



Administrative Rules Review Committee

THE RULES DIGEST

September
2016

Scheduled for Committee review
Tuesday, September 13, 2016
Room #116

Reference
XXXVIII IAB No. 3 (08/03/16)
XXXVIII IAB No. 4 (08/17/16)
XXXVIII IAB No. 5 (08/31/16)

HIGHLIGHTS IN THIS ISSUE:

BROADBAND INFRASTRUCTURE—TARGETED SERVICE AREAS, PROJECT CERTIFICATION, *OCIO* 1
ALCOHOL BAN AT BEACHES IN LAKE MACBRIDE STATE PARK AND PLEASANT CREEK STATE
RECREATION AREA, *Natural Resource Commission* 2
IOWA ANTIDEGRADATION IMPLEMENTATION PROCEDURE, *EPC* 3

Office of the Chief Information Officer

9:30

Broadband infrastructure—targeted service areas, project certification, 08/31/16 IAB, ARC 2699C, NOTICE.

These proposed rules establish the process by which the Office of the Chief Information Officer (OCIO) will determine whether census blocks within the state constitute “targeted service areas” for purposes of the property tax exemption for the installation of broadband infrastructure by communications service providers in targeted service areas. In order for a project to qualify for the exemption, OCIO must certify that the project is being performed or was completed in a targeted service area and that the broadband infrastructure installed facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed.

The proposed rules include a statewide map for targeted service areas, a process for determination of targeted service areas and for appeals of such determinations, and a process for project certifications.

Inspections and Appeals Department

10:25

Residential care facilities—training requirements for certified medication aides, 08/03/16 IAB, ARC 2643C, ADOPTED, HELD OVER FROM AUGUST.

This rulemaking rescinds rules that require that an individual first be a certified nursing assistant (CNA) before becoming a certified medication aide (CMA) in

residential care facilities. Eliminating this requirement will permit an individual to become trained as a CMA without first being trained as a CNA.

At the committee's August 5 meeting, public comment was heard on behalf of the Iowa Council of Health Care Centers suggesting that residential health care facilities would have difficulty verifying the qualifications for CMAs under the standard set out in this rulemaking. The committee voted to impose a 70-day delay on this rulemaking to allow the department time to consider this feedback and to determine if any further action is necessary. The committee scheduled further review for the September 13 meeting.

Parole Board

11:10

Certificate of employability; parole revocation hearing; automatic revocation for conviction of aggravated misdemeanor, 08/17/16 IAB, ARC 2678C, ADOPTED.

These rules update the criteria for the issuance of certificates of employability by incorporating current programs being offered by the Department of Corrections and Iowa Workforce Development and by striking other language relating to eligibility criteria, certificate revocation, and various procedural matters.

The rules also clarify when a parole revocation hearing may be conducted electronically and specify that videoconferencing may be the manner in which the electronic hearing is to proceed. The rules also conform a board rule to Iowa Code §908.10A, which requires automatic revocation of parole when a parolee is convicted and sentenced to incarceration for an aggravated misdemeanor.

Natural Resource Commission

11:50

Alcoholic liquor, beer, and wine ban at beaches in Lake Macbride State Park and Pleasant Creek State Recreation Area, 08/31/16 IAB, ARC 2694C, ADOPTED.

These rules ban alcoholic liquor, beer, and wine at the beaches located in Lake Macbride State Park and Pleasant Creek State Recreation Area. The commission cites the disproportionate number of arrests made and citations issued at these locations relating to alcohol, the high number of personnel needed to respond to such incidents, and increasing the safety and enjoyment of park users as reasons for this rulemaking.

Commission rules define "beach" as "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.” However, the alcohol ban would not apply to any rental facilities located within the 200-foot buffer of land surrounding the sand or fenced-in area that have been officially reserved through the Department of Natural Resources.

Environmental Protection Commission

12:10

Iowa antidegradation implementation procedure, 08/31/16 IAB, ARC 2695C, EMERGENCY AFTER NOTICE.

This rulemaking updates the Iowa Antidegradation Implementation Procedure (IAIP), which is incorporated by reference into the commission’s rules. Antidegradation refers to federal regulations designed to maintain and protect high quality waters and existing water quality in other waters from unnecessary pollution. The IAIP implements these regulations.

The commission and the Department of Natural Resources received a petition for rulemaking from the Iowa Association of Municipal Utilities, the Iowa League of Cities, and the Iowa Association of Business and Industry on April 25, 2016. The petition was filed in response to the petitioners’ concerns regarding the department’s cost-benefit analysis language in the IAIP, which was the subject of a recent district court ruling regarding the city of Clarion.

The department has not developed a methodology to be utilized for a comparison of environmental benefits to costs for purposes of such an analysis, or a process or a methodology for the review and approval of such an analysis. The petition asserted that, in light of the recent district court ruling, the costs of complying with the current analysis requirement in the IAIP will be burdensome and expensive. The petition urged the department to instead establish a bright-line standard to conduct this analysis.

This rulemaking replaces the specific language that has been interpreted to be the basis for requiring the cost-benefit analysis with a bright-line standard for determining the appropriateness of requiring a less degrading wastewater treatment alternative.

The changes to the IAIP are found on pages 4, 13, 15, 16, and 17 of the document along with the applicable effective date. The primary revision concerns the last paragraph on page 15, which will read as follows:

Alternatives costing less than 115 percent of the base cost of the minimum level of pollution control are considered economically efficient. Alternatives greater than or equal to 115 percent of the base costs are not considered economically efficient.

Other changes to the document are intended to implement this revision. The revision of the IAIP can be viewed at: <http://www.iowadnr.gov/Environmental-Protection/Water-Quality/Water-Quality-Standards/Antidegradation>.