

**Iowa Department of Natural Resources
Natural Resource Commission**

Decision Item

16. Chapter 40, “Boating Speed and Distance Zoning”– Final Rule (Beaver Creek)

The Commission is requested to adopt and file a rule change to Chapter 40, “Boating Speed and Distance Zoning.”

Basic Intent of Rule - Chapter 40 sets regulations for vessels operating on waters under the jurisdiction of the Department, including designating restricted areas marked with uniform waterway buoys or official signs.

NOIA Process: This rule amends Chapter 40 by designating a restricted “Beaver Creek Safety Zone” on Beaver Creek within the Iowa National Guard’s Camp Dodge property in Polk County. The public would be prohibited from entering Camp Dodge via Beaver Creek. This restriction is necessary due to the danger posed to paddlers and other users of Beaver Creek by military training exercises at Camp Dodge that may include live ammunition or explosives. The proposed restricted area would be indicated by signage provided by and maintained by the Iowa National Guard.

Notice of Intended Action was published in the Iowa Administrative Bulletin on published in the Iowa Administrative Bulletin on January 15, 2020, as ARC#4855C. A public hearing was held on February 4, 2020. One staff member from Camp Dodge attended in support of the new rule. No changes were requested and the final rule will be identical to the published Notice.

Changes from NOIA: None

Effective Date of Final Rule: July 22, 2020

Travis Baker, Land & Waters Bureau Chief
Conservation and Recreation Division
May 14, 2020

Attached: Chapter 40, “Boating Speed and Distance Zoning”– Adopted and Filed

**NATURAL RESOURCE COMMISSION[571]
Adopted and Filed**

The Natural Resource Commission hereby adopts Chapter 40, “Boating Speed and Distance Zoning,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 321G.2, 321I.2, 462A.3, and 462A.26.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321G.2, 321I.2, 462A.3, and 462A.26.

Purpose and Summary

Beaver Creek is a small river with increasing recreational use encouraged in part by publicity surrounding the City of Johnston’s sponsorship of a recreational water trails plan. Beaver Creek flows through the Camp Dodge military reservation in Polk County. As recreation has increased on Beaver Creek, concerns among Iowa National Guard personnel at Camp Dodge have increased because of the potential for accidental injury and death at the

facility's live-fire practice range. Beaver Creek is within a "surface danger zone," which is the area designated within the Camp Dodge training complex for containment of projectiles, fragments, debris, and components resulting from the firing, launching, or detonation of weapon systems, including explosives and demolitions. Currently, members of the public are potentially unaware of this danger when passing through the Camp Dodge facility via Beaver Creek. This rule making creates a safety zone into which access may be prohibited, when clearly identified by signage, in order to reduce risk to public safety. If at some future date live-fire ammunition is no longer used during training exercises at Camp Dodge, the Commission may seek to rescind this rule.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 15, 2020 as ARC#4855C.

A public hearing was held on February 4, 2020 at 2 p.m. at the Wallace State Office Building. One staff member from Camp Dodge attended in support of the new rule. No changes were requested and the final rule is identical to the published Notice.

Adoption of Rule Making

This rule making was adopted by the Natural Resource Commission on May 14, 2020.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Natural Resource Commission for a waiver of the discretionary provisions, if any, pursuant to 571—Chapter 11.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on July 22, 2020.

The following rule-making action is adopted:

ITEM 1. Adopt the following **new** rule 571—Chapter 40.61:

571—40.61(321G,321I,462A) Beaver Creek safety zone. A safety zone is hereby established on Beaver Creek within the property boundaries of the Camp Dodge military reservation in Polk County.

40.61(1) Watercraft and vehicles shall be prohibited from entering the safety zone in order to prevent access to areas within Camp Dodge where a hazard to the public may exist. This prohibition shall not apply to watercraft or vehicles explicitly authorized to enter the safety zone by the Iowa National Guard. The safety zone boundaries shall be indicated by signage including the wording "Warning, Restricted Area, No Entrance." The Iowa National Guard shall be responsible for the acquisition, placement, and maintenance of any signage.

40.61(2) The safety zone shall be recognized by the state of Iowa only where signage is posted as required. Any section of Beaver Creek that is not designated as a safety zone shall remain open to any otherwise lawful public access.

40.61(3) Signs establishing the safety zone boundaries may be moved within the present or future boundaries of Camp Dodge at the sole discretion of Iowa National Guard personnel. The Iowa National Guard shall notify the department of natural resources when the location of the safety zone boundary is changed.