



IOWA DEPARTMENT OF NATURAL RESOURCES

LEADING IOWANS IN CARING FOR OUR NATURAL RESOURCES

Disadvantaged Communities Rulemaking – Public Hearings

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Public Hearings, August and September 2012

Format of Public Hearing

- Short presentation of proposed rules
- Questions concerning proposed rules (can ask during presentation)
- Oral comments
- Note: disadvantaged status determinations will not be made

Basis for Rulemaking Effort

- DNR is proposing disadvantaged community rules to implement 455B.199B, amended by SF 407
- Senate File 407 signed into law April 28, 2011
- State Code 455B.199B requires DNR to:
 - Determine if compliance with wastewater regulations results in significant financial hardship
 - If yes, the community or entity will be allowed more time to comply with wastewater laws
- Proposed rules are to ensure law is consistently applied

Legal Requirements for Disadvantaged Communities

- Under 455B.199B, DNR cannot require installation of a wastewater treatment system or improvements to a system that are unaffordable
- State code 455B.186 - pollutants cannot be disposed of unless they are treated to protect water quality
- Pollutants must be treated, so even though DNR cannot require an unaffordable installation or upgrade, treatment is still required

Who Can Use This Rule?

- Entities covered under the proposed rule include:
 - Incorporated and unincorporated cities or areas
 - Mobile home parks
 - Subdivisions/ Homeowner's Associations
- Communities with and without sewers
 - ~500 “unsewered” (no NPDES permit)
 - ~1,000 “sewered” (have an NPDES permit)
- Drinking water treatment plant process waste
- Industrial waste and private discharges are **not** covered

How Do The Proposed Rules Work?

#1 - Determine Total Annual Project Costs & Ratio

- Entity submits a Disadvantaged Community Analysis that includes Total Annual Project Costs
- DNR determines the Total Annual Project Costs per household (project costs divided by # of households)
- DNR then determines the **ratio** of the total annual project costs per household to the Median Household Income (MHI) of the community
- **Ratio** = Total annual project costs / # households

MHI

How Are Total Annual Project Costs Determined?

- Compliance costs = total annual project costs
- Total annual project costs = current costs of wastewater treatment + future costs of proposed improvements
- Will include the current and proposed O&M and existing and proposed debt
- Assume 30 year loan period at the current SRF interest rate
- Awarded grant funding must be subtracted out

How will the Number of Households be Determined?

- The number of households or ratepayers must be provided to DNR in Disadvantaged Community Analysis
- The Analysis must state the source of the household or ratepayer count
- Sources can include recent census data and rate surveys

How is Median Household Income Determined?

- DNR will use the Median Household Income (MHI) from the most recent American Community Survey (ACS) or census, unless the entity conducts its own income survey
- ACS and census data is from the State Data Center
- An income survey performed for a disadvantaged community determination must use the Community Development Block Grant guidelines posted online

How Do The Proposed Rules Work?

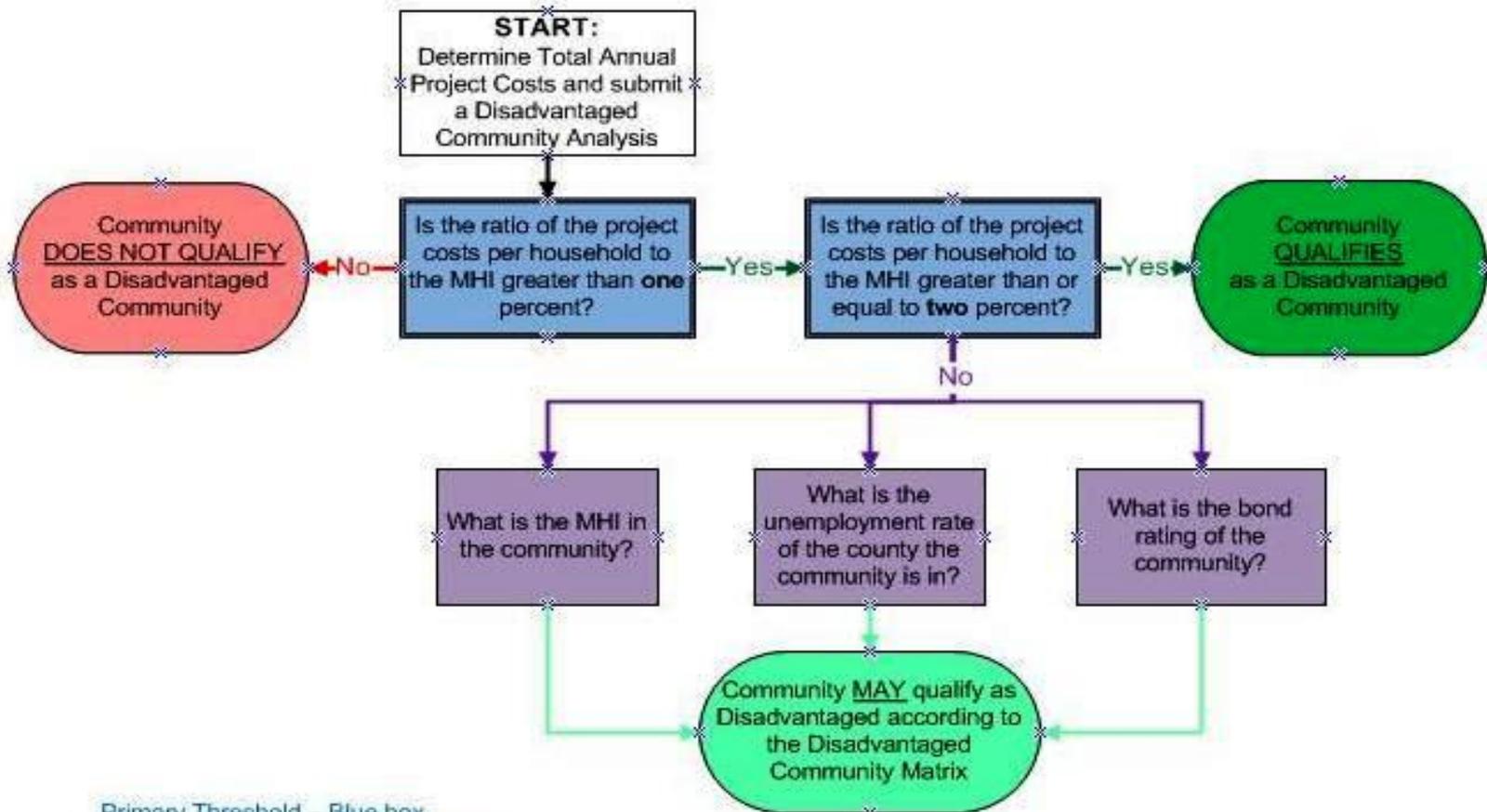
#2 - DNR uses ratio to determine if disadvantaged

- If the ratio of the total annual project cost per household to the MHI
 - is greater than 2%, then disadvantaged
 - is less than 1%, then NOT disadvantaged
 - is between 1% - 2%, then secondary criteria used



Disadvantaged Community Qualification Flowchart*

Does my community qualify as a disadvantaged community as a result of substantial and widespread social and economic impact (SWESI) on the community from new federal or state wastewater regulations?



Primary Threshold – Blue box

Secondary Thresholds – Purple Boxes

*Note – this flowchart does not include unsewered communities or new facilities



Secondary Criteria

(Ratio between 1 and 2%)

- Secondary criteria include:
 - Median Household Income of the community compared to the state MHI (from census)
 - County unemployment rate compared to state unemployment rate (from IA Workforce Development)
 - Bond Rating of community (if available, and only for sewerred entities)
- Based on secondary criteria, entity may or may not be disadvantaged

How Does DNR Make Disadvantaged Determination using the Ratio?

- A Disadvantaged Community Matrix has been developed for use by DNR staff
- Once a Disadvantaged Community Analysis is received, DNR staff will use the Matrix to determine disadvantaged status
- The Matrix allows DNR to calculate points based on the criteria (ratio, community MHI, county unemployment rate, and bond rating of the community)

How Do The Proposed Rules Work?

#3 – If disadvantaged, is more time allowed to comply

- If sewerer (has existing NPDES permit):
 1. Extended compliance schedule in permit
 2. Entity must explore treatment options & seek funding
 3. Need to show effort towards addressing issues
- If unsewered (no NPDES permit):
 1. Negotiated compliance agreement rather than schedule in permit, and 2 & 3 above

Summary of Proposed Rules

- Determine total annual project costs
- Submit disadvantaged community analysis
- DNR will determine disadvantaged status
- If entity is disadvantaged, will receive extended compliance schedule or agreement from rule
- If entity is not disadvantaged, must proceed with wastewater upgrades according to shorter schedule or agreement negotiated with DNR

Anticipated Timeline

- Public Comment period ends September 14 - submit any written/ email comments by then
- Return to Environmental Protection Commission for final rule in November
- Administrative Rule Review Committee (ARRC) in December
- Anticipate rule will be final in January 2013

Implementation Impacts

- About $\frac{1}{3}$ of Iowa communities may qualify as “disadvantaged” based on ROUGH analysis
- The law and proposed rules do not remove residents’ responsibility to adequately treat wastewater (455B.186)
- The law and proposed rules allow more time to explore different ways to adequately treat the wastewater at a cost an entity can afford

Online Information

- NPDES Rules Website:
<http://www.iowadnr.gov/InsideDNR/RegulatoryWater/NPDESWastewaterPermitting/NPDESRules.aspx>
- Contains draft rules, draft Disadvantaged Community Analysis and Matrix, Flowcharts, and this presentation
- Will post rulemaking information on this page

Questions?



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