

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Rulemaking related to habitat lease program

The Natural Resource Commission (Commission) hereby rescinds Chapter 21, “Agricultural Lease Program,” and adopts a new Chapter 21, “Habitat Lease Program,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 455A.5(6)“a,” 456A.24(5), and 456A.38.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 456A.24(2), 456A.24(5), 456A.38 and 461A.25.

Purpose and Summary

Chapter 21 regulates the Department of Natural Resources’ (Department’s) Habitat Lease and Beginning Farmer Program. The purpose of this program is to provide an economic opportunity to a local farmer while simultaneously enhancing habitat for wildlife and providing recreational opportunities to the public.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 27, 2023, as **ARC 7247C**. Public hearings were held on January 23 and 30, 2024, at 12 p.m. via video/conference call. No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commission on April 11, 2024.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

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

Effective Date

This rulemaking will become effective on June 5, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 571—Chapter 21 and adopt the following **new** chapter in lieu thereof:

TITLE III
ASSISTANCE PROGRAMS
CHAPTER 21
HABITAT LEASE PROGRAM

571—21.1(456A) Purpose. The purpose of the habitat lease program is to enhance habitat for wildlife in the state of Iowa, thereby providing recreational opportunities to the public. Utilization of habitat leases provides practices that are essential to successful wildlife habitat management and vegetation management and reduces associated operating expenses.

571—21.2(456A) Definitions.

“*Cash rent*” means an agreed-upon sum of money to be paid to the department.

“*Crop share*” means a sum of money to be paid to the department based upon the value of an agreed-upon portion of the harvested crop at the local market price on the date the crop is harvested.

“*Crop year*” means a one-year period terminating each February 28.

“*Department*” means the department of natural resources.

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

“*Land manager*” means the department employee or authorized agent responsible for managing a particular area under department jurisdiction.

“*Lease*” means the written form used to enter into an agreement whereby an operator is authorized to engage in farming operations on land under the jurisdiction of the department according to stated terms and conditions.

“*Operator*” means any party who enters into a lease with the department as provided in these rules.

“*Program*” means the lease to beginning farmers program as provided in Iowa Code section 456A.38.

“*Sovereign land*” means state-owned land within the ordinary high-water mark of meandered rivers and lakes where ownership was transferred directly from the United States to the state of Iowa upon its admission to the union.

571—21.3(456A) Habitat lease policy. The policy of the department is to lease agricultural land under its jurisdiction so as to protect and enhance natural resources and to provide public use opportunities. Generally accepted farming practices will be followed so long as they are commensurate with good resource management practices. All leases shall be in writing.

21.3(1) Agricultural land use. Leased agricultural land is subject to any practice necessary to enable the department to carry out its resource management and subject to recreational use by the public according to the laws of the state of Iowa. Operators shall not inhibit any lawful use of the land by the public including, but not limited to, use by the public for hunting and fishing as described by the rules of the department and the laws of the state of Iowa, except as otherwise may be agreed to between the department and the operator.

21.3(2) Soil conservation. Farming practices shall not exceed compliance-based soil loss limits as established by the USDA Natural Resource Conservation Service or the local soil and water conservation district.

21.3(3) Lease basis. Leases shall be in writing on a cash rent basis, except a crop share basis may be utilized when determined to be in the state’s best interest.

21.3(4) *United States Department of Agriculture programs.* The inclusion, by the operator, of land under lease in any U.S. Department of Agriculture program will be allowed only if it is compatible with the department's management plan established for said land.

571—21.4(456A) Lease to beginning farmers program.

21.4(1) *Beginning farmers program.* This program shall be implemented in accordance with Iowa Code section 456A.38.

21.4(2) *Establishing annual lease payments.* Iowa Code section 456A.38(3) "d" provides criteria the department uses to determine lease payment amounts, including, but not limited to, the cost of the establishment or maintenance of water quality practices, wildlife habitat, vegetation management, or food plots, if applicable.

571—21.5(456A) Alternative lease procedures. In the event that no beginning farmer seeks to participate in the program, or no beginning farmer is found qualified to participate in the program for a given lease, the following procedures shall be followed by the department in administering the habitat lease program.

21.5(1) *Advertising for bids.* A notice advertising for bids shall be published in at least one local newspaper.

21.5(2) *Prebid informational meeting.* A prebid informational meeting may be held when the land manager determines that a meeting is in the state's best interest. Notice of a prebid informational meeting shall be included in the advertisement for bids and in the written instructions to bidders. The meeting shall be held no later than one week prior to the bid opening. If a prebid meeting is required, bidders must attend to qualify to submit a bid.

21.5(3) *Form of bid.* Written sealed bids shall be utilized.

21.5(4) *Public bid opening.* All sealed bids shall be publicly opened as stated in the notice for bids. The results of the bids shall be made available to any interested party.

21.5(5) *Awarding of lease.* The amount of the bid, past experience with the bidder, the bidder's ability to comply with the terms of the lease, and the bidder's ability to perform the required farming practices shall be considered. The department reserves the right to waive technicalities and reject any or all bids not in the best interest of the state of Iowa.

21.5(6) *Negotiated leases.* The land manager may negotiate a lease with any prospective operator, subject to approval of the director, in any of the following instances:

- a. No bids are received.
- b. Gross annual rent is \$5,000 or less.
- c. Where land acquired by the department is subject to an existing tenancy.
- d. To synchronize the lease period of newly leased areas with other leases in the same management unit.
- e. Where a proposed lease includes only land not accessible to equipment necessary to perform the required farming operations, except over privately owned land, provided the prospective operator possesses legal access to the leased land over said privately owned land.
- f. Where the director authorizes a lease as a condition of a land purchase or trade.

571—21.6(456A) Terms applicable to all habitat leases. The following terms and conditions apply to all department habitat leases entered into pursuant to rule 571—21.4(456A) or 571—21.5(456A).

21.6(1) *Final approval of award.* All awards of leases shall be approved by the director. Additionally, awards of all leases on sovereign land shall be subject to approval by the state executive council on recommendation of the natural resource commission.

21.6(2) *Payment of cash rent.* The operator shall pay a minimum of 10 percent of the total gross rent at the time of the signing of the lease and the balance for each crop year on or before December 1, or the operator shall pay 50 percent of the total annual rent each April 1 and the balance for each crop year on or before December 1. The appropriate minimum payment shall be determined by the land manager.

21.6(3) *Payment of crop share rent.* The operator shall pay the total annual rent on December 1 or at the time of harvest, whichever is later.

21.6(4) *Termination.* In accordance with Iowa Code section 562.6, the lease shall serve as the written agreement fixing the time of termination of the tenancy. The lease shall terminate at the end of the agreed-upon lease term without notice. If the department requires leased land for other conservation purposes during the term of the lease, the operator shall relinquish all rights under the existing lease, upon demand by the director, at the end of the current crop year.

21.6(5) *Termination for cause.* If the operator fails to comply with any of the terms of the lease, the department may serve notice on the operator demanding redress within a specified period of time. If compliance is not made within the specified period, the department may proceed to collect any moneys that may be due and payable during the crop year in which the lease is terminated and may void the remainder of the lease. Further, the department may have a landlord's lien as set out by Iowa Code chapter 570.

21.6(6) *Previous agreements.* The department shall recognize legal agreements regarding habitat leases that are in effect at the time the department acquires jurisdiction to the land covered by those legal agreements.

21.6(7) *Amendment to lease.* Amendments to any lease shall be evidenced by written instruments attached to and made a part of the lease. Final approval of amendments shall be made by the director.

These rules are intended to implement Iowa Code sections 456A.24(2), 456A.24(5), 456A.38, and 461A.25.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/1/24.