

Wastewater Omnibus Proposed Rulemaking

Public Stakeholder Meeting
February 10, 2021

Meeting Agenda – Part 1

- Brief Presentation of Proposed Rule Changes
 - Separation Distances (Chapters 40, 43, 49, 60, & 69)
 - Wastewater (Chapters 60, 62, 63, and 64)
 - Sewage Sludge (Chapter 67)
 - Onsite (Chapter 69)
 - Operator Certification (Chapter 81)
- Jobs Impact and Fiscal Impact Statements
- Rule Process

Meeting Agenda – Part 2

- Comments
 - All those who indicated they wished to comment during the meeting sign up will have 3 minutes to speak
 - If you wish to comment but you did not indicate that in the meeting sign up, please put your name in the Chat Box, followed but the word “Comment”, and we will go through people in order
- Questions
 - Once we have heard from all those who wish to make oral comments, we will go through questions
 - If you have a question, you may type the question into the chat box or put your name in the Chat Box and indicate that you have a question
 - I will go through the list of questions from the Chat Box
- Oral comments and questions are not required; written comments and questions will be accepted through February 17th

Separation Distances - Summary

- Proposing to change the separation distance rules for water and wastewater, because
 - There are discrepancies between the water main and water well separation distances in the existing drinking water and wastewater rules
 - The rules have distinct and differing separation distances from identical or similar potential sources of contamination
- Proposed rule changes will:
 - remove discrepancies
 - incorporate all required separation distances for water and wastewater treatment into easily accessible portions of the rules
- The proposed separation distances will be applicable to future installations
- Current maximum separation distances will not be exceeded

Separation Distances – Chapters 40, 60 & 69

- Chapter 40, *Scope of Division-Definition-Forms-Rules of Practice*
 - change the definition of “septic tank” to match Chapter 69
- Chapter 60, *Scope of Division-Definition-Forms-Rules of Practice*
 - change the definition of “shallow well” to match Chapter 40
- Chapter 69, *Private Sewage Disposal Systems*
 - Update the private sewage disposal systems separation distances table
 - Changing “Groundwater heat pump borehole” to “Closed Circuit Vertical Heat Exchangers” because it is the industry standard term
- Chapter 41, *Water Supplies*
 - The NOIA proposes a change to the language in sources of contamination table to match Table A in Chapter 43
 - After internal discussion, it has been decided this change does not need to be made

Separation Distances – Chapter 43

Proposing new language for Water Main Separation Distances

- adding new subrules on water main separation distances
- Current separation rules in Chapter 43:
 - Are based on sewer construction, not water main construction
 - Are inflexible when a water main is being constructed in an area with existing sewer infrastructure
 - Treat sanitary and storm sewers equally, creating many separation conflicts
 - Have contributed to the issuance of many variances
- Proposed changes will allow for more options to manage sewer separation distances for water main projects while maintaining protection for water supplies

Separation Distances – Chapter 43, Table A

Proposing updates to 43.3(7) Table A, Separation Distances in 43.3(7) for new raw water sources and underground finished water storage facilities

- Add footnote referencing “private sewage disposal system” definition in Chapter 69
- Combine “Cesspools and earth pit privies” with the “open portion of treatment system”, because the distances are the same
- Change “Concrete vaults and septic tanks” to “closed portion of treatment system”, because that is what they are equivalent to (will match Chapter 69)
- Remove “Soil absorption fields” because they are the same as the open portion of the treatment system
- Add new clarification footnotes and renumber other footnotes
- Changes are intended to clarify and condense the terms in the table

Separation Distances – Chapter 49

Proposing updates to private well separation distances table in 49.6(1)

- Reorganize table so that the lateral distances are in descending order
- Add setbacks for transmission pipelines, liquid propane gas (LPG) storage tanks, and roadside ditches and rights of way
- Change the distance for the preparation or storage area for chemicals to accord with Chapter 44 of Agriculture and Land Stewardship rules
- Change several terms (“conforming wells”, “nonconforming wells”, “sanitary landfills”, “ditches, streams, ponds, or lakes”, “hydrants”) to eliminate confusion and match Table A in Chapter 43
- New language for open and closed portions of private sewage disposal systems matches the changes proposed for Table A in Chapter 43
- Add new clarification footnotes

Chapter 60 - Definitions, Forms, E-submittal

- Update the Code of Federal Regulations (CFR) definition to include the most recent CFR date
- Remove the list of NPDES and operation permit forms as it is no longer necessary to list the forms (including application, Notice of Intent, Notice of Discontinuation, and reporting forms), as all of these forms are now available on the internet
- Add language to allow for electronic submittal of forms and amendment or waiver requests
- Add language that allows for the use of the GP 589 Database and the storm water database, and any future e-reporting tools
- Add a requirement to include an antidegradation alternative analysis with a permit application when needed because applications for new permits or for expanded discharges cannot be evaluated without such an analysis

Chapter 62 – Effluent Limit Guidelines

- Change the date of the Code of Federal Regulations reference for the federal effluent and pretreatment standards to the most recent CFR date
- Add a reference to the new federal effluent limitation guidelines and standards (ELG) for the Dental Office Point Source Category, which became effective on 7/14/2017
- Addition of the reference will complete the list of referenced federal effluent and pretreatment standards in Chapter 62
- The requirements of the new federal effluent standard for the Dental Office Point Source Category have already been implemented
- No additional costs will be incurred from the inclusion of the reference

Chapter 63 - Analytical Testing

Proposing changes to the analytical testing method language

- Add the adoption date of the last federal Method Update Rule (40 CFR Part 136)
- Clarify the test method requirements by adding subparagraphs and using the correct terminology
- Changes allow DNR to specify analysis methods for parameters that do not have analysis methods in 40 CFR Part 136
- Changes remove confusion regarding the applications for alternative test procedures and method modifications by directly referencing the CFR

Chapter 63 - WET Testing & Table II

- Proposed changes to the Whole Effluent Toxicity (WET) Testing Methods
 - Update the guidelines for WET testing
 - Remove redundant language, remove old form, and update toxicity test procedures to the current procedure (as confirmed with DNR lab staff and SHL)
 - Eliminate language requiring a QA plan since one is required for certification
 - Add requirement to use a laboratory certified in Iowa
 - Chronic WETT will be addressed later in a separate rulemaking
- Table II, Minimum Self-Monitoring in Permits for Organic Waste Dischargers, Continuous Discharge WWTPs
 - Add a definition of Total Nitrogen (TN) and remove the strict analysis requirement in the footnotes of Table II
 - This change will allow facilities to use more than one TN analysis method
 - Also add requirement to use a lab certified in Iowa when testing for TN and TP

Chapter 63 - Supporting Document

Proposing revisions to the rule-referenced document “Supporting Document for Permit Monitoring Frequency Determination, August 2008” and the associated reference language

- This document is used with the monitoring tables in Chapter 63 to determine the monitoring frequencies in permits
- Document has not been updated since 2008
- The proposed revisions will:
 - incorporate recent changes to the Water Quality Standards (Chapter 61),
 - incorporate new parameters,
 - correct the rule citations in the document, and
 - correct typographical errors
- No change to monitoring frequencies for parameters currently in document
- Monitoring frequencies in existing permits for parameters that are not currently included in the supporting document are based on the frequencies for similar parameters, thus the addition of these parameters to the document will not increase the monitoring requirements for permittees

Chapter 63 – Electronic Reporting, Background

- Proposing to revise the permit reporting requirements in Chapter 63 to include the requirements of the federal NPDES Electronic Reporting rule (40 CFR Part 127), finalized on 12/21/2016
- The federal rule requires the electronic submittal of all documents related to NPDES permits, except for individual permit applications
- The federal electronic reporting rule did not change the information that permitted facilities are required to submit; it simply changed the format of the submittal
- DNR must update the wastewater rules to clarify that electronic reporting is required and that electronic submissions must be compliant with 40 CFR Part 127 and 40 CFR Part 3 (CROMERR)

Chapter 63 – Electronic Reporting, New Language

- The proposed language will require electronic reporting (in most cases)
- Paper reports will continue to be accepted under GPs 1, 2, 3, 4, and 5
- New language allows temporary and permanent e-reporting waivers for individual permittees and episodic waivers for all permittees
- New requirements for a written waiver request include the minimum requirements in 40 CFR Part 127
- The five year period for temporary waivers and the 60 day period for episodic waivers are the maximum allowed under 40 CFR 127.15
- Proposed e-reporting language will also allow permittees to provide electronic notification of noncompliance (email)
- AFO facilities are not subject to the same reporting requirements in Chapter 63
- Electronic reporting for AFO NPDES permits will be addressed at a later time
- New reporting language is being added for operation permits, as operation permits are not subject to the federal e-reporting requirements

Chapter 63 – Table III

Proposing to rescind Table III “Minimum Self-Monitoring in Permits for Land Application Systems”

- The monitoring requirements in Table III were based on the assumption that only domestic wastewater is land applied, but the vast majority of land applied wastewater is industrial
- Table III has been rendered obsolete by the DNR’s new Land Application Operation Permit process
- Monitoring requirements for land application facilities will be based on Chapter 21 of the Wastewater Design Standards, per the new process
- Change will allow monitoring requirements to be tailored to fit each facility

Chapter 63 – Table IV

Proposing to rescind Table IV, Preservation Techniques, Containers, and Holding Times and replace it with a reference to the table in the Code of Federal Regulations

- Removes confusion regarding the proper containers, preservation techniques, and holding times by directly referencing the CFR
- Rather than copying the preservation techniques, containers and holding times table from 40 CFR Part 136.3, we will reference it in subrule 567 63.1(2) and remove the table from Chapter 63
- This will simplify Chapter 63, as the chapter will not need to be updated when a change is made to 40 CFR Part 136.3
- 40 CFR Part 136.3 Table II will be made available on the DNR website for reference, as Table IV will no longer be part of the rule

Chapter 64 - General Permits

- Proposing updates to the General Permit language to accord with the current general permits
- Adjust the general permit language regarding suspension and revocation, public notices, and fees
- None of the requirements in any of the General Permits will change
- Changes will simplify and clarify the general permit requirements
- Changes will allow for submittal of both paper and electronic notices of intent (NOIs)

Chapter 64 – Disadvantaged Communities

- Proposed changes to disadvantaged communities and disadvantaged unsewered communities rules will revise eligibility requirements to allow entities to apply for a disadvantaged community loan interest rate independent of requirements in an NPDES permit or administrative order.
- Currently, the rules only allow entities to apply for disadvantaged status when there are new requirements in an NPDES permit or administrative order, regardless of whether they are applying for an extended compliance schedule or a disadvantaged SRF loan interest rate.
- Iowa Code 455B.199B, which establishes the disadvantaged community criteria, does not make such a restriction; thus, this rule change will meet the intent of the Iowa Code.
- The change to the income survey portions of the disadvantaged community rules will remove the reference to Iowa community development block grant (CDBG) income survey guidelines, as the guidelines no longer exist.
- The proposed changes also clarify that a disadvantaged community analysis will be evaluated using the disadvantaged community matrix.

Chapter 64 - Fees

- Proposing to add specific fee amounts for NPDES and operation permits and construction permits from Iowa Code section 455B.197 to Chapter 64
- This will not change the fee amounts
- Adding language to allow fees to be paid by credit card, electronic check, or electronic funds transfer
- Proposed changes will also clarify the fee language

Chapter 64 - NRE

- NRE stands for Nutrient Reduction Exchange
- The NRE is a tracking system developed by DNR, USDA, the Iowa League of Cities, and US Army Corps of Engineers that allows nutrient sources in Iowa to register and track nutrient reductions resulting from the installation of non-point source best management practices (BMPs)
- The tracking system will encourage point source permittees to make immediate investments in non-point source BMPs
- Permittees may be eligible for potential regulatory incentives depending on the investments they make in BMPs
- Without a system in place for tracking nutrient reductions from BMP investments, permittees cannot be confident that investments will qualify for future regulatory incentive programs
- The proposed NRE language can provide permittees with such assurance and will provide a regulatory framework to support possible future nutrient regulatory incentive programs
- Proposed rule will not require the installation of BMPs

Chapter 67 - Land Application of Sewage Sludge

- Proposing to update the sewage sludge classifications, terms, land application pathogen reduction methods, and sludge testing methods to be consistent with 40 CFR Part 503
- Add new definitions for Class I, Class II, and Class III sewage sludge
- Delete the sludge permit requirements because DNR does not need a separate permit application for sludge land application, as sludge requirements are in NPDES permits for POTWs
- The proposed revisions will update the vector attraction reduction (VAR) methods to be consistent with 40 CFR 503.33
- Add requirements to submit annual reports electronically, using EPA's NPDES eReporting Tool, which meets the federal NPDES e-reporting requirements in 40 CFR Part 127
- Update the sampling and analytical method references

Chapter 69 - Private Sewage Disposal Systems

- Changes are being proposed to the maintenance contract language for peat moss biofilters, recirculating textile filter systems, and aerobic treatment units
- New language allows for the maintenance of these systems to be performed by a trained individual familiar with the system
- These technologies are no longer new and more people have knowledge of the systems; thus, trained individuals are able to inspect and maintain the systems
- Changes the inspection frequency for peat moss biofilter systems from annually to every two years
- No change to inspection frequency for recirculating textile filter systems or aerobic treatment units

Chapter 81 - Operator Certification

- Changes to the Wastewater Treatment Plant Classifications table in 81.3 will:
 - add a new grade W for onsite systems,
 - add a new advanced aerated lagoon system treatment type, and
 - remove grade ILL.
- This will ensure that the operator certification grade for smaller facilities and for facilities designed with new technologies can be properly determined
- The language associated with the Wastewater Treatment Plant Classifications table will be updated (definitions and references to grades)
- Change to the Water Distribution Systems Classification table in 81.5 will clarify the requirements for transient noncommunity water systems not classified as Grade A

Jobs Impact Statement

- The proposed changes are not anticipated to impact private sector jobs and employment opportunities in Iowa.
- Changes to Chapters 40, 41, 43, 49 and 69 regarding separation distances are intended to provide regulatory consistency and transparency
- Changes to Chapter 60, 63 and 64 are intended to simply and clarify the rules, implement existing regulations, and provide regulatory consistency and transparency
- New language in Chapter 63 regarding NPDES electronic reporting requirements and waivers will not impact jobs, as most permittees already report electronically
- New language in Chapter 64 regarding the NRE will not impact jobs as the language provides a regulatory framework, but does not require the installation of BMPs

Jobs Impact Statement - Continued

- Changes to Chapter 67 will ensure that the sewage sludge rules comply with the federal regulations which are already being implemented by sludge facilities
- Changes to Chapter 69 regarding maintenance contract language for three types of systems will not impact jobs as these systems are not new and existing technicians and trained individuals are able to inspect and maintain the systems
- Changes to Chapter 81 will ensure that the operator certification grade for facilities designed with new technologies and smaller facilities can be properly determined. As the correct grades for these facilities have already been assigned based on their treatment type and BPJ, there will be no jobs impact.

Fiscal Impact Statement

- The proposed changes are not estimated to have a fiscal impact to regulated entities, including permittees, engineering consultants, laboratories, municipalities, drainage districts, counties or other local governments.
- This is because the majority of the proposed rule changes are for cleanup and clarification purposes, and new requirements are based on federal requirements that are already being implemented.

Fiscal Impact Statement - Continued

- Only one portion of the proposed rule will have a fiscal impact to the State
- Changes to Chapter 63 regarding the electronic submission of records of operation will result in costs to the state associated with modifications to and maintenance of DNR's databases
- EPA addressed these database costs in the federal rule preamble, and the costs are necessary to comply with the federal rule
- Electronic reporting will not result in additional costs to permittees because most permittees already utilize the DNR's existing online databases to report electronically
- DNR will use existing budget and resources to implement the proposed rules on electronic records submission

Rule Process

- Incorporate Stakeholder Comments (*due Feb. 17th*)
- Send draft (preclearance documents, NOIA) to Iowa DNR Legal for review
- Governor's Office review
- Notice of Intended Action (NOIA) to Environmental Protection Commission (EPC)
- Administrative Rules Review Committee (ARRC) review of NOIA
- Public Hearing and Public Comment Period
- Final Rules to EPC for approval
- ARRC review of Final Rule
- Final Rule is Effective

Comments

- I will go through the list of persons who indicated they wished to comment in the meeting sign up, and then the list of those who thought they might comment
- Each person will have three minutes to make oral comments
- **Oral comments are not required; written comments will be accepted through February 10th**
- If you wish to make oral comments today but you did not indicate that in the meeting sign up, please put your name in the Chat Box and indicate you wish to comment (example: Courtney Cswercko – wish to comment)
- Once we have heard from all those who wish to make oral comments, we will go through questions

Questions

- If you have a question, you may type the question into the chat box or put your name in the Chat Box and indicate that you have a question (example: Courtney Cswercko – Question)
- I will go through the list of questions from the chat box
- Oral questions are not required; written questions will be accepted through February 17th and answers will be provided

Written Comments/Questions

Written comments and questions can be sent by February 17th to:

Email: courtney.cswercko@dnr.iowa.gov

Mail: Courtney Cswercko

Iowa Department of Natural Resources

NPDES Section

502 E. 9th St.

Des Moines, Iowa 50319

Fax: 515-725-8201

Proposed rules on website:

<https://www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDES-Rules>

Courtney Cswercko (515) 725-8411