

CHAPTER 21
COMPLIANCE

567—21.1(455B) Definitions and Compliance Requirements. For the purpose of these rules and the rules in 567—Chapters 20 through 35, the following terms shall, unless otherwise noted, have the meaning indicated in this chapter. Additional definitions potentially applicable to this chapter are set forth in 567—Chapters 22 and 23. The definitions set out in Iowa Code sections 455B.101, 455B.131, and 455B.411 are incorporated verbatim into these rules.

“Air pollution alert” means that action condition declared when the concentrations of air contaminants reach the level at which the first stage control actions are to begin.

“Air pollution emergency” means that action condition declared when the air quality is continuing to degrade to a level that should never be reached, and that the most stringent control actions are necessary.

“Air pollution episode” means a combination of forecast or actual meteorological conditions and emissions of air contaminants which may or do present an imminent and substantial endangerment to the health of persons, during which the chief meteorological factors are the absence of winds that disperse air contaminants horizontally and a stable atmospheric layer which tends to inhibit vertical mixing through relatively deep layers.

“Air pollution forecast” means an air stagnation advisory issued to the department, the commission, and to appropriate air pollution control agencies by an authorized Air Stagnation Advisory Office of the National Weather Service predicting that meteorological conditions conducive to an air pollution episode may be imminent. This advisory may be followed by a prediction of the duration and termination of such meteorological conditions.

“Air pollution warning” means that action condition declared when the air quality is continuing to degrade from the levels classified as an air pollution alert, and where control actions in addition to those conducted under an air pollution alert are necessary.

“Equipment” means equipment capable of emitting air contaminants to produce air pollution.

“Excess emission” means any emission which exceeds any applicable emission standard prescribed in 567—Chapter 23 or rule 567—22.4(455B), 567—22.5(455B), 567—31.3(455B), or 567—33.3(455B) or any emission limit specified in a permit or order.

“Existing equipment” means equipment, machines, devices or installations that are in operation prior to September 23, 1970.

“Malfunction” means any sudden and unavoidable failure of control equipment or of a process to operate in a normal manner. Any failure that is caused entirely or in part by poor maintenance, careless operation, lack of an adequate maintenance program, or any other preventable upset condition or preventable equipment breakdown shall not be considered a malfunction.

“New equipment” means except for any equipment or modified equipment to which 567—subrule 23.1(2) applies, any equipment or control equipment not under construction or for which components have not been purchased on or before September 23, 1970, and any equipment which is altered or modified after such date, which may cause the emission of air contaminants or eliminate, reduce or control the emission of air contaminants.

“Opacity” means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

“Shutdown” means the cessation of operation of any control equipment or process equipment or process for any purpose.

“Startup” means the setting into operation of any control equipment or process equipment or process for any purpose.

21.1(1) New equipment. All new equipment and all new control equipment, as defined herein, installed in this state shall perform in conformance with applicable emission standards specified in

Commented [PC1]: The changes to the rules in Ch. 24, 25, 26, and 29 will be added to new Ch. 21 when the Draft Notices of Intended Action for these chapters are completed.

Commented [PC2]: The definitions below have been moved from Ch. 20, (rule 20.1). Unless otherwise noted below, these definitions are identical to the definitions currently provided in Ch. 20.

Commented [PC3]: This definition has been shortened from that in Chapter 20 to remove the list of equipment examples because the examples are not inclusive.

567—Chapter 23.

21.1(2) Existing equipment. All existing equipment, as defined herein, shall be operated in conformance with applicable emission standards specified in 567—Chapter 23 or as otherwise specified herein; except that the performance standards specified in 567—subrule 23.1(2) shall not apply to existing equipment.

21.1(3) Emissions inventory. The person responsible for equipment as defined herein shall provide information on fuel use, materials processed, air contaminants emitted (including greenhouse gases as “greenhouse gas” is defined in rule 567—20.2(455B)), estimated rate of emissions, periods of emissions or other air pollution information to the director upon the director’s written request for use in compiling and maintaining an emissions inventory for evaluation of the air pollution situation in the state and its various parts. ~~Until December 31, 2022, the information requested shall be submitted on forms or by electronic format specified by the department. On or after January 1, 2023, the~~ The information requested shall be submitted in the electronic format specified by the department, if electronic submittal is provided. All information in regard to both actual and allowable emissions shall be public records, and any publication of such data shall be limited to actual and allowable air contaminant emissions.

21.1(4) Emissions inventory to fulfill requirements of the Clean Air Interstate Rule (CAIR). ~~Rescinded IAB 2/15/17, effective 3/22/17. Reserved~~

21.1(5) Public availability of data. Emission data obtained from owners or operators of stationary sources under the provisions of 21.1(3) will be ~~correlated with applicable emission limitations and other control measures. All such emission data and correlations will be available during normal business hours at the quarters of the department. The director may designate one or more additional places where such data and correlations will be available for public inspection made available to the public on the department’s website and upon request.~~

21.1(6) Maintenance of record. Each owner or operator of any stationary source, as defined herein, shall, upon notification from the director, maintain records of the nature and amounts of air contaminant emissions from such source and any other information as may be deemed necessary by the commission to determine whether such source is in compliance with the applicable emission limitations or other control measures. ~~The information recorded shall be summarized and reported monthly to the director on forms furnished by the department. The initial reporting period shall commence 60 days from the date the director issues notification of the record-keeping requirements. Records shall be retained by the owner or operator for two years after the date on which the pertinent report is submitted.~~
~~a. The information recorded shall be summarized and reported monthly to the director on forms furnished by the department. The initial reporting period shall commence 60 days from the date the director issues notification of the record-keeping requirements.~~

Commented [PC4]: Moved from paragraph “a” below.

Commented [PC5]: This is a streamlined version of paragraph “b” moved from below.

567—21.2(455B) Variances.

21.2(1) Application for variances. A person may make application for a variance from applicable rules or standards specified in this title.

a. Contents. Each application for a variance shall be submitted to the director stating the following:

(1) The name, address, email, and telephone number of the person submitting the application or, if such person is a legal entity, the name and address of the individual authorized to accept service of process on its behalf and the name of the person in charge of the premises where the pertinent activities are conducted.

(2) The type of business or activity involved.

(3) The nature of the operation or process involved; including information on the air contaminants emitted, ~~the chemical and physical properties of such emissions and the estimated amount and rate of discharge of such emissions.~~

(4) The exact location of the operation or process involved.

Commented [PC6]: These properties are intrinsic to information on air contaminants emitted and are no longer needed.

(5) The reason or reasons for considering that compliance with the provisions specified in these rules will produce serious hardship without equal or greater benefits to the public, and the reasons why no other reasonable method can be used for such operations without resulting in a hazard to health or property.

(6) Each application shall contain certification by a responsible official as defined in rule 567—22.100(455B) of truth and accuracy. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information provided are true and accurate.

~~b. Variance extension. The request for extension of a variance shall be accompanied by an emission reduction program as specified in rule 567—21.3(455B). A person may make an application for a variance extension prior to expiration of an approved variance.~~

Commented [PC[7]: See comments below.

21.2(2) Processing of applications. Each application for a variance and its supporting material shall be reviewed and an investigation of the facilities shall be made by the department, for evaluation of whether or not the emissions involved will produce the following effects.

~~a. Endanger human health.~~ Endanger or tend to endanger the health of persons residing in or otherwise occupying the area affected by said emissions.

~~b. Create safety hazards.~~ Create or tend to create safety hazards, such as (but not limited to) interference with traffic due to reduced visibility.

~~c. Damage to livestock or plant life.~~ Damage or tend to damage any livestock harbored on, or any plant life on, property that is affected by said emissions and under other ownership.

Commented [RMJ8]: Already included in new “c.”

~~d. Damage property.~~ Damage or tend to damage any property on land that is affected by said emissions and under other ownership.

~~e. The reason or reasons for considering that compliance with the provisions specified in these rules will produce serious hardship without equal or greater benefits to the public, and the reasons why no other reasonable method can be used for such operations without resulting in a hazard to health or property.~~

Commented [RMJ9]: Added as part of variance request processing per 455.143(1)(b) and in 17A.9A

21.2(3) Trial burns for alternative fuels. An alternative fuel shall be defined as a fuel for which the emissions from combusting the fuel are not known and shall exclude natural gas, coal, liquid propane, and all petroleum distillates.

a. *Variance from construction permit.* The director may grant a variance for the purpose of testing an alternative fuel and quantifying the emissions from the alternative fuel, except as prohibited under paragraph 21.2(4) “c.”

b. *Baseline testing.* In addition to submitting the information required in subrule 21.2(1), the applicant may be required to submit baseline emission data for all applicable pollutants as a condition of approval.

c. *Source testing.* Emissions testing deemed necessary for any pollutant may be required as a condition of the variance and shall be conducted in accordance with 567—paragraph 25.1(7) “a.”

21.2(4) Decision.

a. *Granting of variance.* The director shall grant a variance when the director concludes that the action is appropriate. The variance may be granted subject to conditions specified by the director. The director shall specify the time intervals as are considered appropriate for submission of reports on the progress attained in the ~~emission reduction program.~~

Commented [PC[10]: See comment below.

b. *Denial of variance.* The director shall deny a variance when the director concludes that the action is appropriate. The applicant may request a review hearing before the commission if the application is denied.

c. The director shall not grant a variance from any of the following requirements:

(1) Case-by-case maximum achievable control technology (MACT), 567—paragraph 22.1(1) “b”;

(2) Prevention of significant deterioration (PSD), 567—Chapter 33, to the extent that variances may not be granted from the preconstruction review and permitting program specified under 567—Chapter 33 (formerly rule 567—22.4(455B)), or from any PSD requirement contained in a PSD permit

issued under 567—Chapter 33, or from any PSD requirement contained in a PSD permit issued under 40 CFR Section 51.166 or 52.21.

- (3) New source performance standards, 567—subrule 23.1(2);
- (4) Emission standards for hazardous air pollutants, 567—subrule 23.1(3);
- (5) Emission standards for hazardous air pollutants for source categories, 567—subrule 23.1(4); or
- (6) Emission guidelines, 567—subrule 23.1(5).

~~This rule is intended to implement Iowa Code section 455B.143.~~

567—21.3(455B) Emission reduction program, Reserved

~~**21.3(1) Content.** An air contaminant emission reduction program submitted to the department pursuant to these rules shall include a schedule for the installation of pollution control devices or the replacement or alteration of specified facilities in such a way that emissions of air contaminants are reduced to comply with the emission standard specified in 567—Chapter 23. The schedule must include, as a minimum, the following five increments of progress:~~

- ~~a. The date of submittal of the final control plan to the department.~~
- ~~b. The date by which contracts will be awarded for emission control systems or process modification or the date by which orders will be issued for the purchase of component parts to accomplish emission control or process modifications.~~
- ~~c. The date of initiation of on site construction or installation of emission control equipment or process change.~~
- ~~d. The date by which on site construction or installation of emission control equipment or process modification is to be completed.~~
- ~~e. The date by which final compliance is to be achieved.~~

~~**21.3(2) Action.** The director shall approve the programs if they are adequate and reasonable.~~

~~a. Upon approval of a program, a variance is granted for one year or until the final compliance date, whichever period is shorter. Emission reduction programs shall be reviewed annually by the director and a variance extension granted for ongoing approved emission reduction programs which show satisfactory progress toward the elimination or prevention of air pollution. The director may specify under what conditions and to what extent the variance or variance extension is granted.~~

~~b. If the director disapproves a program, the applicant may appeal to the commission, and the applicant shall have a period of 30 days from date of notification by the director in which to file an appeal.~~

~~c. Failure to meet any increment of progress in the compliance schedule contained in an approved emission reduction program may result in the disapproval by the director of the program and termination of the associated variance.~~

~~**21.3(3) Reports.** Each person responsible for an approved program shall make periodic written progress reports to the department, as specified by the department. The department shall make periodic reports to the commission on emission reduction programs submitted, and on the recommendations related to such programs.~~

~~This rule is intended to implement Iowa Code section 455B.143.~~

567—21.4(455B) Circumvention of rules. No person shall build, erect, install or use any article, machine, equipment or other contrivance which, without resulting in a reduction in the total amount of air contaminants released to the atmosphere, reduces or conceals an emission which would otherwise constitute violation of these rules.

~~This rule is intended to implement Iowa Code chapter 455B.~~

~~—Prior to 6/22/83, DEQ rule 6.1.~~

567—21.5(455B) Evidence used in establishing that a violation has or is occurring. Notwithstanding

Commented [11]: The DNR does not require an emission reduction program to apply for a variance extension. A facility may request a variance extension under rule 21.2. An emissions reduction program is not required by Iowa Code.

Commented [PC12]: The provisions proposed for deletion obscure the point that concealing emissions that are in violation of air quality rules constitutes circumvention of the rules.

any other provisions of these rules, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of any provisions herein.

21.5(1) Information from the use of the following methods is presumptively credible evidence of whether a violation has occurred at a source. ~~The following testing, monitoring or information-gathering methods are presumptively credible testing, monitoring, or information-gathering methods:~~

- a. A monitoring method approved for the source and incorporated in an operating permit pursuant to 567—Chapter 22;
- b. Compliance test methods specified in 567—Chapter 25; or
- c. Testing or monitoring methods approved for the source in a construction permit issued pursuant to 567—Chapter 22.

~~d. Any monitoring or testing methods provided in these rules; or~~
~~e. Other testing, monitoring, or information-gathering methods that produce information comparable to that produced by any method in subrule 21.5(1) or this subrule.~~

~~21.5(2) The following testing, monitoring or information-gathering methods are presumptively credible testing, monitoring, or information-gathering methods:~~

- ~~a. Any monitoring or testing methods provided in these rules; or~~
- ~~b. Other testing, monitoring, or information-gathering methods that produce information comparable to that produced by any method in subrule 21.5(1) or this subrule.~~

~~This rule is intended to implement Iowa Code section 455B.133.~~

567—21.6(455B) Temporary electricity generation for disaster situations. An electric utility may operate generators at an electric utility substation with a total combined capacity not to exceed 2 megawatts in capacity for a period of not longer than 10 calendar days and only for the purpose of providing electricity generation in the event of a sudden and unforeseen disaster that has disabled standard transmission of electricity to the public. Department approval shall be required if the electric utility intends to operate generators for a period longer than 10 calendar days. The electric utility shall provide an oral report to the appropriate department field office and to the department's air quality bureau and shall specify the anticipated duration within eight hours of commencing use of a generator or at the start of the first working day following the placement of a generator at each site. A written report shall be submitted to the department within 30 calendar days following the cessation of use of the generators. The written report shall state the nature of the sudden and unforeseen disaster, the location of each site, the number of generators used, the capacity of the generators used, the fuel type of the generators, and the duration of use of each generator. For purposes of this rule, the definition of "disaster" shall be as defined in Iowa Code section 29C.2(1), and a disaster may occur before, with, or without a gubernatorial or federal disaster proclamation.

This chapter is intended to implement Iowa Code section 455B.133 and 455B.143.

Commented [13]: This sentence is moved from subrule 21.5(2) below.

Commented [PC14]: New paragraphs "d" and "e" provisions are moved from 21.5(2) "a" and "b" below.