

ENVIRONMENTAL PROTECTION COMMISSION[567]

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 567—Chapter 62
“Effluent and Pretreatment Standards: Other Effluent Limitations or Prohibitions”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 455B.103(2), 455B.105(3) and 455B.173(3)

State or federal law(s) implemented by the rulemaking: Clean Water Act Section 402, 40 CFR §123.25, and Iowa Code section 455B.174

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

September 24, 2024
10 a.m.

Virtual via Zoom – see www.iowadnr.gov/Environmental-Protection/Water-Quality/Water-Quality-Rulemaking for meeting information

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Courtney Cswercko
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: npdes.mail@dnr.iowa.gov

Purpose and Summary

Proposed Chapter 62 establishes the requirements for National Pollutant Discharge Elimination System (NPDES) permit limits and contains restrictions on certain types of wastewater discharges. The Department establishes limits in NPDES permits for the pollutants in wastewater. Pollutant limits included in proposed Chapter 62 will apply to facilities that discharge wastewater into Waters of the United States and to facilities that discharge wastewater to city treatment plants.

The U.S. Environmental Protection Agency (EPA) delegated NPDES permitting authority to Iowa in 1978 for all facilities outside tribal lands, as granted under Clean Water Act Section 402(b). Iowa’s NPDES rules must implement all of the provisions in 40 CFR §123.25, and these rules must be as stringent as the federal provisions.

This chapter was reviewed and edited consistent with Executive Order 10. This rulemaking removes outdated requirements; shortens, simplifies and clarifies regulations and terminology; removes redundancy; and references regulations that appear elsewhere in State or federal law. Chapter 62’s rule-referenced document, the Iowa Wasteload Allocation Procedure (www.iowadnr.gov/Environmental-Protection/Water-Quality/Wasteload-Allocations), has been updated to reflect the November 11, 2020, version already cited in Chapter 61.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Regulated wastewater disposal systems will bear the costs.

- Classes of persons that will benefit from the proposed rulemaking:
Citizens of Iowa will benefit.
2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
Quantitative costs cannot be determined. However, the activities required of regulated entities that result in various costs are described below.
 - Qualitative description of impact:
Compliance with NPDES limits may require the installation of wastewater treatment. Treatment technologies vary by facility process and the quantity and type of pollutants present. Facilities also incur costs related to the ongoing operation and maintenance of treatment plants and chemical usage. The costs of complying with NPDES limits vary by the type of facility process, the pollutant capacity of the receiving waterbody, and the quantity and type of pollutants discharged.
 3. Costs to the State:
 - Implementation and enforcement costs borne by the agency or any other agency:
Department staff calculate NPDES permit limits for each regulated pollutant. Department staff also review monitoring data to locate limit violations and work with facilities to ensure compliance with limits.
 - Anticipated effect on state revenues:
The proposed chapter will have a neutral impact on state revenues because the rules related to monitoring and reporting are already being implemented in existing Chapter 62.
 4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:
Limits in NPDES permits help protect Iowa's waters for its citizens and for aquatic life by setting pollutant targets at levels that ensure public health and ecosystems are maintained. Compliance with permit limits drives the proper treatment of wastewater, which ensures that Iowans can safely fish and recreate, while communities can use surface waters for drinking.
Absent the pollutant limits and wastewater discharge restrictions in Chapter 62, Iowa would not have all of the required provisions needed to maintain delegated NPDES permitting authority from EPA. The delegation of the NPDES program allows the Department, rather than EPA, to be the primary agency to implement wastewater pollutant requirements in Iowa and to provide outreach and compliance assistance to affected facilities. Stakeholders typically prefer for the Department, rather than EPA, to be the primary implementation agency in Iowa.
 5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:
There are no less costly or intrusive methods to accomplish the benefit. These limits and discharge restrictions are provisions required by the Clean Water Act.
 6. Alternative methods considered by the agency:
 - Description of any alternative methods that were seriously considered by the agency:
No alternative methods were considered.
 - Reasons why alternative methods were rejected in favor of the proposed rulemaking:
Iowa must have these limits and discharge restriction provisions to maintain delegated Clean Water Act authority. Stakeholders generally prefer a local approach to Clean Water Act permitting, standards development, inspections and enforcement.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

Small businesses are often covered by general permits, which typically rely on visual monitoring and sometimes pollutant thresholds, rather than quantitative limits, for coverage. This practice provides cost savings for monitoring and reporting and provides permit requirements that are easier to follow.

Text of Proposed Rulemaking

ITEM 1. Rescind 567—Chapter 62 and adopt the following **new** chapter in lieu thereof:

CHAPTER 62

EFFLUENT AND PRETREATMENT STANDARDS:
OTHER EFFLUENT LIMITATIONS OR PROHIBITIONS**567—62.1(455B) Prohibited discharges.**

62.1(1) The discharge of any pollutant from a point source into a navigable water is prohibited unless authorized by an NPDES permit or by a permit issued pursuant to Section 404 of the CWA and certified pursuant to 567—subrule 61.2(6).

62.1(2) The prohibitions in 40 CFR §122.4 are adopted by reference.

62.1(3) The following discharges are prohibited:

a. The discharge of wastewater into a POTW or a semipublic sewage disposal system (DS) in volumes or quantities in excess of those to which a significant industrial user is committed in either a treatment agreement described in 567—subrule 60.3(3) or a local control mechanism (in the case of a POTW with an approved pretreatment program); and

b. Discharge of the pollutants listed in 40 CFR §403.5(b) to a POTW, a semipublic sewage DS, or a PSDS.

62.1(4) Waste in such volumes or quantities as to exceed the design capacity of the treatment works, cause interference or pass through, or reduce the effluent quality below that specified in the operation permit of the treatment works is considered to be a waste that interferes with the operation or performance of a POTW or a semipublic sewage DS and are prohibited.

567—62.2(455B) Secondary treatment information: effluent standards for POTWs and semipublic sewage DSs.

62.2(1) *General.* This subrule describes the minimum level of effluent quality attainable by secondary treatment in terms of CBOD₅; suspended solids (SS), the pollutant parameter total suspended solids; and pH. The pollutant measurement CBOD₅ is used in lieu of the pollutant

measurement 5 , as noted in 40 CFR §133.102(a)(4). All requirements for each pollutant measurement shall be achieved by POTWs and semipublic sewage DSs except as provided for in 62.2(2) and 62.2(3). Effluent limitations on pollutants other than CBOD $_5$, SS and pH may be imposed in an NPDES permit. Such limitations will reflect pretreatment requirements that may be imposed on users of the treatment works.

a. CBOD $_5$, as noted in 40 CFR §133.102(a)(4). The 30-day average percent removal shall not be less than 85 percent, and the percent removal shall be calculated by adding five units to the effluent CBOD $_5$ monitoring data and comparing that value to the influent 5 monitoring data. Site-specific information on the relationship between BOD $_5$ and CBOD $_5$ shall be used in lieu of the five-unit relationship if such information is available.

b. SS, as noted in 40 CFR §133.102(b).

c. pH, as noted in 40 CFR §133.102(c).

62.2(2) Special considerations.

a. *Combined sewers and percent removal.* 40 CFR §133.103(a) is adopted by reference.

b. *Industrial wastes and POTWs; standard secondary adjustment.* 40 CFR §133.103(b) is adopted by reference.

c. *Waste stabilization lagoons.* Secondary treatment standards for waste stabilization lagoons are the same as those found in 62.2(1) concerning secondary treatment with the exception of the SS standards, which are as follows:

(1) The 30-day average shall not exceed 80 mg/l.

(2) The 7-day average shall not exceed 120 mg/l.

d. *Less concentrated influent wastewater for separate sewers; lower percent removal or mass loading limit.* 40 CFR §133.103(d) is adopted by reference.

e. *Upgraded facilities designed to operate in a split flow mode.*

(1) The department may substitute either a lower percent removal requirement or a mass loading limit for the percent removal requirements in 62.2(1), provided that the treatment works is designed to split part of the primary treated wastewater flow around the secondary treatment unit(s). The design to accommodate split flow must be approved by the department and consistent with applicable design standards for wastewater treatment facilities. Subrule 62.2(2)“*d*” applies to facilities considered under this subrule. This subrule shall not be considered for facilities eligible for treatment equivalent to secondary treatment under 62.2(3).

(2) Any applicant requesting a permit limit adjustment pursuant to this subrule must include as part of the request an analysis of the infiltration and inflow (I/I) sources in the system and a plan for the elimination of all inflow sources such as roof drains, manholes, and storm sewer interconnections. Infiltration sources that can be economically eliminated or minimized shall be corrected.

f. *Dilution.* Nothing in this subrule or any other department rule shall be construed to encourage dilution of sewage as a means of complying with secondary treatment effluent standards. Reasonable efforts to prevent and abate infiltration of groundwater into sewers, and prevention or removal of any significant source of inflow, are required of all persons responsible for facilities subject to these standards.

62.2(3) Treatment equivalent to secondary treatment. 40 CFR §133.105 is adopted by reference. Treatment works shall be eligible for consideration of effluent limitations described for treatment equivalent to secondary treatment in accordance with 40 CFR §133.101(g). The pollutant measurement CBOD $_5$ will be used in lieu of the pollutant measurement 5 , as noted in 40 CFR §133.105(e).

567—62.3(455B) Federal standards and effluent limitations.

62.3(1) Federal effluent and pretreatment standards. The following are adopted by reference: 40 CFR Part 125, Subparts H, I and J, and 40 CFR Parts 401 through 471.

62.3(2) Federal toxic pollutant effluent standards. 40 CFR Part 129 is adopted by reference.

62.3(3) *Effluent limitations and pretreatment requirements for sources for which there are no federal effluent or pretreatment standards.* For discharges of pollutants from sources that are not subject to the federal effluent standards adopted by reference in 62.3(1), the department shall establish effluent limitations, pretreatment requirements, or both, that represent the best professional judgment for pollutant reduction, consistent with the CWA and Iowa Code chapter 455B.

62.3(4) *Effluent limitations less stringent than the effluent limitation guidelines.* 40 CFR Part 125 Subpart D is adopted by reference.

567—62.4(455B) Effluent limitations or pretreatment requirements more stringent than the effluent or pretreatment standards.

62.4(1) *Effluent limitations necessary to meet water quality standards (WQSs).* No effluent, alone or in combination with the effluent of other sources, shall cause a violation of any applicable WQS. When it is found that a discharge that would comply with applicable effluent standards or effluent limitations in this chapter would cause a violation of WQSs, the discharge will be required to meet the water quality-based effluent limits (WQBELs) necessary to achieve the applicable WQSs as established in 567—Chapter 61. WQBELs shall be derived from a wasteload allocation (WLA) calculated for the discharge, as described in the Iowa Wasteload Allocation Procedure (WLAP) (Nov. 11, 2020), or a WLA calculated for a TMDL, whichever is more stringent, except that the daily sample maximum criteria for E. coli set forth in 567—Chapter 61 shall not be used as an end-of-pipe permit limitation.

62.4(2) *Pretreatment requirements more stringent than categorical standards.* The department or POTW may impose pretreatment requirements more stringent than the applicable categorical standards in 62.3(1) when more stringent requirements are necessary to prevent violations of WQSs, pass through, acute worker health or safety problems, or interference (including inhibiting or disrupting sludge use and disposal practices).

62.4(3) *Effluent limitations for pollutants not covered by effluent or categorical standards.* When a pollutant is not otherwise regulated under rules 567—62.2(455B) through 62.3(455B), effluent limits or pretreatment requirements may be imposed on a case-by-case basis.

a. Effluent limits shall be based on the effect of the pollutant in water and the feasibility and reasonableness of treating the pollutant.

b. Pretreatment requirements shall be based on the effect of the pollutant in water, the effect on the receiving treatment works (including pass through, inhibition, worker safety, and sludge disposal), and the feasibility and reasonableness of treating the pollutant.

567—62.5(455B) Effluent reuse.

62.5(1) *Manner of reuse.* Treated final effluent may be reused in a manner noted in this rule or as specified in an NPDES permit.

62.5(2) *Reuse for golf course irrigation.* Treated final effluent may be reused for golf course irrigation if one of the conditions described in 62.5(2)“a” and all of the conditions in 62.5(2)“b” are met.

a. The treated final effluent must meet one of the following conditions:

(1) A minimum total residual chlorine (TRC) level of 0.5 mg/l must be maintained at a minimum of 15 minutes’ contact time of chlorine to wastewater prior to the irrigation of the golf course with treatment plant effluent; or

(2) Disinfected effluent shall be held in a retention pond with a detention time of at least 20 days prior to reuse as irrigation on a golf course. For this purpose, effluent may be disinfected using any common treatment technology, and either an existing pond or a pond constructed specifically for effluent retention may be used.

b. A golf course utilizing treated final effluent shall take all of the following actions:

(1) Clearly state on all scorecards that treated final effluent is used for golf course irrigation and oral contact with golf balls and tees should be avoided;

- (2) Post signs that warn against consumption of water at all water hazards;
 - (3) Color code, label, or tag all piping and sprinklers associated with the distribution or transmission of the treated final effluent to clearly warn against the consumptive use of the contents;
- and
- (4) Restrict public access to any area of the golf course where spraying is being conducted.
- These rules are intended to implement Iowa Code chapter 455B, division III, part 1.