10]

**571—113.3(481A) Liability to the state.** Persons who cause by water pollution the destruction of or injury to wild animals of the state shall be liable to the state as provided in Iowa Code section 481A.151. These rules establish the methodologies and criteria for evaluating the extent and value of the destruction or injury and establish the methods of compensation. If the person and the department cannot agree to the proper resolution of a particular case, the issues of liability, damage and compensation will be established through contested case proceedings, as provided by 571—Chapter 7.

[**ARC 8464B**, IAB 1/13/10, effective 2/17/10]

**571—113.4(481A) Assessment.** When wild animals are destroyed or injured by an identifiable source of water pollution, the degree and value of the losses shall be assessed by collecting, compiling, and analyzing relevant information, statistics, or data through prescribed methodologies to determine damages, as set forth in this rule.

**113.4(1)** *General.* For species other than fish, the professional judgment of fish and wildlife staff and available literature and guidance normally relied on in the fish and wildlife professions may be used to assess the injuries.

**113.4(2)** *Fish loss.* Assessment of damages for fish kills shall be in accordance with the following:

*a.* Normally investigators will follow the methods prescribed by AFS to determine, by species and size, numbers of fish killed.

*b.* During periods of ice cover, where local conditions prevent using the methods in *"a"* above, or in other appropriate circumstances, for example, when the resources are known to have been diminished by prior incidents, investigators will utilize the best information available to determine, by species and size, numbers of fish killed. Information may include existing or prior data on population levels in the affected water body or a nearby water body with similar characteristics, including any historical fish kill data.

*c.* The monetary valuation of fish shall be the replacement values as published in AFS for all fish lost except the following: channel catfish, flathead catfish, blue catfish, northern pike, muskellunge, northern pike/muskellunge hybrid, rainbow trout, brown trout, brook trout, white bass, yellow bass, white bass/striped bass hybrid, largemouth bass, smallmouth bass, spotted bass, crappie, rock bass, bluegill, redear sunfish, warmouth, pumpkinseed, freshwater drum, yellow perch, walleye, sauger and walleye/sauger hybrid. The value of these fish shall be $15 each, unless AFS establishes a higher value. Notwithstanding the above, the value of each fish classified by the department as an endangered or threatened species shall be $1,000.

*d.* The value of lost services to the public shall be the number of fishing trips lost over the period of the resource loss, as determined through local creel survey information or through interpolation from the most recent statewide creel survey. Each trip shall be valued at $30.

*e.* The cost of the investigation shall include:

(1) Salaries plus overhead of staff, including support staff, involved in investigating the fish kill and performing the assessment.

(2) Any meals and lodging of staff while they are in the field conducting the assessment.

(3) Mileage valued at the current rate established pursuant to Iowa Code section 18.117.

(4) Costs borne by the department associated with containment or cleanup operations.

(5) Any other costs directly associated with the investigation and assessment.

[**ARC 8464B**, IAB 1/13/10, effective 2/17/10]

**571—113.5(481A) Compensation.** The department will extend to the responsible person the opportunity to reach voluntary agreement as to the amount of damages and the compensation method. The method of compensation shall be solely in the discretion of the department. If the person disputes liability or the damage amount, these issues will be resolved through contested case proceedings.

**113.5(1)** *Direct monetary payment.* Compensation shall normally be by direct monetary payment to the department for projects in priority watersheds selected by the department. To the extent reasonable and practical, the money received will be used to replace, restore or rehabilitate the lost or injured animals. Resource enhancement projects, support of educational programs relating to resource protection or enhancement, or resource acquisition of equal or greater value also may be funded. If practical, such alternatives should provide similar services to the public.

**113.5(2)** *Indirect monetary payment.* In cases where the destruction of or injury to wild animals is in a selected priority watershed, an equal or greater amount of compensation may be made by monetary payment to another government agency or private nonprofit group in the natural resource field for the same purposes as provided in subrule 113.5(1).

**113.5(3)** *Direct funding of projects.* With the approval and oversight of the department, the person may be allowed to contract directly for the same purposes as provided in subrule 113.5(1).

[**ARC 9054B**, IAB 9/8/10, effective 10/13/10]

These rules are intended to implement Iowa Code sections 456A.23, 481A.2 and 481A.151.

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[Filed ARC 9054B (Notice ARC 8883B, IAB 6/30/10), IAB 9/8/10, effective 10/13/10]

# CHAPTER 114
# NUISANCE WILDLIFE CONTROL

**571—114.1(456A) Nuisance wildlife control program.** This chapter is intended to implement Iowa Code section 456A.24(8) by providing permitting of nuisance wildlife control operators for the purpose of protecting private property from nuisance wildlife. No provision of this chapter shall restrict a landowner from lawfully removing nuisance wildlife pursuant to Iowa Code section 481A.87.

**571—114.2(456A) Definitions.**

*"Annual activity report"* means an annual report submitted on a form provided by the department.

*"Biologist"* means a natural resource biologist employed by the wildlife bureau of the department of natural resources.

*"Guidebook"* means the nuisance wildlife control operator's manual provided by the department.

*"Helper"* means a person who possesses a fur harvester license, has paid the habitat fee, and is listed, by name, on the permit as authorized to perform nuisance wildlife control operator duties under the direction of the permittee.

*"Nuisance wildlife"* means wild, native animals or birds under the jurisdiction of the department of natural resources that are causing damage to private property, creating a nuisance, or presenting a health hazard.

*"Nuisance wildlife control operator"* or *"NWCO"* means a person who operates as a business and charges a fee to remove nuisance wildlife from private property.

*"Permit"* means an annual permit issued by the department under the authority of Iowa Code section 455A.5(6)*"e"* for the purpose of capturing and removing nuisance wildlife from private property. The permit shall expire January 10 of each year and is not transferable.

*"Permittee"* means an NWCO who possesses a valid nuisance wildlife control operator's permit issued by the department and also possesses a valid Iowa fur harvester license and has paid the habitat fee.

*"Special Canada goose control permit"* or *"SCGCP"* means a permit to engage in the Canada goose population control activities specified by the department of natural resources.

*"Technician"* means a natural resource technician employed by the wildlife bureau of the department of natural resources.

*"Translocate"* means to transport and release an animal at a site other than the site at which it was captured.

**571—114.3(456A) Nuisance wildlife control operator's permit.** An NWCO permit may be issued to an NWCO who, upon application and following review and testing, complies with all requirements established within this chapter. This is an annual permit and may be renewed by January 10 of the following year. The department shall not renew a permit without first receiving a completed annual activity report for the previous year.

**571—114.4(456A) Application requirements.** All applicants must be at least 18 years of age and possess a valid driver's license.

**571—114.5(456A) Nuisance wildlife control operator's guidebook.** All applicants will receive an NWCO guidebook at the time they submit a completed permit application form. The permittee shall refer to the guidebook as an operating manual for nuisance wildlife control activity. All requirements and procedures listed in the guidebook must be followed. The NWCO guidebook is hereby adopted by reference and shall be a part of this chapter as if set forth herein.

**571—114.6(456A) Nuisance wildlife control operator's test and interview.** An applicant must successfully pass a written test with a minimum test score of 80 percent before an NWCO permit will be issued. If the applicant fails the written test, the applicant must wait 45 days before retaking the test. If the applicant fails the written test a second time, the applicant must wait 180 days before

reapplying. A $25 testing fee will be assessed when the applicant successfully completes the test. In addition, the applicant must successfully complete an oral, in-person interview with a representative of the department to determine the applicant's knowledge of wildlife and wildlife capture techniques, and to determine if the applicant has the ability to provide effective services to the public.

**571—114.7(456A) Records and record-keeping requirements.** All permittees shall keep a daily record of their nuisance wildlife control activities. Each record must contain the client's name, address, telephone number, date of service, service provider's name, species of animal, number of animals removed, control methods used, and disposition of the animals. Permittees holding an SCGCP must also document on aerial photos, or similar maps, the locations of all Canada goose nests destroyed, the numbers of Canada goose eggs destroyed, and the numbers of Canada geese killed at each project site. These records shall be kept up to date and on file at the business location specified in the permit. The permittee shall provide these records for inspection by a department representative at any reasonable time.

**571—114.8(456A) Annual activity report.** The permittee shall submit an annual activity report on forms provided by the department no later than January 31 of the following year. The department shall not renew a permit until a complete and accurate annual activity report has been received for the preceding year.

**571—114.9(456A) Permit renewal.** An NWCO permit may be renewed by the department when all reporting requirements for the previous year have been met. An administrative fee of $20 will be assessed at the time of permit renewal.

**571—114.10(456A) Helper.** A helper shall operate under the same conditions as the permittee. The permittee shall be responsible for all actions of the helpers listed on the permit. Compliance violations committed by a helper may be cause for the department to revoke the NWCO permit.

**571—114.11(456A) Capture methods and trap tagging.** Live traps such as box traps and leghold traps should be used whenever possible. Humane traps, which are those designed to kill instantly and which have a jaw spread exceeding eight inches, are unlawful except when placed entirely under water. All traps and snares, except those that are placed entirely under water, shall be checked once every 24 hours. All traps and snares for the taking of nuisance wildlife shall have a metal tag attached that is plainly labeled with the permittee's business name and address. If traditional capture methods fail, the permittee may use chemicals, smoking devices, mechanical ferrets, wire, tools, instruments, or water to remove nuisance animals in accordance with the procedures contained in the guidebook. No person, except a person acting under an NWCO permit, shall capture or take, or attempt to capture or take, with any trap, snare, or net, any game bird. The permittee and designated helpers shall observe all Iowa fur trapping and fur possession regulations as provided by Iowa law, the Iowa Administrative Code, and the NWCO guidebook.

**571—114.12(456A) Endangered and threatened wildlife species.** The permittee is not authorized to capture or possess any wildlife species listed as endangered or threatened. A permittee may only capture or possess a federally protected species to the extent that the permittee is authorized to engage in specific Canada goose population control activities by the terms of a valid SCGCP. This prohibition includes, but is not limited to, the capture or possession of bobcats, spotted skunks, hawks, owls, eagles, migratory birds, waterfowl, and songbirds. When a nuisance wildlife problem involves an endangered or threatened species, the local state conservation officer must be contacted, and the officer will determine how the situation should be handled.

**571—114.13(456A) Special Canada goose control permits.** A person applying for a special Canada goose control permit to use lethal methods to control Canada goose populations or to trap and translocate Canada geese must be a currently certified NWCO and must abide by the following rules:

**114.13(1)** *Lethal control practices.* Permittees wishing to use lethal methods, such as nest destruction, egg oiling, egg addling, or killing geese, must comply with the following procedures:

*a.* Permittees must obtain written permission from the biologist responsible for the county in which the lethal control practice is proposed for every site where a lethal control practice is proposed before implementing any such practice. The biologist will determine if lethal control practices are necessary and will specify the number of nests, eggs, or adult geese that can be destroyed at each site.

*b.* The permittee must follow the procedures in the NWCO guidebook for implementing lethal control practices and disposing of dead birds, eggs, and nests. Failure to follow such procedures will result in immediate revocation of the permit.

*c.* Permittees must satisfactorily complete at least two lethal control projects under the direct supervision of a biologist or technician before being granted an SCGCP for lethal control practices. Upon the permittee's satisfactory completion of two lethal control projects, the biologist can issue the NWCO an SCGCP to perform lethal control activities without direct supervision by DNR personnel. The NWCO must carry this permit whenever engaged in lethal Canada goose control activities and exhibit it upon request by department of natural resources personnel. Any persons assisting with the lethal control practices must be listed on the SCGCP. The permittee is responsible for the conduct of all persons listed on the SCGCP who are helping conduct lethal control operations.

*d.* Permittees must document on an aerial photo, or similar map, the locations of all Canada goose nests destroyed, the numbers of Canada goose eggs destroyed, and the numbers of Canada geese killed at each project site within 48 hours of completion of each project. Any banded geese that are killed must have the bands removed before disposal and be reported as specified in the NWCO guidebook within 48 hours of the permittee's completion of the project.

*e.* Permittees must provide the department a written report of all lethal control activities by December 31 of the year for which the SCGCP is valid. Failure to provide this report by December 31 will result in the permittee's not being reauthorized to use lethal control methods the following year.

**114.13(2)** *Trapping and translocation operations.* Permittees wishing to trap and translocate Canada geese must comply with the following procedures:

*a.* Permittees must obtain written permission from the biologist responsible for the county in which the trap and translocation operation is proposed for every site where such operation is proposed before implementing any such operation. The biologist will determine if a trap and translocation operation is necessary and will specify the number of geese that can be translocated from each site. The biologist will also specify release sites for the captured geese. Release sites must be approved by the biologist before any geese are captured.

*b.* The permittee must follow the procedures in the NWCO guidebook for implementing trap and translocation operations. Failure to follow such procedures will result in immediate revocation of the permit.

*c.* Before the permittee engages in a trap and translocation operation, the permittee's trapping and transport equipment must be inspected and approved by a biologist or technician.

*d.* Permittees must satisfactorily complete at least four trap and translocation projects under the direct supervision of a biologist or technician before being granted an SCGCP for trap and translocation operations. Upon satisfactory completion of four trap and translocation projects, the biologist can issue the NWCO an SCGCP to perform trap and translocation operations without direct supervision by DNR personnel. The NWCO must carry this permit whenever engaged in trap and translocation operations and exhibit it upon request by department of natural resources personnel. Any persons assisting with the trap and translocation operations must be listed on the SCGCP. The permittee is responsible for the conduct of all persons listed on the SCGCP who are helping with trap and translocation operations.

*e.* Permittees must inform the biologist of the number of birds captured and translocated within 48 hours of the completion of each operation. Permittees must document the number of Canada geese trapped and released for each capture and release site and the number of geese that died during each trap and translocation operation. Any banded geese that are captured and translocated must be reported as specified in the NWCO guidebook within 48 hours of completion of the project.

*f.* Permittees must provide the department a written report of all trap and translocation operations by December 31 of the year for which the SCGCP is valid. Failure to provide this report by December 31 will result in the permittee's not being reauthorized to trap and translocate geese the following year.

**114.13(3)** *General provisions.*

*a.* The SCGCP is valid for one year and must be reauthorized by a biologist each year when the NWCO permit is renewed.

*b.* Any plumage, eggs, eggshells, nests, or dead birds encountered by the permittee when performing activities permitted under this rule may not be sold, offered for sale, bartered or shipped or possessed for the purposes of being sold, offered for sale, bartered or shipped.

*c.* Any properties on which lethal control or trap and transport operations are conducted must be open at all reasonable times, including during actual operations, to any biologist or technician, conservation officer, U.S. Fish and Wildlife Service special agent, or U.S. Department of Agricultural Wildlife Services agent wishing to inspect the activity or the results of the activity.

*d.* Nothing in the permit should be construed to authorize the killing of any migratory bird or the destruction of the nests or eggs of any migratory bird other than resident Canada geese.

**571—114.14(456A) Disposition of captured nuisance wildlife.** Nuisance wildlife, with the exception of endangered or threatened species, may be relocated or euthanized. The permittee shall comply with the euthanization and release methods described in the NWCO guidebook. Sick or injured wildlife must be handled as described in the NWCO guidebook. The carcass of a dead nuisance animal must be disposed of in a legal manner and within 24 hours of the animal's death.

**571—114.15(456A) General conditions for permits.** Records and facilities shall be available for inspection by officers of the department during reasonable hours. All records and reports must be kept current and shall reflect a true and accurate account of the permittee's activities. The department's law enforcement bureau shall be notified in writing within 30 days if the permittee ceases operation as a nuisance wildlife control operator. Permittees and helpers must obtain and possess valid fur harvester licenses and have paid the habitat fees, except that persons listed as assistants on the SCGCP do not need to have a valid fur harvester license nor to have paid the habitat fee when assisting with Canada goose control activities. Permittees must renew their NWCO permits by January 31 of each year.

**571—114.16(456A) Permit refusal.** The department may suspend, revoke, refuse to issue, or refuse to renew a nuisance wildlife control operator's permit if the department finds that the permittee, a helper, or an employee of the permittee is not in compliance with this chapter. In addition, any violation of Iowa Code chapter 481A, 481B, 482, 483A, 484A, 484B, or 716 shall be cause for the department to suspend, revoke, refuse to issue, or refuse to renew a permit.

**571—114.17(456A) Penalties.** A person or organization that violates a provision of this chapter is guilty of a simple misdemeanor.

These rules are intended to implement Iowa Code sections 456A.24(8), 481A.38, 481A.39 and 481A.48.

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# CHAPTER 115
# WHITETAIL HUNTING PRESERVES

**571—115.1(81GA,SF206) Definitions.** As used in these rules:

*"Annual activity report"* means the Annual Report Form provided by the department.

*"Boundary sign"* means a sign prescribed by the department which, when posted, designates the registered hunting preserve boundaries.

*"Documented event"* means but is not limited to the birth, death, harvest, transfer, sale, purchase, escape or release of preserve whitetail.

*"Privately owned"* means the propagation and holding of whitetail whose origins are from privately owned populations.

*"Registrant"* means a person or organization that holds an interest in land including a title holder that registers annually to possess a whitetail hunting preserve operator's registration issued by the Iowa department of natural resources.

*"Transportation tag"* means a self-adhesive, numbered tag for marking an individual whitetail carcass prior to transportation.

*"Whitetail"* means an animal belonging to the Cervidae family and classified as part of the virginianus species of the odocoileus genus.

*"Whitetail hunting preserve operator's annual registration"* means a registration which authorizes the holder to establish a hunting preserve for the purpose of holding, propagating, and releasing privately owned whitetail for hunting purposes.

**571—115.2(81GA,SF206) Hunting preserve operator's registration.** A hunting preserve operator's registration may, following review and inspection, be issued to a person or organization that, upon application, complies with all requirements established in 2005 Iowa Acts, Senate File 206, section 17, and this chapter. The registration fee shall be $350 annually. Renewal registration fees shall be due and payable to the department no later than June 30 and must be accompanied by a completed annual report of the current fiscal year.

**571—115.3(81GA,SF206) Boundary signs required.** All registered hunting preserves shall provide, post, and maintain boundary signs which meet the following minimum specifications: 160 square-inch surface area; sign material of wood, steel, aluminum or heavy poly-plastic; and white/red sign color combination with the message "Registered Hunting Preserve." Boundary signs shall be posted at each entrance and perimeter gate and at every boundary corner. If the facility operated prior to September 1, 2005, and was signed as a "Licensed Hunting Preserve," those signs will satisfy the signing requirement. However, once existing sign supplies are depleted, new signs must read "Registered Hunting Preserve."

**571—115.4(81GA,SF206) Fencing required.** All registered hunting preserves that possess a valid hunting preserve registration for whitetail shall construct and maintain a "deer-proof" boundary fence. Preserves shall have fencing constructed and maintained with a minimum fence height of eight feet above ground level. Fencing shall be inspected and approved by officers of the department prior to registration. Follow-up fence inspections by the department shall be allowed at any reasonable time by appointment or by providing the landowner or preserve registrant with at least 48 hours' notice. Boundary fence gates shall remain closed at all times except for preserve maintenance activity, at which time no open gate shall be left unattended.

**571—115.5(81GA,SF206) Records and annual report.** All registered hunting preserves shall submit a completed annual activity report no later than June 30 of the current year to the Law Enforcement Bureau, Iowa Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034. All registered hunting preserves shall retain sales/shipping receipts involving the purchase and delivery of any whitetail to the registrant. All registered hunting preserves shall record any transaction involving the sale or purchase of whitetail. All original sales receipts for harvested whitetail shall remain with the registrant as a part of the permanent record, and a copy shall be provided to the

purchasing client. This record requirement shall also apply to any sale of live whitetail for private or commercial use, and the sale must be recorded immediately following the event.

**571—115.6(81GA,SF206) Whitetail transportation tags.** A numbered, self-adhesive transportation tag shall be placed on a leg of each whitetail harvested on a registered hunting preserve prior to a person's moving the carcass in any manner. The client shall, upon taking a whitetail, immediately validate the transportation tag by including the following information in the space provided: species and sex of animal taken and the client's signature. The client shall also notch or punch a hole in the corresponding blocks on the transportation tag designating the year, month and day the animal was taken. The transportation tag shall remain attached to the whitetail until the whitetail is processed for consumption. Transportation tags shall be purchased from the license bureau of the Iowa Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319- 0034, at a cost of $1 per tag.

**571—115.7(81GA,SF206) Processed whitetail.** Registered hunting preserves may prepare whitetail for clients by cleaning, dressing, preserving, and packaging the meat. Packaging material shall bear the transportation tag number, date the animal was killed, and hunting preserve name in a legible fashion on the outside of the package. The transportation tag shall remain with the meat during processing and shipment.

**571—115.8(81GA,SF206) Health requirements—whitetail.** No whitetail shipped or transported into or within Iowa shall be affected with or recently exposed to any infectious, contagious, or communicable disease, or originate from a quarantined area. All whitetail shipped or transported into or within Iowa for hunting preserve purposes must be in compliance with all movement requirements, including but not limited to health certificate requirements, as prescribed by the department and the department of agriculture and land stewardship as established in 21—65.9(163) and 21—66.14(163). All veterinary inspection certificates shall be retained by the registrant for a period of no less than five years.

**571—115.9(81GA,SF206) Chronic wasting disease testing.**

**115.9(1)** *Testing required.* A person who keeps whitetail under this chapter shall have chronic wasting disease tests performed on the following:

*a.* Any whitetail that dies or is killed on the premises. A person trained and authorized shall collect the test sample and shall submit the sample for testing at an approved laboratory. This paragraph does not apply to whitetail less than six months old.

*b.* Any whitetail that is shipped to slaughter from the herd premises. A person trained and authorized shall collect the test sample after the whitetail is slaughtered and shall submit the sample for testing at an approved laboratory. This paragraph does not apply to whitetail less than six months old.

*c.* Testing under this subrule shall not qualify the herd for certification in the chronic wasting disease program administered by the department of agriculture and land stewardship. No live animals will be allowed to leave the hunting preserves.

**115.9(2)** *Collecting test samples.* One of the following persons shall collect a test sample and submit it for testing:

*a.* A certified veterinarian.

*b.* An employee of the department authorized by the department.

*c.* A person approved by the department. Before a person collects a test sample, that person shall complete training approved by the department. The person shall comply with standard veterinary procedures when collecting a test sample.

**115.9(3)** *Reporting disease findings.* Whenever any person receives a laboratory test result for chronic wasting disease, that person shall immediately report that result to the department. The person shall report by telephone, fax or other rapid means within one day after receiving the test result and shall report in writing within ten days. The person shall provide a copy of the test result to the owner of the tested whitetail. This reporting requirement applies to any laboratory test result for chronic wasting disease. Telephone and fax reports should be made to the following numbers: telephone (515)281-6156

or fax (515)281-6794. Written reports should be sent to Iowa Department of Natural Resources, 502 E. 9th Street, Des Moines, Iowa 50319-0034, Attn: Wildlife Bureau.

**571—115.10(81GA,SF206) Positive chronic wasting disease test results.** A positive test result for chronic wasting disease will result in a minimum of a five-year quarantine on the preserve and all remaining animals located within the infected preserve. No animal movement in or out of the preserve shall occur during the quarantine period. The preserve operator, the operator's veterinarian if requested, and a designated epidemiologist shall develop a plan for eradicating chronic wasting disease in each affected herd. The plan must be designed to reduce and then eliminate chronic wasting disease from the herd; to prevent the spread of the disease to other herds, both privately owned and wild; and to prevent reintroduction of chronic wasting disease after the herd is released from quarantine. The herd plan must be developed and signed within 30 days after the determination that the herd is infected. The plan must be formalized as a memorandum of agreement between the preserve operator, the department and the state veterinarian's office. Disposal of infected animals must be in accordance with 571—104.11(481A). Premises must be cleaned and disinfected under department supervision within 15 days after affected animals have been removed.

**571—115.11(81GA,SF206) General conditions for registration.**

1. Records shall be available for inspection by officers of the department during any reasonable hours.
2. All records and reports shall be kept current and shall reflect a true and accurate account of the registrant's activities.
3. The department's law enforcement bureau shall be notified within 30 days in writing if the registrant ceases operation as a hunting preserve, at which time all unused whitetail transportation tags shall be returned to the department.
4. A registrant shall renew the hunting preserve operator's registration and recertify no later than June 30. Registration renewal and recertification requests received by the department after June 30 shall be considered delinquent.
5. The department shall not renew a hunting preserve operator's registration unless a completed annual report, including all documented events for the reporting period, has been received by the department prior to the reporting deadline.
6. For purposes of this chapter, there shall be a continuous open season on whitetail enclosed on registered preserves.
7. Individuals may use centerfire rifles, pistols, crossbows, modern or traditional archery equipment, muzzleloaders, or shotguns to hunt and harvest preserve whitetail.

These rules are intended to implement 2005 Iowa Acts, Senate File 206, sections 14 to 26.

[Filed emergency 9/29/05—published 10/26/05, effective 9/29/05]

# CHAPTER 116
# HELP US STOP HUNGER PROGRAM ADMINISTRATION

**571—116.1(483A) Purpose.** This chapter establishes the procedures for the administration of the help us stop hunger (HUSH) deer donation program. HUSH is established pursuant to Iowa Code section 483A.8(1) to encourage hunters, during periods of excessive deer populations, to harvest more deer than needed for personal consumption and to donate those deer to a program to feed Iowans in need.

**571—116.2(483A) Definitions.**

*"Deer"* means any wild deer legally taken in Iowa and deer confiscated as legal evidence if the confiscated carcass is considered by a conservation officer to be in good condition for donation.

*"Department"* means the department of natural resources.

*"Distributor"* means the Food Bank of Iowa or, in the event the Food Bank of Iowa discontinues participation in HUSH, such other venison distribution service provider as shall be designated by future contract with the department.

*"Field dressed"* means that the deer has been properly bled and cleaned of its internal organs.

*"Food Bank of Iowa"* means the private, nonprofit charitable organization incorporated under that name, whose mission is to alleviate hunger and reduce food waste in Iowa.

*"HUSH"* means the help us stop hunger program.

*"HUSH coordinator"* means an employee of the department who administers the deer donation program.

*"Meat processor"* means any business that is licensed by the department of agriculture and land stewardship's bureau of meat and poultry inspection, the USDA, or a neighboring state's department that is similar to Iowa's, to process meat for retail customers.

**571—116.3(483A) Restrictions.** Deer is the only species of wildlife that shall be covered by the HUSH program. The entire deer carcass must be donated, but the hunter may keep the antlers, head and cape.

**571—116.4(483A) HUSH council.** There is hereby created a HUSH council. Members shall serve without additional compensation.

**116.4(1)** *Membership.* The HUSH council shall include the following voting members:

*a.* The HUSH coordinator, who shall serve as the chairperson;

*b.* An additional department representative designated by the department's wildlife bureau chief;

*c.* A representative of the Food Bank of Iowa appointed by its executive director;

*d.* The chief of the department of agriculture and land stewardship's bureau of meat and poultry inspection or a designee of the chief.

**116.4(2)** *Duties.*

*a.* To set a fair market price, the council shall consider prices for similar services paid by retail customers in Iowa and nearby states and shall recommend to the department an annual per-deer processing payment to be made to meat processors.

*b.* The council shall recommend to the department an annual per-deer administrative payment to be made to the Food Bank of Iowa. The Food Bank of Iowa shall provide information to assist in this determination but shall not participate in any vote of the council regarding the recommendation of the annual per-deer administrative payment to the Food Bank of Iowa.

*c.* The council shall make recommendations to the department to resolve conflicts or disputes in the operation of the HUSH program as brought to it by any person or entity.

*d.* The council shall adopt standards for participating lockers to meet in terms of their record of violations of rules of the bureau of meat and poultry inspection and the department of natural resources.

*e.* The council shall advise the department in the administration of HUSH.

**116.4(3)** *Administration.* The HUSH coordinator shall convene the council as needed to conduct business. A majority vote shall be required for action or decision by the council. The chief of the department's wildlife bureau shall have the right to overrule the council for cause and shall provide the

council with justification for the reasons. A quorum to conduct business shall consist of three council members, one of whom shall be the HUSH coordinator.

**571—116.5(483A) Duties of the department.** During periods of excessive deer populations, the department shall promote the harvest of deer by hunters and the donation of deer at meat processors participating in HUSH. During periods of nonexcessive deer populations, HUSH may continue with less emphasis on promotion to hunters.

**116.5(1)** *Meat processors.* The department shall enlist as many meat processors as available to participate in HUSH and shall enter into uniform agreements with meat processors. The department shall provide forms for donations of deer by hunters, posters for meat processors to advertise their participation, venison pickup receipts and invoices, and two-pound freezer bags for use by meat processors that are HUSH participants. The department shall provide informational and promotional materials to meat processors regarding HUSH.

**116.5(2)** *Venison distributor.* The department shall enter into an annual agreement with the Food Bank of Iowa or, in the event the Food Bank of Iowa discontinues participation in HUSH, other service providers designated by future contract to carry out the duties described in 571—116.6(483A). The department shall pay the distributor a per-deer rate of payment for administrative services provided. The department shall make such payments to the distributor as described in the annual agreement for the purpose of making payments to participating meat processors.

**571—116.6(483A) Duties of venison distributor.** In order to continue participation in HUSH, the distributor shall enter into an annual agreement with the department for venison pickup from meat processors and distribution throughout Iowa, and for the administration of financial accounts with meat processors. The distributor shall make reports to the department. The distributor shall be compensated by the department at a rate per deer as determined annually by the department, with recommendations from the HUSH council taken into consideration.

**116.6(1)** *Venison pickup and distribution.* The distributor shall cause timely pickup of venison from meat processors and distribution of the venison to the distributor's member social service agencies.

**116.6(2)** *Payments to meat processors.* The distributor shall make payments to meat processors at the rate set by the department. Prior to receiving payment, a meat processor shall be required to provide the following: a record of each donated deer that includes information required by the department, an invoice from the meat processor, a copy of a completed donor form, and a supporting record of the venison pickup. Provided funding is available from the department, payments shall be made to meat processors within 30 days of submittal of a complete and accurate record.

**116.6(3)** *Reports to the department.* The distributor shall keep accurate records of the amount of venison picked up from meat processors and distributed to qualified agencies, including copies of receipts and invoices from venison pickups, and by April 1 of each year shall provide the department a report of each donated deer for which payment was made to a meat processor.

**116.6(4)** *Reimbursement to the department.* If any funding provided by the DNR is unused for venison processing or administrative costs, all unused funds shall be refunded to the department by May 1 of each year.

**571—116.7(483A) Meat processors.**

**116.7(1)** *Eligibility.* To participate in the HUSH program, each meat processor shall enter into a uniform annual agreement with the department which details the meat processor's participation. The agreement shall be signed by the meat processor and the department by August 1 prior to the coming deer season. Exceptions to this date may be considered by the HUSH council, which will then make recommendations to the department.

**116.7(2)** *Requirements.* Meat processors shall accept the entire field-dressed carcass of a donated deer, pursuant to 571—116.3(483A), and shall not assess any fees or costs to donors. Information from the donor is required for each donated deer and shall be submitted on forms provided by the department. Payment shall not be made to a meat processor without this information.

**116.7(3)** *Venison.* Meat processors shall accept a donated deer, pursuant to 571—116.3(483A), if the meat processor determines the venison is in acceptable condition. Deer shall be processed into pure ground venison with no additives, put into bags provided by the department, and frozen prior to being received by a representative of the Food Bank of Iowa or another designated distributor. Venison pickup shall be initiated by the meat processor by contacting the meat processor's designated pickup person.

**116.7(4)** *Venison pickup.* At the time of venison pickup, the meat processor shall provide accurate information and an official signature on a form provided by the department. The meat processor shall retain one copy of the form for billing purposes and one copy for the meat processor's business records.

**116.7(5)** *Billing the distributor.* To receive payment for venison processing, the meat processor shall submit to the distributor a copy of the venison pickup and invoice form, the department form that provides information on each donated deer, and any additional information that is required by the department on the form provided.

**571—116.8(483A) Partnerships with other organizations.** The department, at its own discretion, may enter into agreements with other organizations for the purpose of expanding the deer donation program. The department may include the offer of matching grants to pay for deer processing to organizations that acquire funding from sources other than the state of Iowa.

These rules are intended to implement Iowa Code chapter 483A.

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