

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Proposing rulemaking related to scope of title, definitions, wastewater construction permits, and operation permits and providing an opportunity for public comment

The Environmental Protection Commission (Commission) hereby proposes to rescind Chapter 60, “Scope Of Title—Definitions—Forms—Rules of Practice”; to adopt a new Chapter 60, “Scope of Title, Definitions, Wastewater Construction Permits, and Operation Permits”; and to rescind Chapter 64, “Wastewater Construction and Operation Permits,” and Chapter 66, “Pesticide Application to Waters,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 455B.103(2), 455B.105(3) and 455B.173(3).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 455B.171, 455B.172, 455B.173 through 455B.175, 455B.177, 455B.183, 455B.184 through 455B.186, 455B.196 through 455B.198 and 455B.199B, Clean Water Act §402(b), and 40 CFR §123.25.

Purpose and Summary

Proposed Chapter 60 establishes the requirements for the pre-construction review and permitting program applicable to new or modified wastewater disposal systems. The Department of Natural Resources (Department) evaluates all wastewater construction permit applications to ensure that proposed treatment facilities will comply with National Pollutant Discharge Elimination (NPDES) permit limits or land disposal requirements. Proposed Chapter 60 also establishes requirements for the NPDES program, which regulates the amount of pollutants that can be discharged into waters of the United States from point sources. Finally, the chapter also provides requirements for the state wastewater operating permit program, which regulates wastewater disposal to land and water.

Existing Chapters 60, 64, and 66 were reviewed consistent with Executive Order 10. Consequently, Chapters 64 and 66 will be rescinded and merged into new Chapter 60. This consolidation removes outdated requirements; shortens, simplifies and clarifies regulations and terminology; removes redundancy; and references regulations that appear elsewhere in state or federal law. A new operation permit exemption is included for nondischarging water treatment plants to remove the redundancy created by another existing permit covering the design of these systems. The rule-referenced documents were similarly reviewed. Some have been strategically consolidated as well. Chapters 11 through 21 of the Iowa Wastewater Facilities Design Standards (IWFDS) have been combined into one document with renumbered chapters. The revised IWFDS document is available at: www.iowadnr.gov/Environmental-Protection/Water-Quality/Water-Quality-Rulemaking. The IWFDS has been updated to reflect current practices and technologies, along with a general cleanup of outdated requirements and corrected rule references. The remaining rule-referenced documents and General Permits 1 through 9 (various issuance dates, available at: www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDES-General-Permits) are not changing.

Finally, Chapter 66 covers discharges of pesticide residues to waters of the United States. The requirements of this chapter were moved years ago into a NPDES General Permit No. 7 (available at: www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDESGeneral-Permits/GP7-Pesticides). Accordingly, consistent with Executive Order 10, this chapter will be rescinded, and a portion of the text from the chapter will be moved into the new Chapter 60.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 4, 2024. A public hearing was held on the following date(s):

- September 24, 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

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, pursuant to 567—Chapter 13.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 7, 2025. Comments should be directed to:

Courtney Cswercko
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: courtney.cswercko@dnr.iowa.gov

Free Language Access. If you speak a non-English language, we offer you language assistance services free of charge. Contact the Department at npdes.mail@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística. Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al npdes.mail@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 28, 2025 1 to 2 p.m.	Virtual meeting A meeting registration link will be provided prior to the hearing
January 29, 2025 1 to 2 p.m.	Virtual meeting A meeting registration link will be provided prior to the hearing

The public hearings will be held virtually. See www.iowadnr.gov/Environmental-Protection/Water-Quality/Water-Quality-Rulemaking for meeting information.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free Language Assistance: if you need assistance in a language other than English, contact the Department at npdes.mail@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.322.2157 at least seven days before the event.

Servicios gratuitos de asistencia lingüística: si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al npdes.mail@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.322.2157 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 567—Chapter 60 and adopt the following **new** chapter in lieu thereof:

TITLE IV
WASTEWATER TREATMENT AND DISPOSAL
CHAPTER 60
SCOPE OF TITLE, DEFINITIONS, WASTEWATER CONSTRUCTION
PERMITS, AND OPERATION PERMITS

567—60.1(455B) Scope of title and definitions.

60.1(1) *Scope of title.* The department has jurisdiction over the surface water and groundwater of the state to prevent, abate and control water pollution by establishing standards for water quality and for direct or indirect discharges of wastewater to waters of the state and by regulating potential sources of water pollution through a system of general rules or specific permits. The construction and operation of any wastewater disposal system (DS) and the discharge of any pollutant to a water of the state require a specific permit from the department unless exempted by the department. This chapter provides general definitions applicable in this title, including 567—Chapters 61 through 69.

60.1(2) *Definitions.* The following definitions apply to this title, unless otherwise specified in a chapter of this title:

“*7Q10*” or “*seven-day, ten-year low stream flow*” means the lowest average stream flow that would statistically occur for seven consecutive days once every ten years.

“*Acute toxicity*” means that level of pollutants that would rapidly induce a severe and unacceptable impact on organisms.

“*ADW flow*” or “*Average dry weather flow*” means the daily average flow when the groundwater is at or near normal and runoff is not occurring.

“*Aquatic pesticide*” means any pesticide, as defined in Iowa Code section 206.2, that is labeled for application to surface water.

“*ASTM*” means the Annual Book of Standards, Section 11, Water and Environmental Technology, published by ASTM International, www.astm.org.

“*Average*” means the sum of the total daily discharges by weight, volume or concentration during the reporting period divided by the number of days during the reporting period when the measurements were made.

“*AWW flow*” or “*average wet weather flow*” means the daily average flow for the wettest 30 consecutive days for mechanical plants or for the wettest 180 consecutive days for controlled discharge lagoons.

“*BMP*” or “*best management practice*” means a practice or combination of practices that is determined, after problem assessment, examination of alternative practices, and appropriate public participation, to be the most effective, practicable (including technological, economic and institutional considerations) means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

“*BOD₅*” or “*biochemical oxygen demand (five-day)*” means the amount of oxygen consumed in the biological processes that break down organic matter in water by aerobic biochemical action in five days at 20°C.

“*Bypass*” means the diversion of waste streams from any portion of a treatment facility or collection system. A bypass does not include internal operational waste stream diversions that are part of the design of the treatment facility, maintenance diversions where redundancy is provided, diversions of wastewater from one point in a collection system to another point in a collection system, or wastewater backups into buildings that are caused in the building lateral or private sewer line.

“*CBOD₅*” or “*carbonaceous biochemical oxygen demand (five-day)*” means the amount of oxygen consumed in the biological processes that break down carbonaceous organic matter in water by aerobic biochemical action in five days at 20°C.

“*CFR*” or “*Code of Federal Regulations*” means the federal administrative rules adopted by the United States in effect as of July 1, 2024. The amendment of the date contained in this definition shall constitute the amendment of all CFR references contained in 567—Chapters 60 through 69, Title IV, unless a date of adoption is set forth in a specific rule.

“*Chronic toxicity*” means that level of pollutants that would, over long durations or recurring exposure, cause a continuous, adverse or unacceptable response in organisms.

“*Compliance schedule*” means “schedule of compliance” as defined in Iowa Code section 455B.171.

“*Construction permit*” means a written approval from the director to construct a wastewater DS or part thereof in accordance with the plans and specifications approved by the department.

“*Crossover point*” means that location in a river or stream in which the flow shifts from being principally along one bank to the opposite bank. This crossover point usually occurs within two curves or an S-shaped curve of a water course.

“*Culture water*” means reconstituted water or other acceptable water used for culturing test organisms.

“*CWA*” or “*Clean Water Act*” means the federal Water Pollution Control Act effective July 1, 2024, 33 U.S.C. §1251 et seq.

“*Diluted effluent sample*” means a sample of effluent diluted with culture water at the same ratio as the dry weather design flow to the applicable receiving stream flow contained in the zone of initial dilution as allowed in 567—paragraphs 61.2(4) “*b*,” “*c*,” and “*d*.”

“*Dilution ratio*” means, for a specific wastewater discharger, the ratio of the seven-day, ten-year low stream flow to the effluent design flow (e.g., a dilution ratio of 2:1 has two parts stream flow to one part effluent flow).

“*Discharge of a pollutant*” means any addition of any pollutant or combination of pollutants to navigable waters or waters of the state from any point source. “Discharge of a pollutant” includes additions of pollutants into navigable waters or waters of the state from surface runoff that is collected or channeled by human activity; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person that do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. “Discharge of a pollutant” does not include an addition of pollutants by any indirect discharger.

“*GP*” or “*general permit*” means an NPDES permit issued to a class of facilities that could be conditioned and described by a single permit.

“*Human health (HH) criteria*” means that level of pollution that, in the case of noncarcinogens, prevents adverse health effects in humans and, in the case of carcinogens, represents a level of incremental cancer risk of 1 in 100,000. The numerical criteria are based on the human consumption of an average of 6.5 grams of fish and shellfish per day by a 70-kilogram individual for a life span of 70 years.

“*Individual nonstormwater permit*” means a site-specific NPDES or operation permit that is not an individual stormwater permit and that authorizes discharges of sewage, industrial waste, or other waste and allowable discharges of stormwater associated with industrial activity, as specifically noted in the permit.

“Individual stormwater permit” means an individual site-specific NPDES permit that authorizes discharges composed entirely of stormwater associated with industrial activity or construction activity and other allowable nonstormwater discharges as specifically noted in the permit.

“Intermittent watercourses” means watercourses that contain flow associated with rainfall/runoff events and that periodically go dry even in pooled areas.

“Lake” means a natural or man-made impoundment of water with more than one acre of water surface area at the high water level.

“Local public works department” means a city or county public works department, a board of trustees of a city utility organized pursuant to Iowa Code chapter 388, or a sanitary sewer district organized pursuant to Iowa Code chapter 358.

“Losing streams” means streams that lose 30 percent or more of their flow during the seven-day, ten-year low stream flow periods to cracks and crevices of rock formations, sand and gravel deposits, or sinkholes in the streambed.

“Low permeability” means a soil layer of well-sorted, fine grain-sized sediments or of rock that under normal hydrostatic pressures would not be significantly permeable. Low permeability soils may include homogeneous clays below the zone of weathering, mudstone, claystone, shale, and some glacial till.

“Major” for municipalities, means a facility having an average wet weather design flow of 1.0 million gallons per day (MGD) or greater. For industries, “major” means a facility that is designated by EPA as a major industry.

“Major permit amendment” means a permit amendment that is not a minor permit amendment as defined in this rule.

“mg/L” or *“milligrams per liter”* means milligrams of solute per liter of solution (equivalent to parts per million-assuming unit density). A microgram (μg) is 1/1,000 of a milligram.

“Minimum flow” means that established stream flow in lieu of the seven-day, ten-year low stream flow to which the provisions of 567—Chapter 61 apply.

“Minor” means all remaining facilities that have wastewater discharge flows and that are not designated as major facilities.

“Minor permit amendment” means a permit amendment that occurs as a result of any of the following:

1. Correction of a typographical error;
2. Modification of the monitoring and reporting requirements in the permit to include more frequent monitoring or reporting;
3. Revision of an interim date in a compliance schedule, provided that the new date is not more than 120 days after the date specified in the permit and does not interfere with the attainment of the final compliance date;
4. Revision of interim or final dates in a schedule to comply with the provisions of the Iowa nutrient reduction strategy;
5. Change in facility name or ownership;
6. Deletion of a point source outfall that does not result in the discharge of pollutants from other outfalls; or
7. Incorporation of an approved local pretreatment program.

“Mixing zone” means a delineated portion of a stream or river in which wastewater discharges will be allowed to combine and disperse into the water body. The chronic criteria of 567—subrule 61.3(3) will apply at the boundary of this zone.

“Mortality” means, for the purpose of a WET test, death, immobilization, or serious incapacitation of the test organisms.

“MWW flow” or *“maximum wet weather flow”* means the total maximum flow received during any 24-hour period when the groundwater is high and runoff is occurring.

“Nephelometric” means the nephelometric method of determining turbidity as stated in 40 CFR Part 136.

“Nonpoint source” means a source of pollutants that is not a point source.

“*NPDES permit*” means an operation permit issued under an EPA-approved National Pollutant Discharge Elimination System (NPDES) program.

“*Operation permit*” means a permit by the director authorizing the operation of a wastewater DS or part thereof or discharge source and, if applicable, the discharge of wastes from the DS or part thereof or discharge source to waters of the state. An NPDES permit will constitute the operation permit in cases where there is a discharge to a WOTUS and an NPDES permit is required by the CWA.

“*Pass through*” means a discharge that, alone or in conjunction with a discharge or discharges entering the treatment facility from other sources, exits a POTW or semipublic sewage DS in quantities or concentrations that cause a violation of any requirement of the treatment facility’s NPDES permit, including an increase in the magnitude or duration of a violation.

“*Pathogen*” means any microorganism or virus that can cause disease.

“*PE*” or “*population equivalent*” means the calculated number of people who would contribute an equivalent amount of biochemical oxygen demand (BOD) per day as the system in question, assuming that each person contributes 0.167 pounds of five-day, 20°C, BOD per day.

“*Permit rationale*” means a document that sets forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing a draft NPDES permit.

“*pH*” means the hydrogen ion activity of a solution expressed as the logarithm of the reciprocal of the hydrogen ion concentration in moles per liter at 25°C. pH is a measure of the relative acidity or alkalinity of the solution. The range extends from 0 to 14; 7 being neutral, 0 to 7 being acidic, and 7 to 14 being alkaline.

“*Pond*” means a natural or man-made impoundment of water with a water surface area of one acre or less at the high water level.

“*POTW*” or “*publicly owned treatment works*” means any device or system used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature that is owned by a municipality or other public body created by or under Iowa law and having jurisdiction over disposal of sewage, industrial wastes or other wastes. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW.

“*Primary contact*” means any recreational or other water use in which there is direct human contact with the water involving considerable risk of ingestion of water or contact with sensitive body organs, such as the eyes, ears and nose, in quantities sufficient to pose a significant health hazard.

“*Qualified volunteer*” means a person or group of people acting on their own behalf, and not for a government agency or under contract with the department, to produce water quality monitoring data in accordance with a department-approved volunteer monitoring plan. Qualified volunteers must have the training and experience to ensure quality assurance and quality control for the data being produced or be under the direct supervision of a person having such qualifications. A person or persons identified as participants in a department-approved volunteer monitoring plan will be considered qualified volunteers.

“*Operation records*” means department report forms or other report forms, letters, or documents that may be acceptable to the department that are designed to indicate specific physical, chemical, or biological values for wastewater during a stated period of time.

“*Secondary contact*” means any recreational or other water use in which contact with the water is either incidental or accidental and in which the probability of ingesting appreciable quantities of water is minimal, such as fishing, commercial and recreational boating and any limited contact incidental to shoreline activity. This would include users who do not swim or float in the water body while on a boating activity.

“*Sinkhole*” means any depression caused by the dissolution or collapse of subterranean materials in a carbonate formation or in gypsum or rock salt deposits through which water may be drained or lost to the local groundwater system. Such depressions may or may not be open to the surface at times. Intermittently, sinkholes may hold water forming a pond.

“*Temperature*” means a measure of the heat content of water.

“*Turbidity*” is a measure of the optical property of the particles of mud, clay, silt, finely divided organic matter, or microscopic organisms suspended in water that interfere with light transmission, causing the light to be scattered and absorbed rather than transmitted through the water in straight lines.

“*Water contact recreational canoeing*” means the type of activities associated with canoeing outings in which primary contact with the water does occur. This would include users who swim or float in the water body while on a canoeing outing.

“*WET test*” or “*whole effluent toxicity test*” means a test to determine the toxicity of a chemical or chemicals contained in a wastewater discharge on living organisms.

“*WQS*” or “*water quality standards*” means the water quality standards as enumerated in 567—Chapter 61.

“*ZID*” or “*zone of initial dilution*” means a delineated portion of a mixing zone in which wastewater discharges will be allowed to rapidly combine and begin dispersing into the water body. The acute criteria of 567—subrule 61.3(3) will apply at the boundary of this zone.

60.1(3) Definitions in Iowa Code and the Iowa Administrative Code (IAC). The following terms applicable to this title are defined in the referenced locations:

- a. Iowa Code section 455B.101: “department.”
- b. Iowa Code section 455B.171: “disposal system,” “effluent standard,” “industrial waste,” “other waste,” “point source,” “pollutant,” “schedule of compliance,” “semipublic sewage disposal system,” “septage,” “sewage,” “sewage sludge,” “treatment works,” and “water of the state.”
- c. Iowa Code section 455B.171 and rule 567—69.1(455B): “PSDS” or “private sewage disposal system.”
- d. Iowa Code section 455B.171(16) and in 40 CFR §403.3(m): “new source.”
- e. Iowa Code section 206.2: “pesticide.”
- f. Rule 567—40.2(455B): “deep well” and “shallow well.”

60.1(4) CFR definitions. The following terms applicable to this title are defined in the referenced locations:

- a. 40 CFR §121.1(j): “water quality requirements.”
- b. 40 CFR §122.2: “CSO” or “combined sewer overflow,” “CSS” or “combined sewer system,” “daily discharge,” “indirect discharger,” “maximum daily discharge limitation,” “new discharger,” “regional administrator,” “sewage from vessels,” and “waters of the U.S.,” or “waters of the United States.”
- c. 40 CFR §122.26(b): “small MS4” or “municipal separate storm sewer system,” “stormwater,” “stormwater discharge associated with industrial activity,” “stormwater discharge associated with small construction activity,” and “uncontrolled sanitary landfill.”
- d. 40 CFR §122.41(m): “severe property damage.”
- e. 40 CFR §133.101: “7-day average” and “30-day average.”
- f. 40 CFR §401.11(l): “navigable waters.”
- g. 40 CFR §403.3: “approved POTW pretreatment program,” “interference,” “non-significant categorical industrial user,” “pretreatment,” “pretreatment requirements,” “pretreatment standard” or “national pretreatment standard,” and “significant industrial user.”

60.1(5) Abbreviations. In addition to the abbreviations listed in the definitions in 60.1(2), the following abbreviations are applicable to this title.

Abbreviation	Meaning
°C	Degrees Celsius
AASHTO	American Association of State Highway and Transportation Officials
AICP	alternatives implementation compliance plan
ANSI	American National Standards Institute
BLM	Biotic Ligand Model
CCC	Criterion Continuous Concentration
CEU	Continuing education units
CMC	Criterion Maximum Concentration
Corps	United States Corps of Engineers
DC	disadvantaged community
DCA	disadvantaged community analysis
DCM	disadvantaged community matrix
DS	disposal system

<u>Abbreviation</u>	<u>Meaning</u>
DUC	disadvantaged unsewered community
DUCA	disadvantaged unsewered community analysis
DUCM	disadvantaged unsewered community matrix
<i>E. coli</i>	<i>Escherichia coli</i>
ELS	early life stage
EPA	U.S. Environmental Protection Agency
EPS	Expanded polystyrene
F & W	fish and water
FCP	future compliance plan
FO	regional Field Office of the department (1, 2, 3, 4, 5, or 6)
ft	foot
ft ²	square feet
gal	gallon
gal/ft ²	gallons per square foot
gal/ft ² /day	gallons per square foot per day
gpd	gallons per day
hr	hour
I/I	infiltration and inflow
IAC	Iowa Administrative Code
IAPMO	International Association of Plumbing and Mechanical Officials
Iowa DOT	Iowa Department of Transportation
IWFDS	Iowa Wastewater Facilities Design Standards
kg	kilogram
MCL	maximum contaminant level
mg	milligram
µg/L	micrograms per liter
mgd	million gallons per day
mL	milliliter
MHI	median household income
mm	millimeter
MPN	most probable number
mt	metric tons
NH ₃ -N	ammonia nitrogen
NOAA	National Oceanic and Atmospheric Administration
NOD	notice of discontinuation
NOI	notice of intent
NSF	National Sanitation Foundation
NSCIU	non-significant categorical industrial user
O&M	operation and maintenance
OIW	outstanding Iowa waters
ONRW	outstanding national resource waters
PAH	polycyclic aromatic hydrocarbon
PCB	polychlorinated biphenyl
PFRP	processes to further reduce pathogens
PGP	pesticides general permit
PN	public notice
POA	plan of action
psi	pound per square inch
PSRP	processes to significantly reduce pathogens
SD	separation distance
SDMP	septage disposal management plan
SIU	significant industrial user
sp.	species
SS	suspended solids (the pollutant parameter total suspended solids)

<u>Abbreviation</u>	<u>Meaning</u>
SWESI	substantial and widespread economic and social impact
TA	treatment agreement
TAPC	total annual project costs
TKN	total kjeldahl nitrogen
Tm	terameter
TMDL	total maximum daily load
TOT	time of transfer
TRC	total residual chlorine
TRE	toxicity reduction evaluation
TSS	total suspended solids
U.S.	United States
USDA	U.S. Department of Agriculture
USGS	U.S. Geological Survey
VAR	vector attraction reduction
WER	water-effect ratio
WLA	wasteload allocation
WLAP	Iowa Wasteload Allocation Procedure
WOTUS	waters of the U.S.
WQBEL	water quality-based effluent limit

567—60.2(455B) Construction permits.

60.2(1) Construction permit requirement.

a. No person shall construct, install or modify any wastewater DS or part thereof or extension or addition thereto without, or contrary to any condition of, a construction permit issued by the director or by a local public works department authorized to issue such permits under Iowa Code section 455B.183, nor shall any connection to a sewer extension in violation of any special limitation specified in a construction permit pursuant to 60.2(4) be allowed by any person subject to the conditions of the permit.

b. Exemptions to the requirement to obtain a construction permit are listed in the Iowa Wastewater Facilities Design Standards, effective *Month Day, 2025*, located on the department’s website; hereafter referred to as the IWFDS.

60.2(2) Construction sites.

a. The site for each new wastewater treatment plant, plant expansion, or upgrade of existing facilities must be inspected and approved by the department prior to submission of plans and specifications. Site survey applications must be submitted in accordance with this rule.

b. Site approval under this subrule shall be based on the criteria contained in:

- (1) The IWFDS;
- (2) The Recommended Standards for Wastewater Facilities, 2014 Edition, a report of the Great Lakes - Upper Mississippi Board of State and Provincial Public Health and Environmental Managers, available on their website at: www.health.state.mn.us/communities/environment/water/tenstates/standards.html; hereafter referred to as the Ten States Standards;
- (3) Applicable federal guidelines and standards; and
- (4) Other design documents, including standard textbooks, current technical literature and applicable safety standards.

c. The minimum separation distances for PSDS, onsite treatment systems, building sewer service lines and laterals, wastewater treatment works, sewage sludge, septage, and land application wetted disposal areas are as listed below in Table I. Additional separation distances for gravity sanitary sewers, sanitary sewer force mains, storm sewers, drains, and other conveyances are provided in Table A of 567—paragraph 43.3(7)“*d*” and for PSDS in 567—Chapter 69, and specific narrative separation distances for conveyances are provided in 567—subparagraphs 43.3(2)“*a*”(3) and (4). Sewage sludge, septage, and domestic or industrial wastewater shall be land applied in accordance with 567—Chapter 67, 567—Chapter 68, and the IWFDS, respectively.

Table I: Wastewater Separation Distances

Structure or Source of Contamination	Required Minimum Lateral Distance, as Measured Horizontally on the Ground Surface, in feet							
	PSDS and Onsite Treatment Systems ¹		Building Sewer Service Lines and Laterals ²	Wastewater Treatment Works ³		Land Application		
	Closed Portion	Open Portion		Lagoons ⁴	Mechanical ⁵	Sewage Sludge	Septage	Domestic or Industrial Wastewater, Wetted Disposal Area ⁶
WELLS:								
Public wells:								
Public water supply well - deep ⁷	100	200	25: Water main 75: Standard sanitary sewer	400	200	200	500	200
Public water supply well - shallow ⁷	200	400	25: Water main 75: Standard sanitary sewer	1000	400	200	500	400
Below-ground level finished water storage facility	50		25: Water main 75: Standard sanitary sewer	50	50	50	50	
New or existing private well - deep or shallow	50	100	10	400 ^{8,9}	200	500		
WASTEWATER DISPOSAL SYSTEMS:								
Other PSDSs and onsite treatment systems – open or closed portions ¹⁰	5 ¹⁰	10 ¹⁰						
WATERBODIES:								
Flowing streams or ponds	25					35 ¹¹	35 ¹¹	300
Lakes or reservoirs	50	100		400		35 ¹¹	35 ¹¹	300
Wetlands or drainage channels ¹²						35 ¹¹	35 ¹¹	300
MISCELLANEOUS:								
Inhabitable residences, other inhabitable structures, or commercial buildings	10 ¹³			1000 ^{14,15,16}	1000 ^{13,15}	200	750 ¹⁷	300
Public use areas (not including roads or highways)				Anaerobic lagoons only ¹⁶				300
GHEX loop boreholes ¹⁸	50	100						
Roadside ditches	10							
Road rights-of-way				25 ²⁰				
Property lines	10 ¹⁹			25 ²⁰				
Suction water lines	50	100						
Water lines continually under pressure, foundation drains, or subsurface tiles ²¹	10							

¹PSDS (private sewage disposal system) is defined in 567—subrule 69.1(2). For the purposes of this table, “onsite treatment system” includes any wastewater treatment system not included in the definition of a PSDS (i.e., provides treatment or disposal of domestic sewage from more than four dwelling units or 16 or more individuals on a continuing basis) that is utilizing wastewater treatment technologies described in 567—Chapter 69 to treat domestic waste. Closed portion refers to the part of a treatment system that is fully contained and does not allow effluent or pretreated effluent to enter soil or groundwater (e.g., septic tank or impervious vault toilet). Open portion refers to the part of a treatment system that allows effluent or pretreated effluent to discharge into soil or groundwater for treatment or disposal (e.g., soil absorption system or unlined ISSF system). These SDs also apply to onsite treatment systems that are not considered privately owned.

²The SDs for building sewer service lines and laterals shall be considered minimum distances when constructing sewer lines, and shall be increased where possible to provide better protection. “Water main” and “standard sanitary sewer” are the type of materials or pipe used to construct the specified type of sewer, in accordance with 567—subrule 43.3(2) and Section 2.4 of the IWFDS.

³For the purposes of this table, “wastewater treatment works” includes lagoons as specified in superscript 4 and mechanical treatment works as specified in superscript 5. When the SDs for wastewater treatment systems and structures other than wells cannot be maintained for the expansion, upgrading, or replacement of existing facilities, the SDs shall be maintained at no less than 90 percent of the existing distance on the site, providing no data is available indicating that a problem has existed or will be created. The wastewater treatment works SDs shall not apply to control buildings, including but not limited to laboratories, offices, and toilet or shower rooms.

⁴The term “lagoons” includes aerated lagoon systems, advanced aerated lagoon systems, and waste stabilization lagoons, as defined in 567—subrule 81.1(1), and holding ponds, equalization basins, and sludge digestion or holding tanks, as described in the IWFDS. The term does not include lagoons used to dispose of water treatment plant wastes and anaerobic lagoons used for animal wastes (as noted in superscript 8). The SD from lagoons shall be measured from the water surface.

⁵The term “mechanical” includes activated sludge systems and fixed film biological treatment systems, as defined in 567—subrule 81.1(1), and any other wastewater disposal system that is not a PSDS, an onsite treatment system, or a lagoon. The mechanical wastewater treatment plant SDs are recommended for pumping stations at sites remote from new or expanded wastewater treatment facilities. All pumping stations shall be off the traffic ways of streets and alleys.

⁶The wetted disposal area is the land and area that is normally wetted by wastewater application. The wetted disposal area shall be established at least 50 feet inside the property line on all sides of the land application site. Distances may be reduced depending upon the extent of pretreatment and operational techniques.

⁷Deep and shallow wells are defined in 567—subrule 40.2(1).

⁸The SD between a private well and an anaerobic lagoon, earthen manure slurry storage basin, earthen manure storage basin, or runoff control basin shall be 1,000 feet. If an applicant for a private well construction permit demonstrates through percolation testing that the seepage loss through the lagoon or basin does not exceed 1/16 inch/day (0.0625 inch/day), the SD shall be 400 feet. The percolation test shall meet the requirements of ASTM D1587/D1587M-15 and 567—subrule 65.15(11).

⁹The 400 foot SD between an existing, nonpotable, deep or shallow private well owned by an industry and an industrial wastewater treatment works may be reduced to 200 feet at the department’s discretion for industrial facilities expanding or upgrading their existing treatment works within the industry’s existing property boundaries.

¹⁰Required distance between a new PSDS and an existing other type of PSDS.

¹¹If sewage sludge or septage is land applied within 200 feet upgradient of a stream, lake, sinkhole, or tile line surface intake, it shall be injected or applied to the surface and mechanically incorporated into the soil within 48 hours of application unless otherwise approved by the department.

¹²Includes drainage channels that may have a direct connection to the groundwater table or a surface water.

¹³If an onsite treatment system (as described in superscript 1) has a design AWW flow of greater than 1,500 gpd and less than or equal to 5,000 gpd, the SD between an inhabitable residence, other inhabitable structure, or commercial building and the onsite treatment system shall be 100 feet.

¹⁴The SDs between an inhabitable residence, other inhabitable structure, or commercial building and the types of lagoons specified in this superscript shall apply as indicated. If a flow equalization basin is covered and at a site that is remote from new or expanded wastewater treatment facilities, the SD may be reduced to 300 feet at the department’s discretion. If the top of a remote flow equalization basin is underneath the surface of the earth, the 1,000-foot SD is recommended but not required, and the minimum SD is 100 feet. If a wastewater treatment lagoon is used solely for the retention or storage of the industrial waste from a boiler or cooling tower blow down facility and its sole use is filed with the county recorder for abstract of title purposes, the 1,000-foot distance is recommended but not required, and the minimum SD is 100 feet.

¹⁵If the inhabitable structure or commercial building is the property of the owner of the proposed lagoon or mechanical treatment facility, or there is written agreement with the owner of the building, the 1,000-foot distance shall not apply. Any such written agreement shall be submitted to the department and filed with the county recorder for abstract of title purposes, and a copy submitted to the department.

¹⁶See 60.2(2) “d” for specific anaerobic lagoon SDs.

¹⁷Septage shall not be applied within 750 feet of an occupied residence, except for the residence of the owner of the septic tank that was pumped or the residence of the licensed commercial septic tank cleaner.

¹⁸GHEX loop boreholes are defined in 567—subrule 49.2(1).

¹⁹The 10-foot distance between a PSDS and property lines applies unless a mutual easement is signed and recorded by both parties.

²⁰An SD of at least 300 feet between a wastewater treatment works and property lines or rights-of-way is recommended where treatment works may be expanded in the future.

²¹“Foundation drain” is defined in 567—subrule 69.1(2).

d. For anaerobic lagoons used in connection with industrial wastewater treatment or pretreatment, the following SDs shall apply between the anaerobic lagoon and the nearest inhabitable residence, other inhabitable structure, or commercial building not owned by the owner of the lagoon, or from a public use area other than a public road. These SDs do not apply to controlled discharge or aerated facultative lagoon systems.

(1) Where the average rated flow is 100,000 gpd or less, the SD shall be at least 1,250 feet.

(2) Where the average rated flow is greater than 100,000 gpd, the SD shall be at least 1,875 feet.

(3) A person may build or expand an anaerobic lagoon closer to an inhabitable residence, other inhabitable structure, or commercial building not owned by the owner of the anaerobic lagoon, or to a public use area other than a public road, if the affected landowners sign a written agreement with the anaerobic lagoon owner to waive the SDs under such terms the parties negotiate. Any such agreement shall be submitted to the department and filed with the county recorder for abstract of title purposes.

(4) When the SDs in this subparagraph cannot be maintained for the expansion, upgrade, or replacement of existing anaerobic lagoon facilities, the SD may be reduced to 1,000 feet provided all of the following criteria are met:

1. The anaerobic lagoon will be completely covered and provided with approved off gas treatment throughout its entire operation life;

2. An operation and maintenance manual shall be prepared and submitted to the department in accordance with the IWFDS; and

3. No data are available indicating that a problem has existed or will be created.

60.2(3) Construction permit applications—general.

a. *General.* All applications for a construction permit required under this rule shall be made in accordance with the requirements in the IWFDS and on forms provided by the department. The applicant will be promptly notified if the application is incomplete or improperly filled out, and an application will not be reviewed until it is complete. A construction permit will be denied when the application does not meet all requirements for permit issuance. For a system with permits conditioned by limitations on additional loads under 60.2(4), construction permit applications must be accompanied by an accounting of connections and additional loading since the time the initial conditioned permit was issued.

b. *Submission date.* Applications for a construction permit must be submitted to the director at least 120 days in advance of the construction start date.

c. *Site surveys.*

(1) For new or expanded wastewater treatment facilities, an application for a site survey must be submitted by the applicant's engineer in advance of a full application for construction permit. An applicant should allow 60 days from the submission date of the site survey application for preliminary approvals.

(2) A site survey application must include the following minimum information:

1. A preliminary engineering report or a cover letter that contains a brief description of the proposed treatment process and assurance that the project is in conformance with the long-range planning of the area.

2. The general information, treatment project site selection, and treatment project design data portions of the construction permit application forms, as provided by the department.

(3) If a site survey application is incomplete, it will be returned to the engineer for completion. When a site survey application is complete, it will be reviewed as follows:

1. If the data submitted indicates on its face that the site would be unsuitable for its intended purpose, a letter of rejection will be sent to the applicant and the engineer. Clarifications and additional data may be requested of the applicant and the engineer.

2. If the data submitted indicates on its face that the site may be suitable, a site survey will be conducted by department staff.

d. *Fee.* A single construction permit application fee of \$100 as specified in Iowa Code section 455B.197(2) is due at the time of construction permit application submission.

e. Director action. The director shall act upon the application within 60 days of receipt of a complete application by either issuing a construction permit or denying the construction permit in writing unless a longer review period is necessary and the applicant is so notified in writing.

f. Modification after construction permit issuance. Applicants seeking a modification to plans and specifications after having been issued a construction permit shall submit an addendum to plans and specifications, a change order, or revised plans and specifications, along with the reasons for the proposed changes, to the department. A supplemental written permit or approval will be issued when the changes submitted by the applicant meet department requirements. Construction shall not proceed until such changes have been approved.

60.2(4) Sanitary sewer extension construction permit applications. Applications for sanitary sewer extension construction permits shall conform to the IWFDS. If a sanitary sewer extension construction permit application does not provide sufficient information to grant or deny a sewer system construction permit, additional information may be requested and evaluated. Sanitary sewer extension approval shall be subject to the following:

a. A sanitary sewer extension construction permit may be denied if, at the time of application, the treatment facility treating wastewater from the proposed sewer is not in substantial compliance with its operating permit or if the treatment facility receives wastes in volumes or quantities that exceed its design capacity and interfere with its operation or performance. If the applicant is operating under a compliance schedule that is being adhered to and that will lead to resolution of the substantial compliance issues, or if the applicant can demonstrate that the problem has been identified, the planning completed, and corrective measures initiated, then the construction permit may be granted.

b. A sanitary sewer extension construction permit may be denied if bypassing has occurred at the treatment facility, except when any of the following conditions are being met:

(1) The bypassing is due to a combined sewer system, and the facility is in compliance with a department-approved long-term CSO control plan;

(2) The bypassing occurs as a result of a storm with an intensity or duration greater than that of a storm with a return period of five years, according to the NOAA Atlas 14 Point Precipitation Frequency Estimates; or

(3) The department determines that timely actions are being taken to eliminate the bypassing.

c. A sanitary sewer extension construction permit may be denied if an existing downstream sewer is or will be overloaded or surcharged, resulting in bypassing, flooded basements, or overflowing manholes, unless:

(1) The bypassing or flooding is the result of a precipitation event with an intensity or duration greater than that of a storm with a return period of two years, according to the NOAA Atlas 14 Point Precipitation Frequency Estimates; or

(2) The system is under full-scale facility planning and the applicant provides a schedule that is approved by the department for rehabilitating the system to the extent necessary to handle the additional loadings.

60.2(5) Application review.

a. Review of construction permit applications shall be based on the criteria listed in 60.2(2)“*b*” and on the Iowa Antidegradation Implementation Procedure, incorporated by reference in 60.7(2)“*d*”(4). In any conflict between the criteria, the IWFDS shall prevail.

b. IWFDS waivers. Requests for waivers from the IWFDS shall be submitted and reviewed in accordance with 561—Chapter 10.

60.2(6) Commencing construction. Notwithstanding the 120-day requirement in 60.2(3)“*b*,” construction of the approved system may commence immediately after the issuance of a construction permit.

60.2(7) Expiration. The construction permit shall expire if construction thereunder is not commenced within one year of the date of issuance thereof. The director may grant an extension of time to commence construction if it is necessary or justified, upon showing of such necessity or justification to the director.

60.2(8) Modification or revocation. The director may modify or revoke a construction permit for cause, including but not limited to the following:

- a. Failure to construct said wastewater DS or part thereof in accordance with the approved plans and specifications;
- b. Violation of any term or condition of the permit;
- c. Obtaining a permit by misrepresentation of facts or failure to disclose fully all material facts; or
- d. Any change during construction that requires material changes in the approved plans and specifications.

60.2(9) Certification of completion. Within 30 days after completion of construction, installation or modification of any wastewater DS or part thereof or extension or addition thereto, the construction permit holder shall submit a certification by a registered professional engineer that the project was completed in accordance with the approved plans and specifications.

567—60.3(455B) Operation permits.

60.3(1) Operation permit requirement. Except as otherwise provided in this subrule, in 567—Chapter 65, and in 567—Chapter 69, no person shall operate any wastewater DS or part thereof without, or contrary to any condition of, an operation permit issued by the director. An operation permit is not required for the following:

- a. A PSDS that does not discharge into, or have the potential to reach, a designated water of the state or subsurface drainage tile (Note: PSDSs under this exemption are regulated under 567—Chapter 69).
- b. A semipublic sewage DS, the construction of which has been approved by the department and that does not discharge into a water of the state.
- c. A pretreatment system, the effluent of which is to be discharged directly to another DS for final treatment and disposal.
- d. A discharge from a geothermal heat pump that does not reach a navigable water.
- e. Water well construction and well services related discharge that does not reach a WOTUS as defined in 40 CFR §122.2.
- f. Discharges from the application of biological pesticides and chemical pesticides where the discharge does not reach a WOTUS as defined in 40 CFR §122.2. Aquatic pesticides may be applied to any WOTUS in accordance with this chapter and NPDES General Permit No. 7, “Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides.”
- g. Agricultural stormwater discharges. This exclusion applies only to the operation permit requirement set forth in this rule and does not alter other requirements of law, including but not limited to any applicable requirements of Iowa Code chapters 459 and 459A.
- h. Dewatering discharge from the installation, repair, or maintenance of agricultural drainage systems that does not reach a water of the state. This activity is not considered operation of a wastewater DS.
- i. A wastewater discharge from a water treatment plant that does not reach a WOTUS as defined in 40 CFR §122.2.

60.3(2) Applications.

a. Individual permit applications.

(1) Application Forms. Applications for operation permits required under this paragraph shall be made on forms provided by the department.

(2) Application due dates.

1. Applications for an individual permit for a new discharge of stormwater associated with construction activity as defined in 40 CFR §122.26(b)(14) under “stormwater discharge associated with industrial activity” must be submitted at least 60 days before the date on which construction is to commence.

2. The due date for an application for a new discharge of wastewater is 180 days prior to the date the operation is scheduled to begin unless a shorter period is approved by the director.

3. The due date for a renewal application is 180 days prior to the expiration date of the current permit. For a POTW, permission to submit an application at a later date may be granted by the director.

(3) Application completeness.

1. A permit application is complete and approvable when all necessary questions on the application have been completed and the application is signed pursuant to this subrule, and when all applicable portions of the application, including the application fee, treatment agreement forms, and required attachments, have been submitted. The director may require the submission of an antidegradation alternatives analysis or other additional information deemed necessary to evaluate the application.

2. Incomplete applications may be returned to the applicant for completion. Authorization to discharge will be suspended if a complete application is not submitted to the department before the expiration date of the current permit. In the case of new applications, no discharge will be allowed until an operation permit is issued. In the case of existing discharges, if a permit application is incomplete or has not been submitted, the department shall notify the applicant of a violation of this rule.

3. If a permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application, the permittee shall promptly submit such facts or information.

(4) Application receipt. Upon completion of a tentative determination with regard to a permit application as described in 60.5(1), the director shall issue an operation permit for applications filed pursuant to this subrule within 90 days of the receipt of a complete application unless the application is for an NPDES permit or unless a longer period of time is necessary and the applicant is notified.

b. GP applications. A Notice of Intent (NOI) for coverage under a GP shall be completed on forms provided by the department and in accordance with 60.6(1). An NOI must be submitted for any of the following:

- (1) Stormwater discharge associated with industrial activity;
- (2) Stormwater discharge associated with small construction activity;
- (3) PSDSs that discharge to a WOTUS;
- (4) Discharges, except a stormwater only discharge, from a mining or processing facility;
- (5) Discharges from hydrostatic testing, tank ballasting and water lines, if required to be submitted by GP No. 8; or
- (6) Discharges from dewatering or residential geothermal systems, if required to be submitted by GP No. 9.

c. Application fees. Required fees shall be submitted with all permit applications pursuant to Iowa Code section 455B.197(3).

d. Signatories of permit applications. Permit applications for operation and NPDES permits shall be signed in accordance with 40 CFR §122.22.

60.3(3) Indirect discharger requirements.

a. Information requirement. The director may require an indirect discharger to submit information similar to that required in an application for an operation permit, but no operation permit is required for such discharge.

b. Treatment agreement (TA). A POTW intending to accept waste from a SIU as defined in 40 CFR §403.3(v) must submit a TA that:

- (1) Is on the TA form provided by the department;
- (2) Identifies and limits the monthly average and daily maximum flows and identifies and limits all other pollutants or pollutant parameters necessary to ensure that the discharge will be in accordance with the applicable requirements in 567—Chapter 62; and
- (3) Is signed and dated by the SIU and the owner of the POTW accepting the wastewater.

c. TA submittal timelines. A POTW receiving waste from an existing or proposed SIU shall submit a complete TA form to the department in accordance with the following time lines:

- (1) For an existing SIU with an existing TA, 60 days in advance of a proposed expansion, production increase or process modification that may result in discharges of sewage, industrial waste, or other waste in excess of the discharge stated in the existing TA.

(2) For an indirect discharger that would become a SIU as a result of a proposed expansion, production increase or process modification, 60 days in advance of the proposed expansion, production increase or process modification.

(3) For a new indirect discharger that will qualify as a SIU, 180 days in advance of a proposed discharge.

d. Construction and operation permit applications—TA submittal.

(1) A construction permit application for the construction or modification of a POTW must include current TA forms for each SIU discharging to the POTW. These TAs will be used in determining the design basis of the new or upgraded system.

(2) An operation permit application from a POTW must include information and current TA forms for each SIU discharging to the POTW, and information on any Non-Significant Categorical Industrial User discharging to the POTW.

60.3(4) *Effective period.* NPDES permits may be granted for any period of time not to exceed five years. All other operation permits may be granted for an appropriate period of time as determined by the director, based on the type of wastewater DS being permitted. GPs will be issued for a period not to exceed five years. Each permit to be renewed shall be subject to the provisions of all department rules in effect at the time of the renewal.

60.3(5) *Permit conditions.* Operation permits shall contain conditions deemed necessary by the director to ensure compliance with all applicable department rules, including monitoring and reporting conditions, to protect the public health and beneficial uses of waters of the state, and to prevent water pollution from waste storage or disposal operations.

60.3(6) *Modification or termination.* The director may amend, revoke and reissue, or terminate in whole or in part any permit for cause, either at the request of any interested person (including the permittee) or upon the director's initiative, according to the provisions of this subrule.

a. GP. The director may revoke and reissue or terminate in whole or in part any GP or coverage under a GP for cause. A waiver or amendment of the terms and conditions of a GP shall not be granted. If a waiver or amendment of a GP is desired, the permittee must apply for an individual permit following the procedures in 60.3(2)"a."

b. Individual permit. All requests to amend, revoke and reissue, or terminate an individual permit shall be in writing and contain information or reasons supporting the request.

(1) A permittee shall furnish to the director, within a reasonable time, any information that the director may request to determine whether cause exists for amending, revoking and reissuing, or terminating a permit, including a new permit application.

(2) Required amendment fees shall be submitted in accordance with 60.14(3).

(3) The filing of a request by an interested person for an amendment, revocation and reissuance, or termination does not stay any permit condition.

c. Cause. Cause under this subrule includes but is not limited to the following:

(1) Violation of any term or condition of the permit.

(2) Obtaining a permit by misrepresentation of fact or failure to disclose fully all material facts.

(3) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(4) Failure to submit records and information the director requires, both generally and as a condition of the permit, in order to ensure compliance with the discharge conditions specified in the permit.

(5) Failure or refusal of an NPDES permittee to carry out the requirements of 60.7(7)"f."

(6) Failure to provide all the required application materials or appropriate fees.

(7) Causes listed in 40 CFR §§122.62 and 122.64.

d. Individual permit compliance schedule amendments.

(1) A request to amend an interim date in a compliance schedule shall be made at least 30 days prior to the next scheduled date that the permittee contends it is unable to meet. The request shall include proposed changes to the existing compliance schedule and documentation supporting the need for an extension.

(2) A request to amend a final date in a compliance schedule shall be made at least 120 days prior to the final compliance date. An extension of the final date may be granted by the department for cause, including unusually adverse weather conditions, equipment shortages, labor strikes, federal grant regulation requirements, or any other extenuating circumstances beyond the control of the requesting party. Cause does not include economic hardship, profit reduction, or failure to proceed in a timely manner.

e. Reduction of individual permit minimum monitoring requirements. The minimum monitoring requirements in an existing or reissued individual permit as established in 567—Chapter 63 may be modified or reduced at the director’s discretion or when requested by the permittee.

(1) A request to modify or reduce the minimum monitoring requirements in an existing individual permit is considered a waiver request. A request shall include a written description of the proposed modification or reduction, monitoring results that are frequent enough to reflect variations in wastewater characteristics over a period of time and are consistent in results from sample to sample, and a completed Petition for Waiver form, available on the department’s website.

(2) Any request to modify or reduce minimum monitoring requirements must adequately justify that the modified or reduced monitoring will accurately reflect actual wastewater characteristics and will not adversely impact facility operations.

(3) The department will evaluate a request to modify or reduce the minimum monitoring requirements in an existing permit based upon whether or not less frequent sample results would accurately reflect actual wastewater characteristics and whether operational control could be maintained.

(4) All reductions or modifications of monitoring incorporated into an individual operation or NPDES permit by amendment or upon reissuance are only effective until the expiration date of that permit.

f. Requests to amend, revoke and reissue, or terminate.

(1) Individual permit requests.

1. If the director tentatively decides to amend or revoke and reissue an individual permit, a draft permit shall be prepared according to 60.5(1)“a.” When an individual permit is amended under this subrule, only those conditions to be amended shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the permit. If an amendment falls under the definition of “minor amendment,” the individual permit may be amended without a draft permit or PN.

2. If the director decides to terminate an individual permit, a termination decision shall be prepared and transmitted to the permittee. The permittee will have 60 days to appeal the termination.

(2) GP requests. If the director tentatively decides to revoke and reissue or terminate a GP, a draft reissuance or termination will proceed in accordance with Iowa Code sections 455B.103A and 455B.173.

(3) When an individual or general permit is revoked and reissued under this subrule, the entire permit is reopened just as if the permit had expired and was being reissued.

(4) During any amendment, revocation and reissuance, or termination proceeding, the permittee or permittees shall comply with all conditions of the existing permit until a new final permit is reissued or the existing permit is terminated.

(5) If the director decides the request is not justified, the director shall deny the request and send the requester a brief written response giving a reason for the decision. Denials of requests for permit amendment, revocation and reissuance, or termination are not subject to PN, comment, hearings, or appeals.

60.3(7) *Prohibitions on permit issuance.* 40 CFR §122.4 is adopted by reference.

60.3(8) *Public access to NPDES information.* Department records connected with NPDES permits are available for public inspection and copying to the extent provided in 567—Chapter 2.

567—60.4(455B) Issuance of NPDES permits.

60.4(1) *Individual permit.* An individual NPDES permit is required when there is a discharge of a pollutant from any point source into navigable waters. An NPDES permit is not required for the discharges listed in 40 CFR §122.3.

60.4(2) *General permits (GPs).*

a. The director may issue GPs consistent with this chapter to regulate one or more categories or subcategories of discharges, if the sources within each category or subcategory meet the criteria in 40 CFR §122.28(a)(2).

b. Each GP issued by the department must be adopted as an administrative rule in accordance with Iowa Code chapter 17A. Each proposed permit will:

(1) Be accompanied by a rationale setting forth the principal facts and methodologies considered during permit development,

(2) Correspond to existing geographic or political boundaries, and

(3) Be identified in rule 567—60.13(455B).

c. If an NPDES permit is required for an activity covered by a GP, the applicant may seek either GP coverage or an individual permit as provided in this chapter.

60.4(3) *Effect of a permit.* 40 CFR §122.5 is adopted by reference.

567—60.5(455B) Notice and public participation in the individual permit process.

60.5(1) *Formulation of tentative determination.* The department shall make a tentative determination to issue or deny an operation or NPDES permit for the discharge described in a permit application in advance of the PN (described in 60.5(2)). If the tentative determination is to:

a. Issue an NPDES permit, the department shall prepare a permit rationale pursuant to 60.5(3) and a draft permit. The draft permit shall include:

(1) Effluent limitations identified pursuant to 60.7(2) and 60.7(3) for those pollutants proposed to be limited;

(2) If necessary, a proposed compliance schedule, pursuant to 60.7(4) and 60.7(5) that includes interim dates and requirements for meeting the effluent limitations and other permit conditions; and

(3) Any other special conditions (other than those required in 60.7(7)) that will have a significant impact upon the discharge described in the permit application.

b. Deny an NPDES permit, the department shall prepare a notice to deny the permit application and place it on PN as described in 60.5(2).

c. Issue an operation permit (non-NPDES permit), the department shall prepare a final permit and transmit it to the applicant. The applicant will have 60 days to appeal the final operation permit.

d. Deny an operation permit (non-NPDES permit), no PN is required. The department shall send written notice of the denial to the applicant. The applicant will have 60 days to appeal the denial.

60.5(2) *Public notice (PN) for individual NPDES permits.*

a. Prior to the issuance of an NPDES permit, a major NPDES permit amendment, or the denial of a permit application for an NPDES permit, a PN shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed discharge and of the tentative determination to issue or deny an NPDES permit for the proposed discharge.

(1) The PN shall be transmitted by the department to the persons noted in 40 CFR §124.10(c)(1).

(2) The PN shall be transmitted by the department to any person upon request. Any person or group may request to receive copies of any PNs concerning the tentative determinations with respect to the permit applications within the state or within a certain geographical area.

(3) The department shall periodically notify the public of the opportunity to receive PNs. The director may update the PN distribution list from time to time by requesting written indication of continued interest from those listed. The director may delete from the list the name of any person or group who fails to respond to such a request.

b. The director may publish all notices of activities described in 60.5(2)“*a*” to the department’s website. If this option is selected for a draft permit, the director must post the draft permit and permit rationale on the website for the duration of the public comment period.

c. The department shall provide not less than 30 days following the PN date during which time interested persons may submit their written views on the tentative determinations with respect to the permit application and request a public hearing pursuant to 60.5(4). Written comments may be submitted by paper or electronic means. All pertinent comments submitted during the 30-day comment period shall be retained by the department and considered by the director in the formulation of the final

determinations with respect to the permit application. The comment period may be extended at the department's discretion. Pertinent and significant comments received during either the original comment period or an extended comment period shall be responded to in a responsiveness summary pursuant to 60.5(5).

d. A PN of a draft NPDES permit, a major permit amendment, or the denial of a permit application for an NPDES permit shall contain:

- (1) The name, email address, and telephone number of the permit writer.
- (2) The name and address of the applicant.
- (3) A brief description of the applicants' activities or operations that result in the discharge described in the permit application.
- (4) The name of the waterway to which each discharge of the applicant is made.
- (5) A statement of the department's tentative determination to issue, amend, or deny an NPDES permit for the discharge or discharges described in the permit application.
- (6) A brief description of the procedures for the formulation of final determinations, including the 30-day comment period required by 60.5(2) "c," procedures for requesting a public hearing and any other means by which interested persons may influence or comment upon those determinations.
- (7) The address, telephone number, email address, and website of places at which interested persons may obtain further information and request copies of, or inspect and copy the tentative determination, permit rationale, and any associated documents.

e. No PN is required for a minor permit amendment.

f. No PN is required when a request for a permit amendment or permit termination is denied. The department shall send written notice of the denial to the requester and the permittee only. No PN is required if an applicant withdraws a permit application.

60.5(3) *Permit rationales and notices of intent to issue or deny.*

a. When the department has made a determination to issue or deny an NPDES or operation permit as described in 60.5(1), it shall prepare and send the following information, specific to each determination.

(1) NPDES permit issuance. For a determination to issue an NPDES permit, the department shall prepare and, upon request, shall send to any person a permit rationale with respect to the application described in the PN. Permit rationales shall include at least the following information:

1. For each discharge described in the permit application, a detailed description of the discharge location and a quantitative description of the discharge.
2. A brief citation, including a brief identification of the uses for which the receiving waters have been classified, of the WQS applicable to the receiving waters, and of the effluent standards and limitations applicable to the proposed discharge.
3. An explanation of the principal facts and the significant factual, legal, methodological, and policy questions considered in the preparation of the draft permit.
4. Any calculations or other necessary explanation of the derivation of effluent limitations.

(2) NPDES permit application denial. For a determination to deny an application for an NPDES permit, the department shall prepare and, upon request, shall send a notice to deny with respect to the application described in the PN. A notice to deny shall include:

1. The location of the discharge; and
2. A description of the reasons supporting the tentative decision to deny the permit application.

(3) Operation permit issuance. For a determination to issue an operation permit, the department shall prepare and issue a permit. The reasons supporting the decision to issue an operation permit can be sent to the operation permit applicant upon request.

(4) Operation permit application denial. For a determination to deny an application for an operation permit, the department shall prepare and send written notice of the denial to the applicant only. The written denial shall include a description of the reasons supporting the decision to deny the permit application.

b. Upon request, the department shall add the name of any person or group to a distribution list to receive copies of permit rationales and notices to deny and shall make copies of all permit rationales and notices to deny available.

60.5(4) Public hearings on proposed NPDES permits. The applicant, any affected state, the regional administrator, or any interested agency, person, or group of persons may request a public hearing with respect to a tentative determination to issue or deny an NPDES permit.

a. Public hearing requests shall:

- (1) Clearly state issues and topics to be addressed at the hearing;
- (2) Be filed with the director within the 30-day period prescribed in 60.5(2)“c”; and
- (3) Indicate the interest of the party filing the request and the reasons why a hearing is warranted.

b. The director shall hold an informal and noncontested case hearing if there is a significant public interest in holding a hearing. Frivolous or insubstantial requests for hearing may be denied by the director. Instances of doubt should be resolved in favor of holding a hearing.

c. Any hearing held pursuant to this subrule shall be held in the geographical area of the proposed discharge when possible or other appropriate area at the director’s discretion. Web-based hearings may also be held at the director’s discretion. In addition, any hearing held pursuant to this subrule may, as appropriate, consider related groups of permit applications.

d. PN of any hearing held pursuant to this subrule shall be circulated at least as widely as was the notice of the tentative determination with respect to the permit application. Notice pursuant to this paragraph shall be made at least 30 days in advance of the hearing. Notice shall be transmitted to:

(1) All persons and government agencies that received a copy of the notice for the permit application; and

(2) Any person or group upon request.

e. The contents of a PN of any hearing held pursuant to this subrule shall include at least the following:

- (1) The name, email address, and telephone number of the permit writer;
- (2) The name and address of each applicant whose application will be considered at the hearing;
- (3) The name of the waterbody to which each discharge is made;
- (4) A brief reference to the PN issued for each NPDES application, including the date of notice;
- (5) Information regarding the time and location for the hearing;
- (6) The purpose of the hearing;
- (7) A concise statement of the issues raised by the person or persons requesting the hearing;
- (8) The address, telephone number, email address, and website where interested persons may obtain further information and request copies of, or inspect and copy the draft NPDES permit, permit rationale, and any associated documents;
- (9) A brief description of the nature of the hearing, including the rules and procedures to be followed; and
- (10) The final date for submission of comments regarding the tentative determination.

60.5(5) Response to comments. At the time a final NPDES permit is issued, the director shall respond to significant and pertinent comments in the form of a responsiveness summary. A copy of the responsiveness summary shall be sent to the permit applicant and made available on the department’s website. The responsiveness summary shall:

a. Specify which provisions, if any, of the draft permit have been changed in the final permit decision and the reasons for the changes; and

b. Briefly describe and respond to all significant and pertinent comments on the draft permit raised during the public comment period provided for in the PN or during any hearing. Comments on a draft permit may be submitted by paper or electronic means or orally at a public hearing.

567—60.6(455B) Completing a Notice of Intent (NOI) for coverage under a GP.

60.6(1) Contents of a complete NOI. An applicant proposing to conduct activities covered by a GP shall file a complete NOI by submitting to the department materials required in this subrule, as applicable. An NOI is not required for discharges authorized under GPs No. 6 or No. 7, for certain discharges under GP No. 8, or for certain discharges under GP No. 9.

a. *NOI Form.* Electronic NOI forms provided by the department must be completed in full and may be obtained on the department's website. Paper NOI forms, when provided, must be completed in full.

b. *GP fee.* The applicable GP fees are listed in 60.14(2).

c. *Public notice (PN) for GPs No. 1, No. 2, and No. 3.* Applicants for GPs No. 1, No. 2 and No. 3 must publish a PN in accordance with Iowa Code section 455B.103A. The newspaper notice shall, at the minimum, contain the following information:

(1) A brief description of the applicants' activities or operations that result in the discharge described in the NOI;

(2) The name of the waterway to which each discharge of the applicant is made and a short description of the location of each discharge of the applicant on the waterway; and

(3) The address, telephone number, email address, and website of places at which interested persons may obtain further information or inspect and copy the NOI.

60.6(2) Authorization to discharge under a GP.

a. Upon the submittal of an NOI in accordance with 60.3(2) "b" and 60.6(1), an applicant is authorized to discharge after the department has determined that the contents of the NOI satisfy the requirements of this chapter and of a GP. The department will notify the applicant of coverage under a GP. If any of the items required for filing an NOI specified in 60.6(1) are missing, the department will consider the NOI incomplete and will notify the applicant of the incomplete items.

b. If the discharge described in the NOI does not meet the requirements of a GP, an NOI may be denied. The department will notify applicants of denial within 30 days.

c. Authorization to discharge is automatic only for the GPs that do not require an NOI under 60.3(2) "b," provided the discharge is a covered activity and the permittee complies with all applicable permit requirements.

60.6(3) GP suspension or revocation. In addition to the causes for suspension or revocation listed in 60.3(6), the director may suspend or revoke coverage under a GP and require the applicant to apply for an individual NPDES permit in accordance with 60.3(2) "a." The department will notify the affected discharger and establish a deadline, not longer than one year, for submitting an individual permit application. Coverage may be suspended or revoked for the following reasons:

a. The discharge would not comply with Iowa's WQS pursuant to 567—Chapter 61,

b. The department finds that the activities associated with an NOI do not meet the conditions of the applicable GP, or

c. The department finds that any discharge covered under a GP is not consistent with the conditions specified in the applicable GP.

60.6(4) Eligibility for individual NPDES permit holders. A person holding an individual NPDES permit for an activity covered by a GP may apply for coverage under a GP by filing an NOI according to the procedures described in 60.3(2) "b" and this rule. In addition to these requirements, the permittee must submit a written request, with the NOI, to either terminate the individual NPDES permit or to amend the individual NPDES permit to remove the GP-covered activity.

a. Upon receipt of a complete NOI and request for individual NPDES permit termination or amendment, the applicant shall be authorized to discharge under the GP in accordance with 60.6(2). The applicant will receive notification from the department of coverage under the GP and of the termination or amendment of the individual permit.

b. Authorization to discharge under a GP that does not require an NOI will be automatic in accordance with 60.6(2) and shall commence upon completion of individual NPDES permit termination or amendment.

c. Individual NPDES permit amendments under this subrule shall follow the applicable PN procedures in rule 567—60.5(455B).

60.6(5) Filing a Notice of Discontinuation (NOD). A notice to discontinue discharge associated with an activity covered by a GP shall be made electronically or in writing to the department in accordance with the conditions established in each GP.

567—60.7(455B) Terms and conditions of NPDES permits.

60.7(1) Prohibited discharges. No NPDES permit may authorize any of the discharges prohibited by rule 567—62.1(455B).

60.7(2) Application of effluent and pretreatment standards, WQS, and other requirements. Each NPDES permit shall include any of the following that is applicable:

a. An effluent limitation guideline; a standard of performance for a new source; or an effluent standard, effluent prohibition, or pretreatment standard promulgated by the administrator under Sections 301, 304, 306, or 307 of the CWA and adopted by reference in 567—Chapter 62.

b. A water quality-based effluent limitation established by the administrator pursuant to Section 302 of the CWA.

c. Prior to promulgation of applicable effluent and pretreatment standards under Sections 301, 302, 306, and 307 of the CWA, such conditions as the director determines are necessary to carry out the provisions of the CWA.

d. Any other limitation, including those necessary to:

(1) Meet or implement any applicable WQS, treatment or pretreatment standards, or compliance schedules established pursuant to any Iowa law or regulation;

(2) Meet any other federal law or regulation;

(3) Implement total maximum daily loads established pursuant to Section 303(d) of the CWA; or

(4) Comply with the antidegradation policy requirements of 567—subrule 61.2(2) implemented according to the “Iowa Antidegradation Implementation Procedure,” effective February 17, 2010, hereby incorporated by reference, and available on the department’s website.

e. Limitations pursuant to 40 CFR §122.44(d)(1)(i), (ii), and (iii).

60.7(3) Effluent limitations in NPDES permits.

a. In the application of effluent standards and limitations, WQS, and other legally applicable requirements, pursuant to 60.7(2), the director shall, unless impracticable, specify average and maximum daily quantitative limitations for the level of pollutants in the authorized discharge in terms of weight (except pH, temperature, radiation, and any other pollutants not appropriately expressed by weight). The director may, in addition to the specification of daily quantitative limitations by weight, specify other limitations for the level of pollutants authorized in the discharge.

b. The manner in which effluent limitations are expressed will depend upon the nature of the discharge.

(1) Continuous discharges shall be limited by daily loading figures and, where appropriate, may be limited as to concentration or discharge rate (e.g., for toxic or highly variable continuous discharges).

(2) Noncontinuous discharges should be more particularly described and limited in accordance with 40 CFR §122.45(e).

60.7(4) Compliance schedules in NPDES permits. An NPDES permit may specify a compliance schedule in accordance with 40 CFR §122.47. Compliance shall be achieved as soon as possible, consistent with the guidelines and requirements of the CWA and with the provisions of Iowa Code sections 455B.173(2) “*b*” and 455B.173(3) “*b*.” If a permittee fails or refuses to comply with an interim or final requirement in an NPDES permit, such noncompliance shall constitute a violation of the permit for which the director may, pursuant to this chapter and 567—Chapter 7, modify, suspend or terminate the permit or take direct enforcement action. Compliance schedules shall not relieve the permittee of the duty to obtain a construction permit pursuant to this chapter.

60.7(5) Compliance schedules in NPDES permits for disadvantaged communities (DCs). If compliance with applicable federal or state regulations or an order of the department will result in substantial and widespread economic and social impact (SWESI) to ratepayers and an affected community, the director may establish in an NPDES permit a compliance schedule that will result in an improvement of water quality and reasonable progress toward complying with the applicable requirements but does not result in SWESI.

a. *DC status.* The director shall find that a regulated entity and the affected community are a DC according to Iowa Code section 455B.199B(2).

b. *DC analysis (DCA)*. A regulated entity or affected community must submit a DCA to the director to be considered for disadvantaged status.

(1) When new requirements in a proposed or reissued NPDES permit may result in SWESI, a DCA may be submitted by:

1. A POTW or semipublic facility;
2. A wastewater DS for the treatment or disposal of domestic sewage that is not a semipublic DS or a PSDS and that is not owned by a city or sanitary sewer district; or
3. Any other owner of a wastewater DS that is not a PSDS and does not discharge industrial wastes.

(2) A DCA may be submitted prior to the issuance of an initial NPDES permit if the facility does not discharge industrial wastes and is not a new source or new discharger.

c. *DCA contents*.

(1) A DCA must contain all of the following:

1. Proposed TAPC as defined in 60.7(5) “d.”
2. The number of households or ratepayers in the affected community.
3. A description of the bond rating of the affected community over the last year, if available.
4. The user rates, as follows:
 - For a municipality or other community, the current sewer rate ordinances, including the sewer rates of any industrial users;
 - For any other entity, the monthly ratepayer charge for wastewater treatment.
 - For a water treatment facility, the water rate schedules or tables; or
5. An explanation of why the regulated entity or affected community believes that compliance with the proposed requirements will result in SWESI.

(2) If a DCA is submitted by or for an entity other than a municipality, community, or water treatment facility, the DCA must also contain either:

1. For entities with more than ten households or ratepayers, the MHI or ratepayer income, as determined by an income survey conducted by the regulated entity; or
2. For entities with ten or fewer households or ratepayers, an estimate of MHI or ratepayer income.

d. *Definition of total annual project costs (TAPC)*. “Total annual project costs” means the current costs of wastewater treatment in the community (if any) plus the future costs of proposed wastewater system improvements that will meet or exceed all applicable federal or state regulations or requirements of an order of the department. The TAPC shall include any current and proposed facility O&M costs and any existing and proposed system debt, as expressed in current and proposed sewer rates. The costs shall be amortized for a 30-year loan period at an interest rate equal to the current state revolving fund interest rate. Awarded grant funding must be subtracted from the TAPC.

The TAPC formula is: $TAPC = [(Estimated\ costs\ to\ design\ and\ build\ proposed\ project - Awarded\ grant\ funding)\ amortized\ over\ 30\ years] + Current\ annual\ system\ budget,\ including\ O\&M\ and\ existing\ debt\ service + Future\ annual\ O\&M\ costs.$

e. *DC matrix (DCM)*. Upon receipt of a complete DCA, the director shall use the DCM to evaluate the disadvantaged status of an entity or community. A regulated entity or affected community shall be considered a DC if the point total derived in the DCM is equal to or greater than 12. The following data sources shall be used to derive the point total in the DCM:

- (1) The TAPC, the number of households or ratepayers in a community, and the bond rating of the community, as stated in the DCA;
- (2) The MHI of either:
 1. The community, as found in the most recent American Community Survey or United States Census or as stated in an income survey conducted by the regulated entity or community; or
 2. The ratepayer group, as stated in an income survey conducted by the regulated entity; and
- (3) The unemployment rate of the local county and of the state as found in the most recent Iowa Workforce Information Network unemployment data.

f. Ratio and determination. The ratio of the TAPC per household or per ratepayer to MHI shall be calculated in the DCM as follows: the TAPC shall be divided by the number of households or ratepayers to obtain the costs per household or ratepayer, and the costs per household or ratepayer shall be divided by the MHI to obtain the ratio. If the ratio of compliance costs to MHI is:

- (1) Less than 1 percent, the entity or community is not considered disadvantaged.
- (2) Greater than or equal to 2 percent, the entity or community is considered a DC.
- (3) Greater than or equal to 1 percent and less than 2 percent, the director shall use the point total in the DCM to determine if the entity or community is disadvantaged.

g. DC compliance schedule—first part. A compliance schedule established in an NPDES permit for a DC as a result of SWESI may contain one or two parts. The first part of a DC compliance schedule shall encompass one five-year NPDES permit cycle and require the permittee to submit an alternatives report, an alternatives implementation compliance plan (AICP), and annual progress reports.

(1) Alternatives report. An alternatives report shall be submitted no later than two years after permit issuance and shall:

1. Detail the alternative pollution control measures that will be investigated and contain an examination of all other appropriate measures that may achieve compliance with applicable federal or state regulations or an order of the department without creating SWESI;

2. Describe which measures will be evaluated for feasibility and affordability during the next portion of the compliance schedule; and

3. Include a plan for pursuing funding options, including grants and low-interest loans.

(2) Alternatives implementation compliance plan (AICP). An AICP shall be submitted no later than 4½ years after permit issuance and shall include:

1. The results of the investigation detailed in the alternatives report;

2. A description of any feasible and affordable alternative(s) that will be implemented;

3. A schedule of the time necessary to implement the alternative(s); and

4. An updated DCA.

h. DC compliance schedule—second part. If the entity or community continues to qualify as disadvantaged according to the DCM evaluation of the DCA submitted with the AICP, the entity or community may receive a second compliance schedule as specified in this subrule.

(1) AICP schedule. If the AICP proposes an implementation schedule, the proposed schedule shall be included in the community's NPDES permit.

(2) Future compliance plan (FCP). The submittal of an FCP will be necessary only if the AICP concludes that the DC cannot feasibly implement any alternatives and if the community is still disadvantaged according to the DCM evaluation of the DCA submitted with the AICP. An FCP shall be submitted no later than three years after permit issuance. A compliance schedule requiring an FCP shall also require annual progress reports, including an updated DCA. If a DCM evaluation determines that an entity or community is no longer disadvantaged based on the most recent DCA, the NPDES permit may be amended to change the compliance schedule. An FCP shall:

1. Detail how the DC will meet the applicable federal or state regulations or an order of the department and the period necessary to do so, and

2. Review the types of technology capable of treating the pollutant of concern and the costs of installing and operating each technology. All technically feasible alternatives shall be explored.

- (3) Schedule extension. The second part of a DC compliance schedule may be extended at the director's discretion.

i. Compliance schedules issued in accordance with this subrule shall comply with 60.7(4).

60.7(6) Disadvantaged unsewered communities (DUCs). If compliance with applicable federal or state regulations or an order of the department will result in SWESI to the ratepayers of an unsewered community, the director may negotiate a compliance agreement that will result in an improvement of water quality and reasonable progress toward complying with the applicable regulations but does not result in SWESI.

a. DUC status. The director shall find that an unsewered community is a DUC according to Iowa Code section 455B.199B(3).

b. DUC analysis (DUCA).

(1) An unsewered community must submit a DUCA to the director to be considered for DUC status. Only unsewered communities may submit a DUCA under this subrule. For the purposes of this subrule, an unsewered community is defined as a grouping of ten or more residential houses with a density of one house or more per acre and with either no wastewater treatment or inadequate wastewater treatment. An entity defined in 60.1(2) as a PSDS may not submit a DUCA or qualify for a DUC compliance agreement under this subrule.

(2) An unsewered community may submit a DUCA to the director prior to the issuance of or amendment to an administrative order with requirements that could result in SWESI and that are based on applicable federal or state regulations or an order of the department.

c. DUCA contents. A DUCA must contain all of the following:

- (1) Proposed TAPC as defined in 60.7(6) “d”;
- (2) The number of households in the unsewered community and source of household information;
- (3) Total amount of any awarded grant funding;
- (4) MHI or ratepayer income information. If no MHI information is available for the unsewered community, the community should conduct a rate survey to determine the MHI; and
- (5) An explanation of why the unsewered community believes that compliance with the proposed requirements will result in SWESI.

d. Definition of total annual project costs (TAPC). “Total annual project costs” means the future costs of proposed wastewater system installation or improvements that will meet or exceed all applicable federal or state regulations or requirements of an order of the department. The TAPC shall include the proposed facility O&M costs and the proposed debt of the system as expressed in the proposed sewer rates. The costs shall be amortized over a 30-year loan period at an interest rate equal to the current state revolving fund interest rate. Awarded grant funding must be subtracted from the TAPC.

The TAPC formula for an unsewered community is: $TAPC = [(Estimated\ costs\ to\ design\ and\ build\ proposed\ project - Awarded\ grant\ funding)\ amortized\ over\ 30\ years] + Future\ annual\ O\&M\ costs.$

e. DUC matrix (DUCM). Upon receipt of a complete DUCA, the director shall use the DUCM to evaluate the disadvantaged status of an unsewered community. An unsewered community shall be considered a DUC if the point total derived from the DUCM is equal to or greater than 10. The following data sources shall be used to derive the point total in the DUCM:

- (1) The TAPC and number of households in the unsewered community, as stated in the DUCA;
- (2) The MHI of the unsewered community as found in the most recent American Community Survey or United States Census or as stated in an income survey conducted by the unsewered community; and
- (3) The unemployment rate of the local county and of the state as found in the most recent Iowa Workforce Information Network unemployment data.

f. Ratio and determination. The director shall not require installation of a wastewater DS by an unsewered community if the director determines that such installation would create SWESI, in accordance with Iowa Code section 455B.199B.

(1) The ratio of TAPC per household to MHI shall be calculated in the DUCM as follows: the TAPC shall be divided by the number of households to obtain the costs per household, and the costs per household shall be divided by the MHI to obtain the ratio.

(2) If the ratio of compliance costs to MHI is:

1. Less than 1 percent, the unsewered community is not considered disadvantaged.
2. Greater than or equal to 2 percent, the unsewered community is considered a DUC.
3. Greater than or equal to 1 percent and less than 2 percent, the director shall use the point total in the DUCM to determine if the unsewered community is disadvantaged.

g. DUC compliance agreement. A compliance agreement negotiated with a DUC as a result of SWESI shall require the unsewered community to submit an alternatives report and an AICP.

(1) Alternatives report. An alternatives report shall be submitted no later than two years after a DUC determination and shall:

1. Detail the alternative pollution control measures that will be investigated and contain an examination of all other appropriate measures that may achieve compliance with the WQS without creating SWESI;

2. Describe which measures will be evaluated for feasibility and affordability after the report submittal; and

3. Include a plan for pursuing funding options, including grants and low-interest loans.

(2) Alternatives implementation compliance plan (AICP). An AICP shall be submitted no later than 4½ years after a DUC determination. An AICP shall include:

1. The results of the investigation detailed in the alternatives report,

2. A description of any feasible and affordable alternative(s) that will be implemented,

3. A schedule of the time necessary to implement the alternative(s), and

4. An updated DUCA.

(3) AICP schedule. If the AICP proposes an implementation schedule of one or more feasible alternatives, the proposed schedule shall be included in an administrative order between the department and the unsewered community. If the feasible alternative that will be implemented requires a construction, operation, or NPDES permit, the unsewered community shall comply with the rules regarding those permits in this chapter.

(4) Future compliance plan (FCP). The submittal of an FCP will be necessary only if the AICP concludes that the unsewered community cannot feasibly implement any alternatives and if the community is still disadvantaged according to the DUCM evaluation of the DUCA submitted with the AICP. An FCP shall be submitted no later than seven years after a DUC determination. An administrative order requiring an FCP shall also require the submittal of biennial progress reports containing an updated DUCA. If the DUCM evaluation determines that an unsewered community is no longer disadvantaged based on the most recent DUCA, the order may be amended at the director's discretion. An FCP shall:

1. Detail how the unsewered community will meet the WQS and the period necessary to do so; and

2. Review the types of technology capable of treating the pollutant of concern and the costs of installing and operating each type of technology. All technically feasible alternatives shall be explored.

60.7(7) Other terms and conditions of NPDES permits. Each NPDES permit shall provide for and ensure all of the following:

a. That all discharges authorized by the NPDES permit shall be consistent with the terms and conditions of the permit.

b. That facility expansions, production increases, or process modifications that result in new or increased pollutant discharges will be reported by submission of a new permit application or, if such discharge does not violate effluent limitations specified in the NPDES permit, by submission to the director of notice of such new or increased discharges of pollutants.

c. That the discharge of any pollutant more frequently than or at a level in excess of that identified and authorized by the permit shall constitute a violation of the terms and conditions of the permit.

d. That if the terms and conditions of a GP are no longer applicable to a discharge, the applicant shall apply for an individual NPDES permit.

e. That the permit may be amended, revoked and reissued, or terminated in whole or in part for the causes provided in 60.3(6) "c."

f. That the permittee allows for facility inspection and entry pursuant to 40 CFR §122.41(i), which is adopted by reference.

g. That, if the permit is for a discharge from a POTW, the permittee shall provide notice to the director:

(1) 180 days in advance of any new introduction of pollutants into the POTW from a new source if such source was discharging pollutants;

(2) 60 days in advance of any substantial change in the volume or character of pollutants being introduced into the POTW by a source introducing pollutants into the POTW at the time of permit issuance; and

(3) Pursuant to 60.3(3) “c.”

Such notice shall include information on the quality and quantity of effluent to be introduced into the POTW and any anticipated impact of such change on the quantity or quality of effluent to be discharged from the POTW.

h. That, if the permit is for a discharge from a POTW, the permittee shall require any industrial user to comply with the requirements of Sections 204(b), 307, and 308 of the CWA.

i. That the facility is properly operated and maintained pursuant to 40 CFR §122.41(e), which is adopted by reference.

j. That the permit will be modified upon the establishment of a toxic effluent standard or prohibition pursuant to 40 CFR §122.44(b)(1), which is adopted by reference.

k. That the permittee shall take all reasonable steps to minimize or prevent any discharge in violation of the permit that has a reasonable likelihood of adversely affecting human health or the environment.

l. That the need to halt or reduce the permitted activity is not a defense in an enforcement action pursuant to 40 CFR §122.41(c), which is adopted by reference.

60.7(8) POTW compliance—plan of action (POA). The owner of a POTW must prepare and implement a POA to achieve and maintain compliance with final effluent limitations in its NPDES permit as specified below:

a. The director shall notify a POTW owner of the POA requirement and of an opportunity to meet with department staff to discuss the plan requirements. The POTW owner shall submit the POA to the appropriate regional department field office within six months of such notice unless a longer time is needed and is authorized in writing by the director.

b. A POA must identify the deficiencies and needs of the system, describe the causes of such deficiencies or needs, propose specific measures and a schedule to correct the deficiencies or meet the needs, and discuss the method of financing the proposed improvements. A POA may include the submittal of a DCA in accordance with 60.7(5) or may provide for a phased construction approach to meet interim and final limitations.

This rule is intended to implement Iowa Code chapter 455B, subchapter III, part 1 (Iowa Code sections 455B.171 through 455B.187 and 455B.199B).

567—60.8(455B) Reissuance of operation and NPDES permits.

60.8(1) Individual operation and NPDES permit reissuance. Any operation or NPDES permittee who wishes to continue to discharge after the expiration date of the permit shall file an application for reissuance pursuant to 60.3(2) “a.”

60.8(2) Renewal of coverage under a GP. A permittee authorized to discharge under a GP is subject to the permit terms until coverage is obtained under an individual permit or the permitted discharge has ceased and, if required, an NOD is submitted in accordance with the GP.

a. If a permittee continues the activity beyond the expiration date of a GP and the permit will be reissued, the conditions of the expired GP will remain in effect until the effective date of the reissued GP.

b. If a permittee continues the activity beyond the expiration date of a GP and the permit will not be reissued or renewed, the discharge must be permitted with an individual NPDES permit in accordance with 60.3(2).

60.8(3) Continuation of expiring operation and NPDES permits.

a. The conditions of an expired operation or NPDES permit will continue in force until the effective date of a new permit if:

- (1) The permittee has submitted a timely and complete application under 60.3(2); and
- (2) The department does not issue a new permit with an effective date on or before the expiration date of the previous permit.

b. Operation and NPDES permits continued under this subrule remain fully effective and enforceable.

c. If a permittee is not in compliance with the conditions of the expiring or continued permit, the department may choose to do any of the following:

- (1) Initiate enforcement action on a permit that has been continued or reissued;

- (2) Issue a notice of intent to deny a permit under 60.5(3);
- (3) Reissue a permit with appropriate conditions in accordance with this subrule; or
- (4) Take other actions authorized by this chapter.

567—60.9(455B) Monitoring, recordkeeping and reporting by operation permit holders. Operation permit holders are subject to the applicable requirements and provisions specified in 567—Chapter 63 and those specified in the operation permit issued by the department.

567—60.10(455B) Silvicultural activities. The following is adopted by reference: 40 CFR §122.27.

567—60.11(455B) Stormwater discharges.

60.11(1) The following are adopted by reference: 40 CFR §§122.26, 122.32, 122.33, 122.34, and 122.35.

60.11(2) Small municipal separate storm sewer systems (MS4s).

a. The following municipal MS4s that are not qualified as medium or large MS4s, in accordance with 40 CFR §122.26, are considered regulated small MS4s:

(1) All MS4s located in urban areas with a population of at least 50,000 people as defined by the latest decennial census, and

(2) All MS4s located outside urbanized areas that serve 10,000 people or more where the average population density is 1,000 people/square mile or more.

b. *NPDES permit applications for small MS4s.* An NPDES permit application shall be submitted for any discharge from a regulated small MS4 designated under this subrule. The first permit application submitted by a small MS4 shall demonstrate how the applicant will develop, implement, and enforce a stormwater management program designed to reduce the discharge of pollutants from the small MS4 to the maximum extent practicable, in order to protect water quality and to comply with the CWA. Renewal applications shall demonstrate how the existing stormwater management program is being implemented and enforced. An application shall:

(1) Discuss the manner in which the permittee will or has addressed:

1. Public education and outreach on stormwater impacts;
2. Public involvement and participation;
3. Illicit discharge detection and elimination;
4. Construction site stormwater runoff control;
5. Post construction stormwater management in new development and redevelopment; and
6. Pollution prevention for municipal operations.

(2) Include measurable goals that the applicant intends to meet and dates by which the goals will be accomplished.

c. *Permit coverage waivers for small MS4s.*

(1) Permit coverage for small MS4s located in urbanized areas that serve 1,000 people or more and fewer than 10,000 people may be waived if the following requirements are met:

1. Where the small MS4 discharges any pollutants of concern that have been identified as a cause of an impairment of any waterbody to which the MS4 discharges, the department has determined that stormwater controls are not needed based on a wasteload allocation that is part of an EPA-approved TMDL that addresses the pollutants of concern.

2. Where the small MS4 discharges any pollutants of concern to an unimpaired waterbody or to a waterbody for which a TMDL has not been approved, the department has determined that stormwater controls are not needed based on an analysis equivalent to a TMDL that determines sources and allocations for the pollutants of concern. The pollutants of concern are BOD, sediment or a parameter that addresses sediment, pathogens, or oil and grease.

3. The department has determined that future discharges from the small MS4 do not have the potential to result in exceedances of WQS, including impairments or other significant water quality impacts.

(2) Permit coverage for small MS4s located in urbanized areas that serve fewer than 1,000 people may be waived if the following requirements are met:

1. Where the small MS4 discharges any pollutants of concern that have been identified as a cause of an impairment of any waterbody to which the MS4 discharges, the department has determined that stormwater controls are not needed based on a wasteload allocation that is a part of an EPA-approved TMDL that addresses the pollutants of concern.

2. The system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated under this rule.

(3) Permit coverage for small MS4s located outside of urbanized areas that serve 10,000 people or more where the average population density is 1,000 people/square mile or more may be waived if the MS4 is not discharging pollutants that are the cause of an impairment of any waterbody to which the MS4 discharges.

(4) Should conditions under which a waiver was granted change, the waiver may be rescinded by the department and permit coverage may be required.

567—60.12(455B) Transfer of title and owner or operator address change.

60.12(1) *Transfer.* If title to any DS or part thereof for which a permit has been issued under this chapter is transferred, the new owner or owners shall be subject to all terms and conditions of the permit. Whenever title to a DS or part thereof is changed, the department shall be notified in writing of such change within 30 days of the occurrence. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notification of the department of the transfer of title.

60.12(2) *Address change.* Whenever the address of the owner is changed, the department shall be notified in writing within 30 days of the address change.

Rules 567—60.3(455B) through 567—60.12(455B) are intended to implement Iowa Code section 455B.173.

567—60.13(455B) General permits (GPs) issued by the department. The following is a list of GPs adopted by the department through the Administrative Procedure Act, Iowa Code chapter 17A, and the term of each permit.

60.13(1) “Storm Water Discharge Associated with Industrial Activity,” NPDES General Permit No. 1, effective March 1, 2023, to February 29, 2028.

60.13(2) “Storm Water Discharge Associated with Industrial Activity for Construction Activities,” NPDES General Permit No. 2, effective March 1, 2023, to February 29, 2028.

60.13(3) “Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants, and Construction Sand and Gravel Facilities,” NPDES General Permit No. 3, effective March 1, 2023, to February 29, 2028.

60.13(4) “Discharge from Private Sewage Disposal Systems,” NPDES General Permit No. 4, effective March 1, 2023, to February 29, 2028.

60.13(5) “Discharge from Mining and Processing Facilities,” NPDES General Permit No. 5, effective July 1, 2023, to June 30, 2028.

60.13(6) “Discharge Associated with Well Construction Activities,” NPDES General Permit No. 6, effective July 1, 2023, to June 30, 2028.

60.13(7) “Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States from the Application of Pesticides,” NPDES General Permit No. 7, effective July 1, 2023, to June 30, 2028.

60.13(8) “Discharge from Hydrostatic Testing, Tank Ballasting and Water Lines,” NPDES General Permit No. 8, effective July 1, 2023, to June 30, 2028.

60.13(9) “Discharge from Dewatering and Residential Geothermal Systems,” NPDES General Permit No. 9, effective July 1, 2023, to June 30, 2028.

567—60.14(455B) Fees.

60.14(1) *Fee types.*

a. Application and NOI fees.

(1) For individual nonstormwater NPDES and operation permits, an application fee must be submitted with the application as specified in this rule.

(2) For authorization under GPs Nos. 1, 2, 3 and 5, an applicant has the option of paying an annual permit fee or a multiyear permit fee when the NOI is submitted as specified in this rule.

(3) For MS4 permits and individual stormwater permits, a one-time, multiyear permit fee must be submitted at the time of application as specified in this rule.

(4) If a facility needs coverage under more than one NPDES or operation permit, fees for each permit must be submitted appropriately.

b. Annual fees. Certain individual nonstormwater facilities covered by NPDES and operation permits must submit annual fees on a yearly basis as specified in this rule.

c. Fees are nontransferable. Failure to submit the appropriate fee at the time of application renders the application incomplete, and the department shall suspend application processing until the fee is received. Failure to submit the appropriate annual fee may result in permit revocation or suspension as noted in 60.3(6).

60.14(2) Fee payment. Fees shall be paid by check, credit card, electronic payment, or money order made payable to the “Iowa Department of Natural Resources.” For facilities needing coverage under more than one permit (e.g., general, individual stormwater, individual nonstormwater), separate payments shall be made according to the fee schedule in this rule.

60.14(3) Fee schedule. The following fees have been adopted:

a. GP fees. No fees shall be assessed for coverage under GPs not listed in this paragraph. The following fees are applicable to the described GPs:

(1) Storm Water Discharges Associated with Industrial Activity, NPDES General Permit No. 1; Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES General Permit No. 2; and Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, and Rock Crushing Plants, NPDES General Permit No. 3.

Annual permit fee		\$175 (per year)
	or	
Five-year permit fee		\$700
Four-year permit fee		\$525
Three-year permit fee		\$350

All fees are to be submitted with the NOI.

(2) Discharge from Mining and Processing Facilities, NPDES General Permit No. 5.

Annual permit fee		\$125 (per year)
	or	
Five-year permit fee		\$500
Four-year permit fee		\$400
Three-year permit fee		\$300

New facilities seeking GP No. 5 coverage shall submit fees with the NOI. Maximum coverage is for five years. Coverage may also be obtained for four years, three years, or one year as shown in the fee schedule above. Existing facilities shall submit annual fees by August 30 of every year unless a multiyear fee payment was received in an earlier year. In the event a facility is no longer eligible to be covered under GP No. 5, the remainder of the fees previously paid by the facility shall be applied toward its individual permit fees.

b. Individual NPDES and operation permit fees. The following fees are applicable for the described individual permits:

(1) For individual stormwater permits, the following fees are due at the time of application, in accordance with whether or not the discharge will reach an OIW identified in the “Iowa Antidegradation Implementation Procedure” (incorporated by reference in 60.7(2)“d”(4)), as follows:

1. Where the discharge will not reach an OIW: a five-year permit fee of \$1,250.
2. Where the discharge will reach an OIW: a two-year permit fee of \$500.

(2) For permits that authorize the discharge of only stormwater from MS4s and any allowable nonstormwater, a five-year permit fee of \$1,250 must accompany the application.

(3) For individual nonstormwater NPDES and operation permits, a single application fee of \$85 as established in Iowa Code section 455B.197 is due at the time of a new application, renewal application, or amendment application.

1. The \$1,250 fee in 60.14(3)“b”(1) and (2) is not required for individual nonstormwater permits that authorize stormwater discharges along with other wastewater discharges.

2. Before an approved amendment request submitted by a facility holding a nonstormwater NPDES or operation permit can be processed by the department, the \$85 fee must be submitted, except when an amendment is initiated by the director, when the requested amendment will correct an error in the permit, when the amendment is for a DC compliance schedule or the Iowa nutrient reduction strategy, or when there is a transfer of title or change in the address of the owner as noted in rule 567—60.12(455B).

(4) For individual nonstormwater NPDES and operation permits, the following annual fees as established in Iowa Code section 455B.197(3) are due by August 30 of each year:

1. Major municipal facility: \$1,275.
2. Minor municipal facility: \$210. For a city with a population of 250 or less, the maximum fee shall be \$210 regardless of how many individual nonstormwater NPDES permits the city holds.
3. Semipublic facility: \$340.
4. Major industrial facility: \$3,400.
5. Minor industrial facility: \$300.
6. Facilities that hold an operation permit: \$170.
7. Animal feeding operations covered by a nonstormwater NPDES permit: \$340.

(5) For a municipal water treatment facility with an individual nonstormwater NPDES permit, no fees shall be assessed.

(6) For a new facility covered by an individual nonstormwater NPDES or operating permit, a prorated annual fee, calculated by taking the annual fee amount multiplied by the number of months remaining before the next annual fee due date divided by 12, is due 30 days after the new permit is issued.

60.14(4) Fee refunds.

a. Individual and general permit application, permit, and annual fees may be refunded, completely or in part, at the director’s discretion. Permittees who wish to receive fee refunds should notify the department electronically or in writing. Fees may be refunded under various circumstances, including but not limited to:

- (1) Submission of a duplicate fee;
- (2) Overpayment of a fee;
- (3) A fee was submitted but is not required; or
- (4) The department returns an application to the applicant without decision.

b. Fees shall not be refunded under any of the following conditions:

- (1) If a permit or permit coverage is suspended, revoked, or modified, or if an activity is discontinued or ceased;
- (2) If a permit is amended; or
- (3) If a permit application is withdrawn by the applicant or denied by the department pursuant to 60.5(1).

This rule is intended to implement Iowa Code section 455B.197.

567—60.15(455B) Nutrient reduction exchange. The department shall maintain a registry of nonpoint source nutrient reduction practices installed by permittees. Practices listed in the registry may be eligible for future regulatory incentives.

567—60.16(455B) Validity of rules and applicability.

60.16(1) Validity. If any section, paragraph, sentence, clause, phrase or word of these rules, or any part thereof, be declared unconstitutional or invalid for any reason, the remainder of said rules shall not be affected thereby and shall remain in full force and effect.

60.16(2) *Applicability.* This chapter shall apply to all waste DSs treating or intending to treat sewage, industrial waste, or other waste except waste resulting from livestock or poultry operations. All livestock and poultry operations constituting animal feeding operations as defined in 567—Chapter 65 shall be governed by the requirements in 567—Chapter 65. However, the provisions of this chapter concerning NPDES permits that relate to notice and public participation, permit terms and conditions, permit reissuance, and monitoring, reporting and recordkeeping activities shall apply to animal feeding operations that are required to apply for and obtain an NPDES permit to the extent that such requirements are not inconsistent with 567—Chapter 65.

These rules are intended to implement Iowa Code chapter 455B, subchapter III, part 1.

ITEM 2. Rescind and reserve **567—Chapter 64.**

ITEM 3. Rescind and reserve **567—Chapter 66.**