

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

**Proposing rulemaking related to clean water state revolving fund
and providing an opportunity for public comment**

The Environmental Protection Commission (Commission) hereby proposes to rescind Chapter 90, “Scope of Title—Definitions—Forms”; to adopt new Chapter 90, “Clean Water State Revolving Fund”; and to rescind Chapter 91, “Criteria for Rating and Ranking Projects for the Water Pollution Control State Revolving Fund,” Chapter 92, “Clean Water State Revolving Fund,” and Chapter 93, “Nonpoint Source Pollution Control Set-Aside Programs,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 455B.299.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 455B.299 and the Clean Water Act (33 U.S.C. §1251 et seq.).

Purpose and Summary

Proposed Chapter 90 combines four existing chapters (specifically, Chapters 90, 91, 92, and 93) that govern the Clean Water State Revolving Fund (CWSRF) into one. Chapters 91, 92, and 93 are proposed to be rescinded.

Proposed Chapter 90 now provides the definitions, forms, general project and program administration rules, criteria for Intended Use Plan content and publication, criteria for ranking water pollution control projects for all CWSRF programs, and criteria for nonpoint source project program eligibility.

These four chapters were reviewed and edited consistent with Executive Order 10. Combining them will (1) consolidate and clarify redundant information provided in the statutory authority, purpose, scope of title and general policy sections of each chapter; (2) delete unused definitions; (3) update or delete out-of-date process descriptions; and (4) consolidate all rules and administrative processes associated with the CWSRF nonpoint program into one chapter.

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 of Natural Resources (Department) no later than 4:30 p.m. on February 7, 2025. Comments should be directed to:

Theresa Enright
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: theresa.enright@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 SRF-pc@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 SRF-pc@dnr.iowa.gov.

Public Hearing

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

February 5, 2025 9 to 10 a.m.	Virtual meeting A meeting registration link will be provided prior to the hearing
February 6, 2025 10 to 11 a.m.	Virtual meeting A meeting registration link will be provided prior to the hearing

The public hearings will be held virtually via Zoom. 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 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 SRF-pc@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.725.0498 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 SRF-pc@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.725.0498 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 90 and adopt the following **new** chapter in lieu thereof:

TITLE VII
WATER POLLUTION CONTROL STATE REVOLVING FUND
CHAPTER 90
CLEAN WATER STATE REVOLVING FUND

567—90.1(455B) Statutory authority, purpose, and general policy.

90.1(1) *Statutory authority.* The department of natural resources and the Iowa finance authority are jointly designated to administer the clean water state revolving fund (CWSRF). Authority to administer this fund is provided by Iowa Code sections 455B.291 through 455B.299 and the federal CWA. Section 603(c) of Title VI of the CWA allows the use of state revolving funds to assist in the construction of POTWs and WPC projects.

90.1(2) *Purpose.* This chapter provides the definitions, forms, general project and program administration rules, criteria for loan eligibility, and criteria for rating and ranking WPC projects for the CWSRF point source and NPS pollution control programs. The selection criteria, methods for selecting projects or programs for loans, and the extent to which these policies must be described in the IUP are required by 40 CFR §35.3150.

90.1(3) *Administration.* The department, in conjunction with the authority, has been delegated the responsibility of administering the CWSRF program described in this chapter and the DWSRF program described in 567—Chapter 44. The director may coordinate with the authority under the terms of an interagency agreement entered into pursuant to Iowa Code chapter 28E.

90.1(4) *Program funding.* The commission shall set funding targets for point source and NPS activities and adjust the fundable project list to ensure that the short- and long-term goals of the IUP are achieved. It is the intent of the commission to reserve a portion of the CWSRF funds to provide for the purpose of making low-interest loans for NPS WPC projects. The amount for each NPS program will be determined in the IUP. Loans of up to 100 percent of the eligible costs of WPC projects will be made available pursuant to these rules, rules established by the authority, and Title VI of the CWA.

90.1(5) *State capitalization grant.* The CWA authorizes the EPA to offer capitalization grants to states for use in a revolving fund loan program. A portion of the capitalization grant, as allowed by Title VI of the CWA, will be used to administer the CWSRF program.

90.1(6) *Federal funding coordination.* Projects may use CWSRF funds to complete the financing of projects partially funded by other federal programs.

90.1(7) *Project determination.* A project must comply with this chapter to be eligible for a CWSRF loan. The department shall use a priority rating system to rate eligible projects for funding. An eligible project may be either a point source project or an NPS project or activity. CWSRF assistance will be available to projects in priority order. Additional rating criteria for NPS activities will be established in the IUP and circumstances for use are described in 90.14(1). Projects or activities qualifying for CWSRF assistance shall be identified in the IUP on the state PPL, developed pursuant to this chapter, and only those projects or activities may be considered fundable. WPC projects that provide the best water quality improvements or protection based on the rating system and are ready to proceed are to be funded.

90.1(8) *Decisions.* Department decisions are final unless the recipient files a written petition for review with the director. The petition must be addressed to the director and clearly state the decision in question and the basis for the requested review. The recipient has the right to appeal a decision to the commission pursuant to Iowa Code chapter 17A or to the state court.

90.1(9) *Public participation.* The public has an opportunity annually, and quarterly as needed, to comment on both the fundable list and the short- and long-term goals of the IUP.

567—90.2(455B) Definitions, abbreviations, and forms.

90.2(1) *Definitions.* In addition to the definitions and references in 567—Chapter 40, the following definitions are applicable to this chapter:

“*Comprehensive Nutrient Management Plan*” or “*CNMP*” means a conservation system that is unique to an AFO. A CNMP is a grouping of conservation practices and management activities which, when implemented as part of a conservation system, will help to ensure that both production and natural resource protection goals are achieved. A CNMP incorporates practices to use animal manure and organic by-products as beneficial resources. A CNMP addresses natural resource concerns dealing with soil erosion, manure, and organic by-products and their potential impacts on all natural resources including water and air quality, which may derive from an AFO. A CNMP is developed to assist an AFO owner/operator in meeting all applicable local, tribal, state, and federal water quality goals or regulations. For nutrient-impaired stream segments or water bodies, additional management activities or

conservation practices may be required by local, tribal, state, or federal water quality goals or regulations.

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

“*CWSRF*” means the clean water state revolving fund, also known as the water pollution control works revolving loan fund as defined in Iowa Code section 455B.291.

“*Eligible entity*” means a person eligible under the provisions of the CWA, the SDWA, and the commission rules to receive loans for projects from either of the revolving loan funds.

“*Eligible project*” means, in the context of WPC facilities, the acquisition, construction, reconstruction, extension, equipping, improvement, or rehabilitation of any works and facilities useful for the collection, treatment and disposal of sewage and industrial waste in a sanitary manner including treatment works as defined in Section 212 of the CWA, and including construction and undertaking of NPS WPC projects and related development activities authorized under the CWA. Projects for the primary purpose of speculative growth are considered ineligible.

“*Energy conservation*” means renewable energy construction projects such as wind, solar, etc.

“*Facility plan*” means a report certified by a professional engineer licensed to practice in Iowa and prepared in conformance with Chapter 1 of the IWFDS. This report shall include an evaluation of the facility, identify problems, provide alternatives and a recommended solution, outline financing options and project timeline, and address other applicable issues ensuring the viability of the project and the facility to meet project goals and discharge requirements.

“*Fiscal year*” means the state fiscal year starting July 1 and ending June 30.

“*Intended use plan*” or “*IUP*” means a plan identifying the intended uses of funds available for loans in the WPC state revolving fund for each fiscal year as described in Section 606(c) of the CWA.

“*IWFDS*” means the Iowa Wastewater Facilities Design Standards, effective [month] 2025, located on the department’s website at www.iowadnr.gov.

“*Municipality*” means the city, county, sanitary district, state agency, or other governmental corporation or body empowered to provide sewage collection and treatment services, or any combination of two or more such governmental bodies, or corporations acting jointly, in connection with a project.

“*New AFO*” means an animal feeding operation that meets at least one of the following criteria:

1. It was constructed after January 1, 2006.
2. Animal production at the site was resumed after being discontinued for at least 12 months.
3. Production facilities were altered in order to house a different animal species than was produced previously.

“*Nontraditional project*” means a project whose primary purpose is not to protect or improve water quality. A secondary purpose of the project does include water quality improvement or protection.

“*NPS*” means nonpoint source pollution which does not have a single point of origin and/or is not introduced into a receiving stream from a specific outlet. NPS pollution sources are diffuse and may be a result of runoff, precipitation, atmospheric deposition, drainage, seepage, or hydrological modification.

“*POTW*” means publicly owned treatment works as defined in Section 212 of the CWA.

“*Private sewage disposal system*” or “*PSDS*” is defined in 567—subrule 69.1(2). For the purposes of this chapter, “*PSDS*” means the same as “onsite wastewater treatment system” or “onsite system.”

“*Project category*” means identified categories of projects that comprise mutually exclusive classes of facilities. Each category and the types of projects included in the category are listed below.

1. Category I. Secondary treatment—wastewater treatment costs necessary to meet the minimum level of treatment defined by the CWA.
2. Category II. Advanced treatment—wastewater treatment costs necessary to attain a level of treatment that is more stringent than standard secondary treatment or to produce a significant reduction in nonconventional or toxic pollutants present in the treated wastewater.
3. Category III–A. Infiltration/inflow (I/I) correction—costs for correction of sewer system I/I problems. Infiltration includes controlling the penetration of water into a sanitary or combined sewer system from the ground through defective pipes or manholes. Inflow includes controlling the penetration

of water into the system from drains, storm sewers, and other improper entries. This category also includes costs for preliminary sewer system analysis and detailed sewer system evaluation surveys.

4. Category III–B. Sewer replacement/rehabilitation—costs for the reinforcement or reconstruction of structurally deteriorating sanitary or combined sewers. The corrective actions must be necessary to maintain the structural integrity of the system. Rehabilitation is considered to be extensive repair of existing sewers (collector and interceptor) beyond the scope of normal maintenance programs, when sewers are collapsing or structurally unsound. “Replacement” is the construction of parallel sewer or sewers that perform the function of existing sewers where existing sewers are to be abandoned. Sewer work associated with I/I elimination is considered a Category III–A need. Relief sewers do not fall within this category since they are newly constructed sewers with a function beyond that of existing sewers.

5. Category IV–A. New collector sewers and appurtenances—costs of new pipes used to collect and carry wastewater from a sanitary or industrial wastewater source to an interceptor sewer that will convey the wastewater to a treatment facility. The collection system is considered as those public sewers which have a principal purpose of providing service for individual users in existing residential and commercially developed areas to enable collection of wastewater in a centralized system. Pumping stations, force mains, and other related appurtenant structures are considered part of the collection system if their primary mechanical function relates to the collection system.

6. Category IV–B. New interceptor sewers and appurtenances—costs for constructing new interceptor sewers and pumping stations to convey wastewater from collection sewer systems to a treatment facility or to another interceptor sewer. Relief sewers are included in this category where additional sewer capacity is required to accommodate all wastewater in a separate sewer system to ensure that it is transported to a wastewater treatment plant for adequate treatment, and to prevent public health hazards within the service area. Relief sewers may include parallel sewers. Pumping stations and force mains and other related appurtenant structures are considered in this category if their primary mechanical function relates to the interceptor’s principal purpose. Equalization basins are included in this category.

7. Category V. Combined sewer overflow (CSO) correction—costs to prevent or control the periodic discharges of mixed stormwater and untreated wastewater (CSOs) that occur when the capacity of a sewer system is exceeded during a wet weather event. This category does not include costs for overflow control allocated to flood control, drainage improvement, or the treatment or control of stormwater in separate storm systems.

8. Stormwater management program categories. The following categories include costs to address the described stormwater management program activities:

- Category VI. Gray infrastructure—costs to plan and implement structural and nonstructural measures to control the runoff of water resulting from precipitation (stormwater) with the purpose of improving and protecting water quality. This category includes controlling stormwater pollution from diffuse sources by reducing pollutants in runoff from commercial and residential areas served by the storm sewer, detecting and removing illicit discharges and improper disposal into storm sewers, monitoring pollutants in runoff from industrial facilities that flow into municipal separate storm sewer systems, and reducing pollutants in construction site runoff discharged to municipal separate storm sewers.

- Category VI–A. Stormwater conveyance infrastructure—planning, design, and construction costs associated with stormwater conveyances including pipes, inlets, roadside ditches, and other similar mechanisms. These costs will be eligible if they are combined with practices described in Category VI–B or VI–C in order to achieve water quality protection or improvement.

- Category VI–B. Stormwater treatment systems—planning, design, and construction costs associated with stormwater treatment including wet ponds, dry ponds, manufactured devices, and other similar means. These costs will be eligible if these activities are implemented in order to achieve water quality protection or improvement.

- Category VI–C. Green infrastructure—planning, design, and construction costs associated with low-impact development and green infrastructure, such as bioretention, constructed wetlands, permeable

pavement, rain gardens, green roofs, cisterns, rain barrels, vegetated swales, or restoration of riparian buffers and flood plains. Projects in this category can be both publicly owned and privately owned.

- Category VI–D. General stormwater management—costs associated with implementing a stormwater management program, such as geographic information systems or tracking systems, equipment such as street sweepers and vacuum trucks, stormwater education program startup costs, and stormwater management plan development.

9. NPS project categories. The following categories include costs to address NPS project categories with certain activities, as described:

- Category VII–A. NPS control: agriculture (cropland)—costs associated with agricultural activities related to croplands, such as plowing, pesticide spraying, irrigation, fertilizing, planting, and harvesting.

- Category VII–B. NPS control: agriculture (animals)—costs associated with agricultural activities related to animal production, such as confined animal facilities, open feedlots, and grazing.

- Category VII–C. NPS control: silviculture—costs associated with forestry activities such as removal of streamside vegetation, road construction and use, timber harvesting, and mechanical preparation for tree planting.

- Category VII–E. NPS control: groundwater protection (unknown source)—costs associated with groundwater protection needs such as wellhead and recharge protection activities.

- Category VII–F. NPS control: marinas—costs associated with boating and marinas, such as poorly flushed waterways, boat maintenance activities, sewage discharge from boats, and the physical alteration of shoreline, wetlands, and aquatic habitat during the construction and operation of marinas.

- Category VII–G. NPS control: resource extraction—costs associated with mining and quarrying activities.

- Category VII–H. NPS control: brownfields—costs associated with abandoned industrial sites that might have residual contamination (brownfields).

- Category VII–I. NPS control: storage tanks—costs associated with tanks designed to hold gasoline, other petroleum products, or chemicals. The tanks may be located above or below ground level.

- Category VII–J. NPS control: landfills—costs associated with sanitary landfills.

- Category VII–K. NPS control: hydromodification—costs to address the degradation of water resources as a result of altering the hydrological characteristics of noncoastal waters, including channelization and channel modification, dam, and streambank and shoreline erosion. Work involving wetland or riparian area protection or restoration is included in this category.

10. Category X. Recycled water distribution—costs associated with conveyance of treated wastewater that is being reused (recycled water), including associated rehabilitation/replacement needs.

11. Category XII. Decentralized sewage treatment—costs associated with the rehabilitation or replacement of PSDSs or clustered (community) systems. This category also includes the treatment portion of other decentralized sewage disposal technologies.

“Project completion” means the date the final loan certificate is signed by the recipient.

“Sponsor project” is defined in Iowa Code section 455B.199.

“State project priority list” or *“PPL”* means the list of projects in priority order that may qualify for CWSRF loan assistance.

90.2(2) Abbreviations. In addition to the abbreviations in 567—Chapter 40, the following abbreviations are applicable to this chapter.

Abbreviation	Meaning
AFO	animal feeding operation
BMP	best management practice
EPA	U.S. Environmental Protection Agency
GNS	general nonpoint source
LWQP	livestock water quality linked-deposit program
LWWP	local water protection project linked-deposit program

Abbreviation	Meaning
MMP	manure management plan
NRCS	USDA Natural Resource Conservation Service
NMP	nutrient management plan
OSWAP	onsite wastewater assistance linked-deposit program
SWCD	soil and water conservation district
USDA	U.S. Department of Agriculture
WPC	water pollution control

90.2(3) Forms. All CWSRF forms may be obtained from the department's state revolving fund section and may be downloaded from www.iowasrf.com. Recipients of assistance shall comply with the applicable department rules.

567—90.3(455B) IUP preparation.

90.3(1) Development. The department shall prepare an IUP at least annually and on a quarterly basis as needed. The IUP will be subject to public participation and approved by the commission.

90.3(2) Notification. A public hearing process is included in the IUP adoption process to provide opportunity for public participation. A notice is published that explains the purpose of the IUP and how additional information may be obtained. All materials relating to the IUP will be posted at www.iowasrf.com.

90.3(3) Comments. Comments regarding the proposed IUP will be accepted during the notice period, at the public hearing, and in writing. After evaluation of all pertinent comments, the IUP will be revised, if necessary, and recommended for commission approval. Subsequent approval by the commission will establish the IUP to be used for loan assistance.

567—90.4(455B) IUP contents. The IUP will identify the anticipated uses of loan funds available for that fiscal year and will include the following information:

90.4(1) State PPL. The state PPL contains the projects eligible for CWSRF direct loans. The PPL includes projects scheduled for loans from funds available during the fiscal year. Projects will be considered in priority order for placement on the fundable list.

a. The department will consider the following in developing the list of fundable projects for the IUP:

- (1) How the project conforms to the short- and long-term goals of the CWSRF;
- (2) The priority rating of the POTW project;
- (3) Whether a POTW project will be ready to proceed on a schedule consistent with time requirements for outlay of funds;
- (4) Whether the proposed project addresses the need upon which the eligible entity's priority is based;
- (5) The funds available, department priorities, and the department's administrative capacity; and
- (6) The applicant's conformance to process guidelines provided by the department.

b. The PPL will be reviewed at least annually or quarterly as needed to update schedules and project cost estimates.

90.4(2) Priority for loan assistance. A fundable project must be technically and administratively complete. A community is responsible for complying with the technical procedures for facility planning and preparation of plans and specifications, including department approval of those documents.

90.4(3) Notification of revisions. The department will notify, in writing, all communities that are removed from or placed on an approved fundable list based on revisions.

90.4(4) Special considerations. Exemptions to the point source rating criteria may be considered by the department, and funding variances may be granted by the commission for projects that have unique or unusual circumstances but that do not logically fit into the criteria. The commission may grant interest rate reductions or other favorable loan incentives to applicants that sponsor a project that improves the quality of the water in the watershed where a city water or wastewater facility is located.

90.4(5) *Additional contents.* The IUP will also include:

- a. The long- and short-term goals of the CWSRF;
- b. Information on the types of activities to be supported by the CWSRF. The IUP will identify requests for planning and design loans and funds to be directed to NPS programs;
- c. Assurances and specific proposals on how the state intends to meet the requirements of the operating agreement between the state of Iowa and the EPA;
- d. Loan interest rates and terms, interest rates and terms for linked deposit programs, and loan origination fees and servicing fees; and
- e. The method to be used by the department if the IUP is amended.

567—90.5(455B) Point source project procedures.

90.5(1) *Application forms.* An applicant shall complete the application for placement on the IUP, provide documentation on the project, and submit the application package to the department. Forms may be downloaded from www.iowasrf.com.

90.5(2) *General requirements.* The following items must be included in a CWSRF application for point source projects:

- a. A facility plan that conforms to the IWFDS and is certified by a professional engineer licensed to practice in Iowa;
- b. A schedule for submission of plans and specifications for the project; and
- c. A project construction schedule.

90.5(3) *Timing.*

a. POTW project applications received by the department for eligible projects will be scored using the rating criteria in 567—90.7(455B) and will be placed on the PPL. Applications may be submitted on an ongoing basis and will be reviewed in accordance with the schedule in the IUP.

b. Applications received after the IUP is drafted will not be placed on the PPL but will be considered for loan assistance when the next IUP is prepared.

90.5(4) *Project initiation conference.* The department may require an applicant or their representative to meet with the department. If required, the eligible applicant's official representative (and usually the applicant's consultant) will meet with the department to discuss:

- a. CWSRF program policies, procedures, and guidelines;
- b. Allowable costs;
- c. Wastewater treatment alternatives and technologies;
- d. Environmental impacts and review considerations;
- e. Public participation;
- f. Scheduling; and
- g. Other information as needed.

90.5(5) *Review criteria for point source projects.* The department shall review CWSRF applications from eligible applicants and verify the following items:

- a. The project is on the PPL;
- b. The applicant has prepared an adequate facility plan report;
- c. The project will be in conformance with any applicable areawide water quality management plans;
- d. The applicant has adopted or will adopt an acceptable user charge system;
- e. The applicant has demonstrated its ability to provide the necessary legal, institutional, managerial and financial capability to ensure adequate construction, operation and maintenance. If the department has reasonable grounds to believe that an applicant's wastewater treatment facilities are not viable, the department may require the applicant to submit management and financial plans as prescribed in Iowa Code section 455B.174; and
- f. The applicant has provided an acceptable project schedule for project initiation and completion.

90.5(6) *Allowable and unallowable costs.* Allowable costs shall be limited to those eligible costs deemed necessary, reasonable, and directly related to the efficient completion of the project. Unallowable costs include, but are not limited to, the following:

- a. Cost of service lines and in-house plumbing;

- b. Administrative costs of the recipient;
- c. Purchase of vehicles and tools;
- d. Land purchase and easement or rights-of-way costs, except as authorized under the CWA;
- e. Pretreatment program development costs, unless required by federal regulations; and
- f. Operation and maintenance costs.

90.5(7) *Audit and inspection.* The recipient shall provide access at all times for the department, the authority, the state auditor, and the EPA Office of the Inspector General to all project records and documents for inspection and audit purposes for a period of three years after the date of last loan payment. The same access to the project site(s) shall be provided for inspection purposes.

567—90.6(455B) Point source project requirements. All wastewater treatment system projects receiving assistance from the CWSRF which entered into binding loan commitments on or after October 1, 1994, and did not initiate construction of the projects in whole or in part prior to October 1, 1994, shall meet the following requirements:

90.6(1) *Planning.* The planning phase of a project consists of those necessary plans and studies that directly relate to a facility's need to comply with enforceable requirements of the CWA and state statutes. This phase consists of a systematic evaluation of feasible alternatives considering the unique demographic, topographic, hydrologic, and institutional characteristics of the planning area. Facilities planning must support selection of the proposed alternative. The planning phase must include the following:

a. *Facility plan.* The facility plan must contain a description of the proposed project and the complete system of which it is a part. The facility plan must be prepared in accordance with Chapter 1 of the IWFDS and meet the applicable provisions of this subrule.

b. *Environmental review.* Loan recipients shall conduct environmental review of projects using procedures in 40 CFR Part 6, September 19, 2007, as a part of facility planning. An applicant should work with the department as early as possible in the facilities planning process to determine if the project qualifies for a categorical exclusion from 40 CFR Part 6 or whether a finding of no significant impact is required. In conjunction with the facility planning process as described in 40 CFR §35.2030(c), December 19, 2014, a potential applicant may request formal determination under 40 CFR Part 6. All of 40 CFR Part 6, September 19, 2007, pertaining to Procedures for Implementing the Requirements of the Council on Environmental Quality of the National Environmental Policy Act, is hereby adopted by reference and incorporated herein. However, all references to the EPA as performing acts or reviews shall be substituted with references to the department for the purposes of this chapter.

90.6(2) *Point source project design and construction.* The project design and construction phase must include all of the following:

a. *Recipient capability.* The recipient must demonstrate to the department that it has the legal, institutional, managerial, and financial capability to ensure adequate construction, operation and maintenance of treatment works.

b. *Disadvantaged business enterprise (DBE).* The recipient must comply with the requirements of DBE participation found in 40 CFR Part 33, May 19, 2022.

c. *Site.* When it is necessary to acquire real property as part of the project and within the project period, the recipient may be required to submit documentation of the acquisition, including the legal description, the date the property was acquired, and an appraisal report from a qualified appraiser. If required, submittal to the department shall occur prior to contract award.

d. *Project changes.* Prior to the final loan disbursement, the recipient must submit to the department for approval all modifications to the project, including changes to the plans and specifications and changes in the contract (change orders). The recipient is responsible for any costs or actions necessary should the changes be implemented prior to departmental review and subsequently found to be unapprovable.

e. *State inspections.* Department personnel shall have the right to examine all construction aspects of the project, including materials and equipment delivered and stored on site for use on the project.

567—90.7(455B) Point source project priority rating system. The rating criteria consider the use and classification of the receiving waters, water quality of the receiving waters, groundwater protection, project category, project purpose, and a tiebreaker. Priority ranking for POTW projects shall be based on the total points awarded for all the categories; the greater the total number of points, the higher the ranking. For POTW projects, the ranking will be done when the IUP is prepared. The tiebreaker category will be used when necessary.

90.7(1) Use classification of receiving waters. This category addresses the receiving water that is impacted or potentially impacted by the existing situation and that would be improved or protected by the proposed project. Points for sludge stabilization, sewers, and lift station projects are based on the designated use of the waters that receive or could receive the effluent discharge. Points will be awarded and be cumulative for all designated use classifications of the receiving water.

Use and Classification of Receiving Waters	Points
Outstanding Iowa waters	45
Class A1	50
Class A2	45
Class A3	50
Class C	40
Class B (CW1)	50
Class B (CW2)	30
Class B (WW1)	30
Class HH	30
Class B (WW2)	25
Class B (WW3)	20
Class B (LW)	35

90.7(2) Water quality of receiving waters. This category addresses the water quality in the receiving stream and whether or not the water has been designated as impaired for one or more uses. Points will be awarded for both A and B in the table below and then totaled for this category.

a. Bodies of water that are impaired by pollutants and probable pollutant source categories for the impairments are identified in Section 303(d) of the CWA list of waters in the integrated report of impaired waters status. Projects primarily impacting these waters will be awarded points if the water body that receives or could receive the wastewater discharge is included on the Section 303(d) list and the probable pollutant source is a point source.

b. Waters are also identified in Section 305(b) of the CWA report on their use attainment status. Projects primarily impacting these waters are awarded points depending on the use impairment identified for the water body that receives or could receive the wastewater discharge. If no use impairment is identified, indicating the water was not assessed, the partially supported status points will be awarded.

Indication of Water Quality	Points
A. Integrated Report overall category (score only overall category)	
4a, 4b, or 5a	15
5b or 5p	10
4c or 4d	5
B. Use support level of designated uses (score all applicable uses) Class A, Class B, Class C, Class HH	
Fully supported	5
Not supported	15
Not assessed	7

90.7(3) *Protection of groundwater resources.* This category considers the use of the aquifer affected by the project.

Groundwater Category	Points
Wellhead protection area for public water supply	40
Unconfined aquifer that serves as a drinking water source	20
Other groundwater protection	10

90.7(4) *Project category.* For this category, points are based on the project's type and its relative impact on public health and the environment. Points will be awarded for the primary project category.


Centralized Wastewater Treatment Project Category	Points
Category I. Secondary treatment	40
Category II. Advanced treatment	50
Category III–A. Infiltration/inflow correction	30
Category III–B. Sewer replacement/rehabilitation	30
Category IV–A. New collector sewers and appurtenances	10
Category IV–B. New interceptor sewers and appurtenances	20
Category V. CSO correction	40
Stormwater Project Category	
Category VI–A. Gray infrastructure—only projects where sanitary sewer or treatment require it	30
Conservation Project Category	
Category X. Water conservation (water reuse)	10
Other Category	
Energy conservation (renewable energy)—solar, wind, etc.	10
Refinance of existing projects that meet CWSRF eligibility criteria	5

90.7(5) *Project purpose.* For this category, points are based on the project's purpose and expected outcome. Points will be awarded only for the primary purpose.

Project Purpose	Points
Allows facility to meet new water quality standards	50
Protects or restores the physical, chemical, and biological integrity of water resources at a specific site	50
Reduces the loading of a parameter that has been identified as an impairment to the receiving water or watershed as identified through the total maximum daily load (TMDL) process	40
Provides regional consolidation in wastewater treatment or system management	30
Brings facility into compliance with a National Pollution Discharge Elimination System (NPDES) permit or other administrative or judicial enforcement action as may be required by the department or the EPA	25
Eliminates or remediates a source of groundwater pollution	20
Meets existing or reasonable future needs of the community in order to maintain compliance with an NPDES permit	15
Provides operational reliability improvements, apart from projects addressing compliance and enforcement	10

90.7(6) *Total points.* Total points are calculated using the following formula: Total Points = Use Classification + Water Quality or Groundwater Protection + Project Category + Project Purpose

90.7(7) Tiebreaker. Several projects may receive the same total points on the fundable list. If sufficient loan funds are not available to fund the projects, ties will be broken by determining which project has the highest score in each category in the following order:

Use Classification of Receiving Streams	Highest
Water Quality of Receiving Streams (a+b)	
Groundwater Protection	
Project Category	
Project Purpose	

567—90.8 and 90.9 Reserved.

567—90.10(455B) NPS project procedures—onsite wastewater system assistance linked-deposit program (OSWAP). The purpose of the OSWAP is to assist homeowners to rehabilitate or improve existing PSDSs.

90.10(1) Eligibility conditions and restrictions. Assistance under the OSWAP shall be in the form of low-interest loans made by participating lending institutions through a linked deposit arrangement with the CWSRF.

a. Location restrictions. Assistance is available for the improvement or rehabilitation of PSDSs serving homes that are not connected to a POTW.

b. County eligibility. Assistance shall be provided only for systems located in counties that have an environmental health program that meets the requirements of 567—Chapter 69 for PSDSs. At a minimum, counties shall carry out statutory responsibilities as provided in Iowa Code section 455B.172 and provide for:

- (1) Site evaluations to determine the appropriate design and size of PSDSs prior to permitting and installation.
- (2) Inspection of PSDSs at the time of renovation or construction.
- (3) Assurance of regular system maintenance and monitoring for the life of the loan.

c. Eligible project costs. The amount of assistance available shall be limited to the total costs deemed necessary, reasonable, and directly related to the repair, rehabilitation, or replacement of a PSDS.

d. Applicant eligibility. Assistance is limited to applicants who meet the applicable provisions of 567—Chapter 69 and all other local provisions for the siting and construction of PSDSs.

e. Eligible projects. Assistance can be provided only for the repair, rehabilitation, or replacement of existing PSDSs. Assistance is not available for new housing.

90.10(2) Applying for assistance.

a. Prior to applying for a loan from a participating lending institution, an eligible individual or entity must demonstrate appropriate permitting from the county in which the PSDS is located.

b. Application for assistance shall be made on forms provided by the department or its agent. Forms may be downloaded from www.iowasrf.com.

c. Applications for assistance shall include:

- (1) A description of the type and general specifications of the proposed work;
- (2) An estimate of the population and number of households to be served; and
- (3) A description of the system maintenance and monitoring program.

90.10(3) County review and approval.

a. The county shall review applications to determine if a project meets the applicable provisions of 567—Chapter 69 and all other relevant local provisions for the siting and construction of PSDSs.

b. For projects that meet relevant criteria, the county shall issue a permit or certificate. The county permit or certificate shall be accompanied by a cost estimate.

c. A county may deny an application for noncompliance with applicable state and local criteria. Written notification of the denial shall be provided to the applicant and shall state the reason(s) for denial.

90.10(4) Eligible costs. All costs directly related to the design, permitting, construction, and financing of a PSDS are eligible for loans. Eligible costs include the removal of existing structures, earth moving, or any land purchases directly related to proper wastewater treatment.

90.10(5) Ineligible costs. Costs for additional earthwork, replanting, or any other aesthetic improvements are not eligible. Maintenance or monitoring costs will not be allowed as part of a loan.

90.10(6) Recipient recordkeeping. The loan recipient shall:

- a. Maintain adequate records that document all costs associated with the project;
- b. Provide access to these records to the department, the state auditor, the EPA SRF project manager, and the EPA Office of the Inspector General; and
- c. Retain all project records and documents for inspection and audit purposes for a period of three years from the date of the final loan payment.

90.10(7) Site access. The loan recipient shall:

- a. Provide the department and the administrative authority access to the construction site to verify that the loan was used for the purpose intended and that the constructed works meet applicable state and local environmental requirements and ordinances for PSDSs; and
- b. Provide access to the system for periodic monitoring by the department and administrative authority, at times mutually agreed upon with the system owner, for the duration of the loan.

90.10(8) Priority allocation of funds and IUP. The department shall, in the annual IUP, describe the amount of funding available for loans under the OSWAP for the coming state fiscal year.

90.10(9) Targeted assistance. The department may budget a portion of the annual available funds identified in the IUP for financing PSDSs in targeted areas. Such targeted areas may include impaired watersheds, high-density housing areas, agricultural drainage areas, or other environmentally sensitive or degraded areas where the repair and rehabilitation of PSDSs are needed to preserve and protect water quality. The annual IUP shall specify the need for targeted assistance, the areas covered, and the estimate of funds needed to address the water quality problems.

567—90.11(455B) NPS project procedures—livestock water quality linked-deposit program (LWQP). The purpose of the LWQP is to assist owners of existing AFOs to meet state and federal requirements or to prevent, minimize, or eliminate water pollution.

90.11(1) Eligibility conditions and restrictions. Assistance shall be in the form of low-interest loans made by participating lending institutions through a linked deposit arrangement with the CWSRF.

a. *Eligible project costs.* All costs directly related to the design, permitting, construction, and financing of the WPC facilities are eligible. The amount of assistance available shall be limited to the total costs deemed necessary, reasonable, and directly related to the facilities required to provide WPC as required by the department or to prevent, minimize, or eliminate water pollution.

b. *Applicant eligibility.* Assistance is limited to livestock producers operating AFOs according to federal law. Concentrated AFOs, as defined in 40 CFR §122.23, are not eligible.

(1) Loans will be made only to livestock producers that are operators of record or have legal control of the property containing the AFO for the duration of the loan.

(2) The department has the discretion to deny applications for producers if:

1. The department has issued an administrative order to the producer pursuant to Iowa Code section 455B.175;
2. The department notifies the producer in writing of intent to recommend referral or the commission refers the action to the attorney general pursuant to Iowa Code section 455B.175; or
3. The attorney general has commenced legal proceedings against the producer pursuant to Iowa Code section 455B.112.

c. *Eligible projects.* The WPC facilities considered eligible for assistance include manure storage structures, solids settling basins, composting facilities and equipment, lagoons (including fencing), portions of feeding floors or loafing areas used for waste collection, water and sediment control basins, vegetative filters or buffers, surface water diversion structures, agitation or transfer pumps, dry bedded confinement feeding operation buildings or structures pursuant to Iowa Code chapter 459B when all or part of an open feedlot is replaced, and other practices shown to improve or protect water quality. Replacement AFOs may be eligible where an existing AFO is eliminated to prevent a water quality

impairment or mitigate a documented impairment. Engineering or technical service fees associated with the aforementioned practices are also eligible. A one-time purchase of attachments integral to the manure management system, such as blades, buckets, choppers, or spreaders, may be eligible at the time that an open feedlot is replaced with a dry bedded confinement building.

d. Funding formula.

(1) Loans for water quality projects for facilities being expanded by an increase in the animal unit capacity shall be funded according to the following formula:

Existing animal unit capacity/new animal unit capacity × total eligible project cost × 1.5 = maximum linked deposit amount

Example: 450 AUC / 900 AUC × \$500,000 × 1.5 = \$375,000

Example: 300 AUC / 600 AUC × \$300,000 × 1.5 = \$225,000

Example: 50 AUC / 900 AUC × \$500,000 × 1.5 = \$41,666

(2) If existing areas in open feedlots are kept open where some pens are replaced and the operation is expanded through the addition of a dry bedded confinement feeding operation building, the remaining open lot areas must comply with 567—65.101(459A).

90.11(2) *Applying for assistance.* Application for project approval shall be made on forms provided by the department or its agent. Forms may be downloaded from www.iowasrf.com.

90.11(3) *Project review and approval.*

a. Applications shall be submitted to the local SWCD. The local SWCD will evaluate the application, provide an estimated cost, and certify that the practice is eligible and compatible with state water quality goals.

b. All practices must comply with 567—Chapter 65 and shall be constructed to applicable USDA NRCS standards. NRCS staff or another technical service provider shall attest that the practice will be constructed to these specifications and standards.

90.11(4) *Project duration.* The project is to be maintained, kept in place, or operated as proposed for the life of the loan. If an open lot is closed and replaced with an eligible replacement facility, the department or its agent shall place a restrictive covenant that prohibits the operation of an open feedlot at the replacement site for the life of the loan. The site or portion of the site that may not house animals shall be defined by the local SWCD.

90.11(5) *Manure management plan (MMP) required.* The livestock producer shall have an MMP that meets the requirements of 567—65.17(459), a nutrient management plan (NMP) as defined in 567—65.112(459A), or a comprehensive NMP (CNMP), to be eligible for the loan or, as part of the loan, develop an MMP, NMP, or CNMP.

a. Costs for development of an MMP, NMP, or CNMP are eligible costs.

b. Costs for updating an MMP, NMP, or CNMP are eligible costs if required for the implementation of a water quality project financed through the LWQP.

90.11(6) *Ineligible costs.* Costs for development of a new AFO are ineligible. Other ineligible costs include but are not limited to the following:

a. Costs for the design, permitting, construction, or financing of WPC facilities that would allow an AFO to expand and become a concentrated AFO;

b. Costs for the purchase of land to be used for application of wastewater or manure;

c. Operation and maintenance costs; and

d. Refinancing costs for WPC facilities constructed prior to approval by the department or its agent.

90.11(7) *Recipient recordkeeping.* The loan recipient shall:

a. Maintain adequate records that document all costs associated with the project;

b. Provide access to these records to the department, the state auditor, the EPA SRF project manager, and the EPA Office of the Inspector General; and

c. Retain all project records and documents for inspection and audit purposes for a period of three years from the date of the final loan payment.

90.11(8) *Site access.* The livestock producer shall:

a. Provide the department and its agent access to the construction site to verify that the loan was used for the purpose intended and that the construction work meets the applicable state and federal requirements for AFOs; and

b. Provide the department and its agent periodic access to the AFO, pursuant to the biosecurity requirements in 567—paragraph 65.113(9) “b,” for the duration of the loan to ensure that the constructed facility is being operated and maintained as designed.

567—90.12(455B) NPS project procedures—local water protection project linked-deposit program (LWPP). The purpose of the LWPP is to assist landowners with local water protection projects that will provide water quality improvement or protection.

90.12(1) Eligibility conditions and restrictions. Assistance under the CWSRF shall be in the form of low-interest loans made by participating lending institutions through a linked deposit arrangement with the CWSRF.

a. *Eligible project costs.* The amount of assistance available shall be limited to the total costs deemed necessary, reasonable, and directly related to the practices required to provide water quality improvements.

b. *Applicant eligibility.* Assistance is available to any person who is an owner of record or has legal control over land that needs local water protection projects installed to control runoff of sediments, nutrients, pesticides or other NPS pollutants into waters of the state.

c. *Eligible practices.* The LWPP projects that are considered eligible include, but are not limited to, contour buffer strips, diversion, fence, field border, field windbreak, filter strips, grade stabilization structure, grassed waterway, pasture and hayland planting, planned grazing system, pond, riparian forest and vegetative buffers, sediment basin, terrace, underground outlet with secondary water quality treatment, waste management system, water and sediment control basin, stream bank stabilization and restoration, and other practices that are shown to improve or protect water quality.

90.12(2) Applying for assistance. Application for project approval shall be made on forms provided by the department or its agent. Forms may be downloaded from www.iowasrf.com.

90.12(3) Project review and approval.

a. Applications shall be submitted to the local SWCD. The local SWCD shall evaluate the application, provide an estimated cost, and certify that the practice is compatible with state water quality goals.

b. All practices shall be constructed to meet NRCS standards and specifications. The NRCS or another technical service provider shall attest that the practice will be constructed to these specifications and standards.

90.12(4) Project duration. The project is to be maintained, kept in place, or operated as proposed for the life span of the practice, but in no case for less than the life of the loan.

90.12(5) Eligible costs. All costs directly related to and necessary for the implementation of LWPPs approved in the memorandum of project approval are eligible costs.

90.12(6) Ineligible costs. Ineligible costs include costs for overbuilding a practice beyond what is required to maintain or improve water quality and costs for the purchase of land.

90.12(7) Site access. The applicant shall provide the department or its agent access to the project site to verify that the loan was used for the purpose intended.

567—90.13(455B) NPS project procedures—stormwater linked-deposit program. The purpose of this program is to assist private landowners with the construction of stormwater BMPs that will provide water quality improvement or protection.

90.13(1) Eligibility conditions and restrictions. Assistance under the CWSRF shall be in the form of low-interest loans made by participating lending institutions through a linked deposit arrangement with the CWSRF.

a. *Eligible project costs.* The amount of assistance available shall be limited to the total costs deemed necessary, reasonable, and directly related to the practices required to provide water quality improvements.

b. Applicant eligibility. Assistance is available to any person who is an owner of record or has legal control over land that needs stormwater BMPs installed to control runoff of sediments, nutrients, pesticides, or other NPS pollutants.

c. Eligible practices. Eligible practices include but are not limited to grade stabilization structure, grassed waterway, stormwater wetland, native landscaping, soil quality restoration, riparian forest and vegetative buffers, sediment basin, underground outlet with water quality treatment, stream bank stabilization, bioretention cell, greenroof, and other practices that are shown to improve or protect water quality.

90.13(2) *Applying for assistance.* Application for project approval shall be made on forms provided by the department or its agent. Forms may be downloaded from www.iowasrf.com.

90.13(3) *Project review and approval.*

a. Applications shall be submitted to the local SWCD. The local SWCD will evaluate the application, provide an estimated cost, and certify that the practice is compatible with state water quality goals.

b. It is recommended that all practices be constructed to meet Iowa Stormwater Management Manual or NRCS standards and specifications as posted on the department's website at www.iowadnr.gov and the NRCS website at www.nrcs.usda.gov, respectively, as of September 1, 2024. The NRCS or another technical service provider shall attest that the practice is designed to these specifications and standards, or shall attest that the practice is based on these standards and designed with sound engineering principles.

90.13(4) *Project duration.* The project is to be maintained, kept in place or operated as proposed for the life span of the practice, but in no case for less than the life of the loan.

90.13(5) *Eligible costs.* All costs directly related to and necessary for the implementation of the stormwater BMP approved in the memorandum of project approval are eligible costs.

90.13(6) *Ineligible costs.* Ineligible costs include costs for overbuilding a practice beyond what is required to maintain or improve water quality and costs for the purchase of land.

90.13(7) *Site access.* The applicant shall provide the department or its agent access to the project site to verify that the loan was used for the purpose intended.

567—90.14(455B) NPS project procedures—GNS loan program. The purpose of this program is to assist projects that will provide water quality improvements or water quality protection. This program allows for funding of the water quality protection portion of nontraditional projects.

90.14(1) *Project ranking.* Projects and activities under NPS project categories VI B through D, VII A through K, and XII will all receive a total score of five when placed on the PPL. Once 90 percent of NPS program funds have been allocated, additional NPS project scoring criteria published in the IUP will be used to rank NPS projects for funding and placement on the PPL. Until that time, the loan assistance is based on a first-come, first-funded concept.

90.14(2) *Eligibility conditions and restrictions.* Assistance under the CWSRF GNS program shall be in the form of low-interest loans made directly or by participating lending institutions through a participation arrangement with the CWSRF.

a. Eligible project costs. The amount of assistance available shall be limited to the total costs deemed necessary, reasonable, and directly related to the facilities or practices required to provide water quality improvements, restoration, or protection. Participation in nontraditional projects where the primary purpose is not water quality protection or improvement will be limited to the portion of the project that is directly related to water quality improvement, restoration, or protection.

b. Applicant eligibility. Assistance is available to projects for which facilities are needed to protect, restore, or improve water quality from NPS pollution. Only applicants that are owners of record of the property or have long-term control of the property where the project is to be implemented are eligible. In applications where the WPC project is a plan or document that will direct water quality protection or improvement efforts, loans will be made to applicants that have the capacity and capability of implementing the plan and repaying the loan.

c. Eligible projects. Eligible projects include, but are not limited to, practices to address NPS pollution control needs associated with stormwater treatment and green infrastructure, silviculture,

groundwater protection, marinas, resource extraction, brownfield remediation, aboveground and underground storage tanks, sanitary landfills, hydromodification, and watershed planning. Nontraditional NPS projects that may have a water quality protection or improvement component include, but are not limited to, bird sanctuaries and wildlife enhancement projects, vegetative plants, sediment removal and other lake restoration practices, and education programs.

90.14(3) *Applying for assistance.* Applications for GNS project approval shall be made on forms provided by the department. Forms may be downloaded from www.iowasrf.com. Applications shall include an explanation of how the water quality will be protected, improved, or restored by the proposed project. Applications may be submitted on an ongoing basis and will be reviewed in accordance with the schedule in the IUP.

90.14(4) *Project review and approval.* The department will evaluate eligibility and project design and provide the applicant a memorandum of approval for the proposed WPC project.

90.14(5) *Eligible costs.* All costs directly related to the implementation of the project approved in the memorandum of approval are eligible costs.

90.14(6) *Ineligible costs.* Costs for livestock water quality facilities are not eligible under this program and are provided for in 567—90.11(455B). Costs for the purchase of land are not eligible costs unless specifically approved by the commission.

90.14(7) *Site access.* The recipient shall provide the department and its agent access to the project site to verify that the loan was used for the purpose intended.

These rules are intended to implement Iowa Code sections 455B.199, 455B.291 through 455B.299, 466.8 and 466.9.

ITEM 2. Rescind and reserve **567—Chapter 91.**

ITEM 3. Rescind and reserve **567—Chapter 92.**

ITEM 4. Rescind and reserve **567—Chapter 93.**