

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 455B.173, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 60, “Scope of Title—Definitions—Forms—Rules of Practice,” Chapter 62, “Effluent and Pretreatment Standards: Other Effluent Limitations or Prohibitions,” Chapter 63, “Monitoring, Analytical, and Reporting Requirements,” Chapter 64, “Wastewater Construction and Operation Permits,” and Chapter 67, “Standards for the Land Application of Sewage Sludge,” Iowa Administrative Code.

The primary purpose of the proposed amendments is to update and clean up several portions of the wastewater rules for National Pollutant Discharge Elimination System (NPDES) and Iowa operation permits. The proposed amendments will accomplish this by updating the federal code references; changing rule language to accord with the Clean Water Act and federal regulations; removing obsolete language and citations; extending and clarifying bypass reporting time lines; removing specific operational monitoring requirements; removing extraneous public notice requirements for permittees; clarifying language on permit requirements and reissuance; and adding a new subrule to allow the Department of Natural Resources (Department) to issue fee refunds without variances.

Any person may submit written suggestions or comments on the proposed amendments through February 19, 2016. Such written material should be submitted to Courtney Cswercko, NPDES Section, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)725-8202; or by e-mail to courtney.cswercko@dnr.iowa.gov. Persons who have questions may contact Courtney Cswercko by e-mail or at (515)725-8411.

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

February 15, 2016	2 to 4 p.m.	Iowa Department of Natural Resources Field Office 4 1401 Sunnyside Lane Atlantic
February 16, 2016	10 a.m. to 12 noon	Iowa Department of Natural Resources Wallace State Office Building Fourth Floor Conference Room 502 East 9th Street Des Moines
February 16, 2016	6:30 to 8:30 p.m.	Iowa City Public Library Meeting Room A 123 South Linn Street Iowa City

At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subjects of the amendments.

Any person who intends to attend a public hearing and has special requirements, such as those related to mobility or hearing impairments, should contact the Department to advise of any specific needs.

Summary

The following summary describes the changes that are proposed for Chapters 60, 62, 63, 64 and 67.

Code of Federal Regulations reference updates for Chapters 60, 62, 63, 64 and 67:

The proposed amendments update the references to the Code of Federal Regulations (CFR) and associated analytical methods in Chapters 60, 62, 63, 64, and 67 of the wastewater rules by citing a new effective CFR date of January 1, 2015. Obsolete CFR references will also be deleted.

Chapter 60 amendments:

The proposed amendments will add the definition of “New discharger” to rule 567—60.2(455B) for clarification purposes and to comply with federal regulations and will amend the definition of “point source” to be equivalent to the definition in the Clean Water Act. The proposed amendments will remove the definition of “EPA methods” from rule 567—60.2(455B), as Chapter 63 discusses guidelines for test procedures for pollutant analysis specifically, and this definition is not needed.

An operation permit form is proposed to be added. The General Permit No. 6, Iowa Water Well Construction and Services Field Office Notification Form, is proposed to be added, and old monthly operation report forms are proposed to be removed in subrule 60.3(3). The language concerning monthly operation report forms will also be modified to reference discharge monitoring report forms, which is the current title of the effluent reporting forms that permittees submit to the Department. These changes are for clarification purposes and will ensure that all of the NPDES, operation, and general permit forms are referenced correctly in Chapter 60.

Chapter 62 amendments:

Several of the references to the Federal Effluent and Pretreatment Standards in rule 567—62.4(455B) are proposed to be updated to accord with the updated CFR reference. The proposed amendments will correct several of the names of the pretreatment standards listed in rule 567—62.4(455B) and will ensure that the federal pretreatment standards are referenced correctly. All of the pretreatment standards referenced in the proposed amendments are currently in effect and are being implemented in Iowa’s NPDES permits; U.S. EPA has not recently implemented any new pretreatment standards that would create new requirements for Iowa’s permittees.

Chapter 63 amendments:

The proposed update to the CFR effective date in the CFR definition in Chapter 60 will result in an update to the CFR reference in subrule 63.1(1) for the identification of wastewater testing procedures. The proposed update of this reference in Chapter 63 will result in the inclusion of the U.S. EPA rule, “Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act; Analysis and Sampling Procedures,” known as the method update rule, effective on June 18, 2012. In this rule, U.S. EPA added to 40 CFR Part 136 several new and revised analytical methods for measuring regulated pollutants in wastewater. Permittees and laboratories are required by federal law to use these analytical methods for determining compliance with NPDES permits. The method update rule provides increased flexibility to permittees and laboratories in their selection of analytical methods for use in wastewater testing.

The bypass notification time line in subrule 63.6(3) is proposed to be changed from 12 to 24 hours and the bypass report submittal time line is proposed to be changed from monthly to five days, both of which will accord with 40 CFR 122.41. The increase in the bypass notification time line will reduce the regulatory burden on permittees by allowing them more time to notify the Department of bypasses. The change to the bypass report submittal time line will not increase the regulatory burden on permittees, as they are already required to submit these reports. The change will ensure that facilities that bypass are not cited by U.S. EPA for submitting late reports.

A new rule on noncompliance is proposed to be added to Chapter 63 to ensure that the portions of 40 CFR 122.41 referencing noncompliance are correctly cited. The federal language on noncompliance is not new and is currently implemented in NPDES permits.

Table III, Operational Monitoring Requirements in Permits, in Chapter 63 is proposed to be rescinded. Two of the operational monitoring parameters currently in Table III, cell depth and total residual chlorine (TRC), and the footnotes associated with these parameters, are proposed to be moved to Tables I and II in Chapter 63 (the minimum self-monitoring in permits for organic waste dischargers). The monitoring requirements for cell depth and TRC are proposed to be moved as they are used for routine lagoon maintenance and to determine compliance with TRC permit limits, respectively. The

other operational monitoring requirements in Table III, including monitoring of aeration basin contents, aerobic and anaerobic digester contents, and effluent from clarifiers, will be eliminated from Chapter 63 with the proposed rescission of Table III. This amendment will result in the removal of specific operational monitoring requirements from the majority of NPDES and operation permits.

The requirements for operational monitoring are proposed to be eliminated for several reasons, including:

- The majority of rule variances granted by the NPDES section are for operational monitoring;
- Operational monitoring data are rarely used by the Department to determine compliance;
- When appropriate, operational monitoring can be required in permits on a case-by-case basis;
- Operators know what operational monitoring is needed for their facility, and they will do the needed monitoring to ensure their plants run efficiently;
- There would be a cost savings in “required” monitoring; and
- Other states, including Illinois, Kansas, Nebraska, Minnesota, and Wisconsin, do not have operational monitoring in their NPDES permits.

The proposed amendments will also change the language in Chapter 63 regarding operational monitoring requirements and will change the associated operational monitoring language in Chapter 64. The proposed language for Chapter 63 eliminates the reference to Table III, requires permittees to perform operational monitoring to ensure proper facility operation in accordance with the facility design, and requires permittees to maintain records of any operational monitoring for three years. The proposed rescission of Table III and the addition of the requirement to perform operational monitoring in accordance with facility design will result in the performance of necessary operational monitoring at the discretion of each facility. Operational monitoring would no longer be regularly specified in NPDES or operation permits as a result of the proposed amendments, but operational monitoring would still need to be conducted to ensure proper facility operation. Thus, the proposed rescission of Table III will not result in the complete elimination of operational monitoring for permittees. The proposed amendments will not change the current rule language allowing operational monitoring requirements to be placed in permits on a case-by-case basis. The proposed amendment to the operational monitoring language in Chapter 64 is in accordance with the proposed amendments to Chapter 63.

Chapter 64 amendments:

To reduce the regulatory burden on smaller permitted facilities, the proposed amendments will remove the requirement from subrule 64.5(2) for minor NPDES permittees to publish a public notice in a local newspaper when a permit is drafted or amended and will also remove the requirement for all facilities to post a public notice in the post office. The requirements for the publication of a public notice are proposed to be changed because 40 CFR 124.10 only requires the publication of public notices for major permittees. The requirement to post a notice in the post office is proposed to be changed because local post offices do not always have a place to post public notices. Major NPDES permittees will still be required to publish public notices in a local newspaper, and all NPDES permittees will still be required to post public notices in public places and near the facility entrance.

The language in subrules 64.8(1) and 64.8(3) concerning the reissuance of permits to noncompliant facilities and the continuation of permits is proposed to be changed in order to prevent confusion about the circumstances under which a permit can be reissued and to ensure that permittees do not have to submit extra information with their permit applications. The Department has already received the information that the current rule requires to be submitted with a permit application in the effluent discharge monitoring reports and during inspections; the rule change clarifies that permittees do not need to submit the information a second time. The proposed amendments also add agricultural storm water discharges to the list of activities that do not require a wastewater operation permit. This change clarifies a long-standing DNR determination that such discharges do not require an operation permit.

A new subrule on fee refunds is proposed to be added to rule 567—64.16(455B) that will allow the Department to issue fee refunds to permit holders without having to first approve a rule variance. The proposed subrule will clarify the circumstances for fee refunds and will reduce the time it takes the Department to process a refund request. In addition, language concerning the return of fees that will be clarified by the new subrule is proposed to be removed from subrule 64.16(1).

The proposed amendments to Chapter 64 will also correct six rule citations, correct an obsolete address reference, and delete a duplicate paragraph.

Jobs Impact:

After analysis and review of this rule making, it has been determined that there will be no impact on private sector jobs and employment opportunities in Iowa. The private sector employment sectors which are subject to the proposed amendments include jobs in the wastewater, engineering consulting, analytical laboratory, and newspaper industries.

The proposed amendments are not anticipated to have an impact on private sector jobs and employment opportunities in Iowa, as the changes are for clarification purposes, will reduce the regulatory burden on permitted entities, or will cite existing federal regulations. In addition, the costs to the private sector as a result of the proposed amendments have already been realized or are negligible. The fiscal impact statement for this rule making is available upon request.

Chapter 60:

The proposed amendments to add and delete definitions, include current forms, and remove old forms will not impact jobs or employment opportunities in Iowa as they are minor changes that will not impact the construction, operation, or maintenance of wastewater facilities in Iowa.

Chapter 62:

The proposed amendments that will reference the Federal Effluent and Pretreatment Standards will not impact jobs or employment opportunities as they are citing existing regulations that are already being implemented.

Chapter 63:

The proposed update to the CFR reference in Chapter 63 that will result in the inclusion of the new U.S. EPA method update rule will not impact jobs or employment opportunities at analytical laboratories in Iowa. The method update rule has not yet been implemented by all of the laboratories in Iowa. However, the laboratories are all aware of the method update, and they have been working for several months to update their standard operating procedures (SOPs) to comply with the new methods and to purchase any necessary laboratory equipment. As Iowa laboratories have already begun the effort to update their SOPs, train staff on new SOPs, and purchase equipment, and as these efforts are all a normal part of laboratory operations, this proposed update will not impact private sector jobs and employment opportunities in Iowa.

The proposed reduction in the time line for submitting bypass reports will not impact jobs or employment opportunities as it is a minor change that will not impact the construction, operation, or maintenance of Iowa wastewater facilities. The extension of the bypass reporting time will not impact jobs or employment opportunities, as the reporting time is only being extended by 12 hours. The proposed addition of a new rule on noncompliance will not impact jobs or employment opportunities, as it cites existing federal regulations that are already being implemented.

The removal of the operational monitoring requirements table from Chapter 63 and the proposed changes to the associated operational monitoring requirements language will not impact private sector jobs or employment opportunities in Iowa. These changes will affect the wastewater, engineering consulting and analytical laboratory industries, but there will be no impact on jobs in these industries. Proposed rule 567—63.15(455B) will decrease the regulatory burden as operational monitoring will no longer be specified in permits. Operational monitoring will still need to be conducted to ensure proper facility operation, but the magnitude of monitoring will be less.

Chapter 64:

The proposed amendment to the public notice requirements will not impact jobs or employment opportunities in Iowa. The removal of the requirement for minor facilities to publish a public notice in a newspaper will affect the newspaper industry in Iowa. However, this revenue loss will be minimal. Moreover, eliminating the public notice requirement removes a regulatory burden on permittees such as small businesses and towns.

The proposed amendments to the language concerning the reissuance of permits to noncompliant facilities and concerning the continuation of permits, and the proposed addition of a new subrule on fee refunds will not impact jobs or employment opportunities as they are minor changes that will not impact

the construction, operation, or maintenance of Iowa wastewater facilities. The addition of agricultural storm water discharges to the list of activities that do not require a wastewater operation permit will not impact private sector jobs or employment opportunities in Iowa, as this change clarifies a long-standing DNR determination that such discharges do not require an operation permit.

These amendments are intended to implement Iowa Code sections 455B.173, 455B.174, 455B.175, 455B.199A, and 455B.199B.

The following amendments are proposed.

ITEM 1. Adopt the following new definition of “New discharger” in rule ~~567—60.2(455B)~~:

“*New discharger*” means any building, structure, facility, or installation:

1. From which there is or may be a “discharge of pollutants”;
2. That did not commence the “discharge of pollutants” at a particular “site” prior to August 13, 1979;
3. Which is not a “new source”; and
4. Which has never received a finally effective NPDES permit for discharges at that “site.”

This definition includes an “indirect discharger” which commences discharging into “waters of the United States” after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant that begins discharging at a “site” for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig that commences the discharge of pollutants after August 13, 1979, at a “site” under EPA’s permitting jurisdiction for which it is not covered by an individual or general permit and which is located in an area determined by the Regional Administrator in the issuance of a final permit to be an area of biological concern. In determining whether an area is an area of biological concern, the Regional Administrator shall consider the factors specified in 40 CFR 125.122(a)(1) through (10).

An offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig will be considered a “new discharger” only for the duration of its discharge in an area of biological concern.

ITEM 2. Amend the following definitions in rule ~~567—60.2(455B)~~:

“*CFR*” or “*Code of Federal Regulations*” means the federal administrative rules adopted by the United States in effect as of ~~July 1, 2008~~ January 1, 2015. The amendment of the date contained in this definition shall constitute the amendment of all CFR references contained in ~~567—~~ Chapters 60 to 69, Title IV, unless a date of adoption is set forth in a specific rule.

“*Point source*” means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, ~~landfill leachate collection system~~, or vessel or other floating craft, from which pollutants are or may be discharged. ~~“Point source” This term does not include return flows from irrigated agriculture or agricultural storm water runoff discharges and return flows from irrigated agriculture.~~

“*Storm water*” means storm water runoff, snow melt runoff and surface runoff and drainage. (NOTE: Agricultural storm water runoff is excluded by federal regulation 40 CFR 122.3(e) ~~as amended through June 15, 1992.~~)

“*Storm water discharge associated with industrial activity*” means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under 40 CFR Part 122 ~~as amended through June 15, 1992~~. For the categories of industries identified in paragraphs “1” to “10” of this definition, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process wastewaters (as defined at 40 CFR Part 401 ~~amended through June 15, 1992~~); sites used for the storage and maintenance of material

handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water.

For the categories of industries identified in paragraphs “1” to “9” and “11,” the term includes only storm water discharges from all the areas (except access roads and rail lines) that are listed in the previous sentence where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water. For the purposes of this paragraph, material handling activities include the: storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product. To qualify for this exclusion, a storm-resistant shelter is not required for: drums, barrels, tanks and similar containers that are tightly sealed with bands or otherwise secured and have no taps or valves, are not deteriorated and do not leak; adequately maintained vehicles used in material handling; and final products other than products that would be mobilized in storm water discharge. The term excludes areas located on plant lands separate from the plant’s industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are federally, state, or municipally owned or operated) that meet the description of the facilities listed in paragraphs “1” to “11” of this definition include those facilities designated under 40 CFR 122.26(a)(1)(v) ~~as amended through December 8, 1999~~. The following categories of facilities are considered to be engaging in “industrial activity” for purposes of this definition:

1. Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter N ~~as amended through June 15, 1992~~ (except facilities with toxic pollutant effluent standards which are exempted under paragraph “11” of this definition);

2. Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283 and 285), 29, 311, 32 (except 323), 33, 3441, 373;

3. Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations meeting the definition of a reclamation area under 40 CFR 434.11(1) ~~as amended through June 15, 1992~~) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable state or federal reclamation requirements after December 17, 1990, and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with, or that has come into contact with, any overburden, raw material, intermediate products, finished products, by-products or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);

4. to 8. No change.

9. Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR Part 403 ~~(as amended through June 15, 1992)~~. Not included are farmlands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with 40 CFR Part 503 ~~(as amended through June 15, 1992)~~;

10. and 11. No change.

“*Storm water point sources*” means point sources that serve to collect, channel, direct, and convey storm water and which are subject to Section 402(p) of the federal Clean Water Act and 40 CFR Parts 122, 123, and 124 of Title 40 of the Code of Federal Regulations (as amended through June 15, 1992).

ITEM 3. Rescind the definition of “EPA methods” in rule ~~567—60.2(455B)~~.

ITEM 4. Amend paragraph **60.3(2)“i”** as follows:

i. Form 5 — Certification for Industrial Facilities and Operation Permits 542-1382.

ITEM 5. Reletter paragraphs **60.3(2)“j”** to “x” as **60.3(2)“k”** to “y.”

ITEM 6. Adopt the following **new** paragraph **60.3(2)“j”**:

j. Form 6 — Operation Permit Application 542-1390.

ITEM 7. Amend subrule 60.3(3) as follows:

60.3(3) Wastewater ~~monitoring~~ records of operation and other report forms.

a. ~~Form 35-1—general/monthly 542-3226 Individual operation and NPDES permit, discharge monitoring report forms as given to the permittee by the department.~~

b. ~~Form 35-2—general/quarterly 542-3227~~

c. ~~Form 35-3—commercial/industrial contributor/monthly 542-3228~~

d. ~~Form 35-4—general/monthly 542-3229~~

e. ~~Form 35-5—waste stabilization lagoons 542-3230~~

f. ~~Form 35-6—trickling filter 542-3231~~

g. ~~Form 35-7—activated sludge/contact stabilization 542-3232~~

h. ~~Form 35-8—commercial/industrial contributor/quarterly 542-3233~~

i. ~~*b.* General Permit No. 5, “Discharge from Mining and Processing Facilities,” Annual Monitoring Report 542-8035.~~

c. ~~General Permit No. 6, “Iowa DNR Water Well Construction and Services Wastewater Discharge Field Office Notification Form,” 542-0018.~~

j. ~~*d.* General Permit No. 7, “Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides,” Annual Monitoring Report.~~

e. ~~“Acute Whole Effluent Toxicity Testing Report Form,” 542-1381.~~

k. ~~*f.* Other forms as provided by the department, including electronic forms.~~

ITEM 8. Amend rule ~~567—62.4(455B)~~, introductory paragraph, as follows:

~~567—62.4(455B) Federal effluent and pretreatment standards.~~ The federal standards, 40 Code of Federal Regulations (CFR), revised as of ~~July 1, 2007~~ January 1, 2015, are applicable to the following categories:

ITEM 9. Amend subrules 62.4(3), 62.4(5), 62.4(10), 62.4(12), 62.4(25), 62.4(31), 62.4(35), 62.4(49), 62.4(50), 62.4(51), 62.4(55), 62.4(59) and 62.4(71) as follows:

62.4(3) General pretreatment regulations for existing and new sources of pollution. The following is adopted by reference: 40 CFR Part 403.

62.4(5) Dairy products processing ~~industry~~ point source category. The following is adopted by reference: 40 CFR Part 405.

62.4(10) Textile ~~industry~~ mills point source category. The following is adopted by reference: 40 CFR Part 410.

62.4(12) Concentrated animal feeding operations (CAFOs) point source category. The following is adopted by reference: 40 CFR Part 412.

62.4(25) Leather tanning and finishing ~~industry~~ point source category. The following is adopted by reference: 40 CFR Part 425.

62.4(31) Builders paper and roofing felt segment of the builders paper and board mills point source category. ~~The following is adopted by reference: 40 CFR Part 431.~~ Reserved.

62.4(35) Oil and gas extraction ~~industry~~ point source category. The following is adopted by reference: 40 CFR Part 435.

~~62.4(49) Steam supply and noncontact cooling water Airport de-icing point source category. Reserved.~~ The following is adopted by reference: 40 CFR Part 449.

~~62.4(50) Concentrated aquatic animal production Construction and development point source category.~~ The following is adopted by reference: 40 CFR Part 451 450.

~~62.4(51) Clay, gypsum, refractory and ceramic products Concentrated aquatic animal production point source category. Reserved.~~ The following is adopted by reference: 40 CFR Part 451.

~~62.4(55) Pesticide chemicals manufacturing point source category.~~ The following is adopted by reference: 40 CFR Part 455.

~~62.4(59) Photographic processing point source category.~~ The following is adopted by reference: 40 CFR Part 459.

~~62.4(71) Nonferrous metals forming and metal powders point source category.~~ The following is adopted by reference: 40 CFR Part 471.

ITEM 10. Amend rule 567—62.5(455B) as follows:

567—62.5(455B) Federal toxic effluent standards. The following is adopted by reference: 40 CFR Part 129, revised as of July 1, 2007.

ITEM 11. Amend paragraph **63.1(1)“a”** as follows:

a. The following is adopted by reference: 40 Code of Federal Regulations (CFR) Part 136, revised as of July 1, 2007.

ITEM 12. Amend subrule 63.1(3) as follows:

63.1(3) Required containers, preservation techniques and holding times. All samples collected in accordance with self-monitoring requirements as defined in an operation permit shall comply with the container, preservation techniques, and holding time requirements as specified in Table ~~VI~~ IV. Sample preservation should be performed immediately upon collection, if feasible.

ITEM 13. Amend subrule 63.2(1) as follows:

63.2(1) The permittee shall maintain records of all information resulting from any monitoring activities required in its operation permit and from any operational performance monitoring.

ITEM 14. Amend subrule 63.3(1) as follows:

63.3(1) Monitoring by organic waste dischargers. The minimum self-monitoring requirements to be incorporated in operation permits for facilities discharging organic wastes shall be the appropriate requirements in Tables I, II, and ~~IV~~ III. Additional monitoring may be specified in the operation permit based on a case-by-case evaluation of the impact of the discharge on the receiving stream, toxic or deleterious effects of wastewaters, industrial contribution to the system, complexity of the treatment process, history of noncompliance or any other factor which requires strict operational control to meet the effluent limitations of the permit, as described in the Supporting Document for Permit Monitoring Frequency Determination, August 2008, located on the NPDES Web site.

ITEM 15. Amend subrule 63.3(4) as follows:

63.3(4) Operational performance monitoring. ~~The minimum operational monitoring to be incorporated in permits shall be the appropriate requirements in Table III. These requirements reflect minimum indicators that any adequately run system must monitor. The department recognizes that most well-run facilities will be monitored more closely by the operator as appropriate to the particular system. However, the results of any monitoring beyond the requirements in Table III need not be reported to the department, but shall be maintained in accordance with 63.2(3). Additional operational~~ Operational performance monitoring for treatment unit process control shall be conducted to ensure that the facility is properly operated in accordance with its design. The results of any operational performance monitoring need not be reported to the department, but shall be maintained in accordance with rule 567—63.2(455B). Additional operational performance monitoring may be specified in the operation permit based on a case-by-case evaluation of the impact of the discharge on the receiving stream, toxic or deleterious effects of wastewaters, complexity of the treatment process, history of noncompliance or any other factor that requires strict control to meet the effluent limitations of the

permit. The results of operational performance monitoring specified in the operation permit shall be submitted to the department in accordance with the reporting requirements in the operation permit.

ITEM 16. Amend subrule 63.6(3) as follows:

63.6(3) Notification of unanticipated bypass or upset and public notices. In the event that a bypass or upset occurs without prior notice having been provided pursuant to 63.6(2) or as a result of mechanical failure or acts beyond the control of the owner or operator, the owner or operator of the treatment facility or collection system shall notify the department by telephone as soon as possible but not later than ~~12~~ 24 hours after the onset or discovery.

a. Notification shall be made by contacting the appropriate field office ~~during normal business hours (8 a.m. to 4:30 p.m.)~~ or by calling the department at (515)281-8694 ~~after normal business hours.~~

b. and c. No change.

d. ~~Bypasses shall be reported with the monthly operation report, as a separate attachment, that includes:~~ A written submission describing the bypass shall also be provided within five days of the time the permittee becomes aware of the bypass. The written submission shall contain the following:

(1) to (6) No change.

ITEM 17. Adopt the following new rule 567—63.15(455B):

567—63.15(455B) Other noncompliance. The permittee shall provide a written description of all instances of noncompliance not reported under rule 567—63.12(455B) or 567—paragraph 64.7(4) “c” at the time discharge monitoring reports (DMRs) are submitted. The written description shall contain the information listed in rule 567—63.12(455B).

ITEM 18. Amend **567—Chapter 63**, Tables I and II, as follows:

Table I Minimum Self-Monitoring in Permits for Organic Waste Dischargers
Controlled Discharge Wastewater Treatment Plants

Wastewater Parameter	Sampling ⁵ Location	Sample Type ⁴	Frequency by P.E. ^{1,5,6}			
			< 100	101-500	501-1,000	>1,001
Flow ²	Raw	24-Hr Total	1/Week	Daily	Daily	Daily
	Final	Instantaneous	2/Week during drawdown	Daily during drawdown		
BOD ₅	Raw	24-Hr Composite	–	–	–	1/3 Months
CBOD ₅ ³	Final	Grab	1/Drawdown ⁷	Twice during drawdown		
Total Suspended Solids (TSS) ³	Raw	24-Hr Composite	–	–	–	1/3 Months
	Final	Grab	1/Drawdown ⁷	Twice during drawdown		
Ammonia Nitrogen	Final	Grab	1/Drawdown	Twice during drawdown		
<i>E. coli</i>	Final	Grab	1/Drawdown	1/Drawdown	Twice during drawdown	
pH ⁸	Raw	Grab	–	–	–	1/3 Months
	Final	Grab	1/Drawdown	1/Drawdown	Twice during drawdown	1/Week during drawdown
Cell Depth ⁹	<u>Each Cell</u>	<u>Measurement</u>	<u>1/Week</u>	<u>1/Week</u>	<u>1/Week</u>	<u>2/Week</u>
<u>Total Residual Chlorine (TRC)¹⁰</u>	<u>Final</u>	<u>Grab</u>	<u>1/Drawdown</u>	<u>1/Drawdown</u>	<u>Twice during drawdown</u>	

Explanation of Superscripts

1 to 7 No change.

8 - pH can be monitored using a colorimetric comparator or a meter.

9 - Cell Depth monitoring is required to be conducted year-round (not exclusively during drawdown periods). It may be applied to lagoon cells at continuous discharge wastewater treatment facilities on a case-by-case basis.

10 - TRC can be monitored using a colorimetric comparator or a meter. TRC monitoring is only required for facilities with TRC effluent limitations.

Table II Minimum Self-Monitoring in Permits for Organic Waste Dischargers
Continuous Discharge Wastewater Treatment Plants

Wastewater Parameter	Sampling Location	Sample Type ^{3,11}	Frequency by P.E. ^{1,6}						
			≤ 100	101-500	501-1,000	1,001-3,000	3,001-15,000	15,001-105,000	> 105,000
Flow ²	Raw or Final	24-Hr Total	1/week	Daily	Daily	Daily	Daily	Daily	Daily
BOD ₅	Raw	24-Hr Comp.	1/6 Months	1/3 Months	1/Week	1/Week	2/Week	2-5/Week ⁵	Daily
CBOD ₅	Final	24-Hr Comp.	1/3 Months	1/Month	1/Week	1/Week	2/Week	2-5/Week ⁵	Daily
Total Suspended Solids (TSS)	Raw	24-Hr Comp.	1/6 Months	1/3 Months	1/Month	1/2 Weeks	1/Week	2-5/Week ⁵	Daily
	Final	24-Hr Comp.	1/3 Months	1/3 Months	1/Month	1/2 Weeks	1/Week	2-5/Week ⁵	Daily
Ammonia Nitrogen ¹⁰	Final	24-Hr Comp.	1/Month	1/Month	1/Week	1/Week	2/Week	2-5/Week ⁵	Daily
TKN ⁸	Raw	24-Hr Comp.	—	—	—	—	1/Month	1/Month	1/2 Weeks
Total Nitrogen ⁹	Final	24-Hr Comp.	—	—	—	—	1/3 Months	1/2 Months	1/2 Months
Total Phosphorus ⁹	Final	24-Hr Comp.	—	—	—	—	1/3 Months	1/2 Months	1/2 Months
pH ¹²	Raw	Grab	—	—	1/Week	1/Week	2/Week	2-5/Week ⁵	Daily
	Final	Grab	1/3 Months	1/Month	1/Week	1/Week	2/Week	5/Week	Daily
<i>E. coli</i> ^{4,7}	Final	Grab	5 samples, 1/3 Months	5 samples, 1/3 Months	5 samples, 1/3 Months	5 samples, 1/3 Months	5 samples, 1/3 Months	5 samples, 1/3 Months	5 samples, 1/3 Months
Temperature	Raw	Grab	—	—	1/Week	1/Week	2/Week	2-5/Week ⁵	Daily
	Final	Grab	1/3 Months	1/Month	1/Week	1/Week	2/Week	2-5/Week ⁵	Daily
Total Residual Chlorine (TRC) ¹³	Final	Grab	1/Week	1/Week	2/Week	2/Week	3/Week	5/Week	Daily

Explanation of Superscripts

1 to 11 No change.

12 - See Superscript #8, Table I.

13 - See Superscript #10, Table I.

- ITEM 19. Rescind Table III in **567—Chapter 63**.
- ITEM 20. Renumber Tables IV and V as Tables III and IV in **567—Chapter 63**.
- ITEM 21. Amend renumbered Table III, Explanation of Superscripts, in **567—Chapter 63** as follows:

Explanation of Superscripts

- 1 - The flow to be used for determining sample frequency shall be the original engineering design, average wet weather flow, or any modifications thereof. The design flow shall be the raw wastewater flow prior to any treatment units.
- 2 - See Superscript #4, Table I.
- 3 - Monitoring wells shall be sampled according to the procedures described in Table ~~V~~ IV.
- 4 - Final shall be the final effluent from the storage facility prior to land application.

ITEM 22. Adopt the following new paragraph **64.3(1)“g”**:

g. Agricultural storm water discharges. This exclusion applies only to the operation permit requirement set forth in this rule and does not alter other requirements of law, including but not limited to any applicable requirements of Iowa Code chapters 459 and 459A.

ITEM 23. Amend subparagraph **64.4(2)“a”(1)** as follows:

(1) Storm water point sources requiring an NPDES permit pursuant to Section 402(p) of the federal Clean Water Act and 40 CFR 122.26 (~~as amended through June 15, 1992~~).

ITEM 24. Amend subparagraphs **64.5(1)“a”(1)** and **(3)** as follows:

(1) Effluent limitations identified pursuant to ~~64.6(2)~~ 64.7(2) and ~~64.6(3)~~ 64.7(3), for those pollutants proposed to be limited.

(3) Any other special conditions (other than those required in ~~64.6(5)~~ 64.7(7)) which will have a significant impact upon the discharge described in the permit application.

ITEM 25. Amend paragraph **64.5(2)“a”** as follows:

a. Prior to the issuance of an NPDES permit, a major NPDES permit amendment, or the denial of a permit application for an NPDES permit, public notice shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed discharge and of the tentative determination to issue or deny an NPDES permit for the proposed discharge. Procedures for the circulation of public notice shall include at least the procedures of subparagraphs (1) to ~~(3)~~(4).

(1) The public notice for a draft NPDES permit or major permit amendment shall be circulated by the applicant within the geographical areas of the proposed discharge by posting the public notice in ~~the post office and~~ public places of the city nearest the premises of the applicant in which the effluent source is located; and by posting the public notice near the entrance to the applicant’s premises and in nearby places; ~~and by publishing the public notice in local newspapers and periodicals, or, if appropriate, in a newspaper of general circulation.~~

(2) The public notice for the denial of a permit application shall be sent to the applicant and circulated by the department within the geographical areas of the proposed discharge by publishing the public notice in local newspapers and periodicals; or, if appropriate, in a newspaper of general circulation.

~~(2)~~ (3) The public notice shall be sent by the department to any person upon request.

~~(3)~~ (4) Upon request, the department shall add the name of any person or group to the distribution list to receive copies of all public notices concerning the tentative determinations with respect to the permit applications within the state or within a certain geographical area and shall send a copy of all public notices to such persons.

ITEM 26. Reletter paragraphs **64.5(2)“b”** to **“e”** as **64.5(2)“c”** to **“f.”**

ITEM 27. Adopt the following **new** paragraph **64.5(2)“b”**:

b. In addition to the requirements in paragraph 64.5(2) *“a,”* prior to the issuance of a major NPDES permit or a major permit amendment to a major NPDES permit, the public notice shall be published by the applicant in local newspapers and periodicals or, if appropriate, in a newspaper of general circulation. Publication of a public notice is not required prior to the issuance of the following:

- (1) A minor NPDES permit,
- (2) A minor permit amendment, or
- (3) A major permit amendment to a minor NPDES permit.

Major and minor NPDES permits and major and minor permit amendments are defined in 567—60.2(455B).

ITEM 28. Amend subparagraph **64.6(1)“c”(1)** as follows:

(1) General Permits No. 1, No. 2 and No. 3. A demonstration that a public notice was published in at least one newspaper with the largest circulation in the area in which the facility is located or the activity will occur. The newspaper notice shall, at the minimum, contain the following information:

PUBLIC NOTICE OF STORM WATER DISCHARGE

The (applicant name) plans to submit a Notice of Intent to the Iowa Department of Natural Resources to be covered under NPDES General Permit (select the appropriate general permit—No. 1 “Storm Water Discharge Associated with Industrial Activity” or General Permit No. 2 “Storm Water Discharge Associated with Industrial Activity for Construction Activities”). The storm water discharge will be from (description of industrial activity) located in (¼ section, township, range, county). Storm water will be discharged from (number) point source(s) and will be discharged to the following streams: (stream name(s)).

Comments may be submitted to the Storm Water Discharge Coordinator, ~~IOWA DEPARTMENT OF NATURAL RESOURCES, Environmental Protection Division, 900 E. Grand Avenue, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, IA Iowa 50319-0034.~~ The public may review the Notice of Intent from 8 a.m. to 4:30 p.m., Monday through Friday, at the above address after it has been received by the department.

ITEM 29. Amend paragraph **64.7(4)“d,”** introductory paragraph, as follows:

d. On the last day of the months of February, May, August, and November the director shall transmit to the regional administrator a list of all instances, as of 30 days prior to the date of such report, of failure or refusal of a permittee to comply with an interim or final requirement or to notify the department of compliance or noncompliance with each interim or final requirement (as required pursuant to paragraph *“b”“c”* of this subrule). Such list shall be available to the public for inspection and copying and shall contain at least the following information with respect to each instance of noncompliance:

ITEM 30. Amend paragraph **64.8(1)“a”** as follows:

a. Any operation or NPDES permittee who wishes to continue to discharge after the expiration date of the permit shall file an application for reissuance of the permit at least 180 days prior to the expiration of the permit pursuant to 567—60.4(455B). For a POTW, permission to submit an application at a later date may be granted by the director. In addition, the applicant must submit ~~or have submitted information to show:~~

~~(1) That the permittee is in compliance or has substantially complied with all the terms, conditions, requirements and schedules of compliance of the expiring operation or NPDES permit.~~

~~(2) Up up-to-date information on the permittee’s production levels, the permittee’s waste treatment practices, or the nature, contents, and frequency of the permittee’s discharge, as required by the permit application.~~

~~(3) That the discharge is consistent with applicable effluent standards and limitations, water quality standards and other legally applicable requirements listed in 64.7(2), including any additions to, or revision or modifications of, such effluent standards and limitations, water quality standards, or other legally applicable requirements during the term of the permit.~~

ITEM 31. Amend subrule 64.8(3) as follows:

64.8(3) *Continuation of expiring operation and NPDES permits.*

a. The conditions of an expired operation or NPDES permit will continue in force until the effective date of a new permit if:

(1) The permittee has submitted a timely and complete application under 567—subrule 60.4(2); and

(2) The department, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit.

b. Operation and NPDES permits continued under this subrule remain fully effective and enforceable.

c. If a permittee is not in compliance with the conditions of the expiring or ~~expired~~ continued permit, the department may choose to do any of the following:

(1) Initiate enforcement action on ~~the~~ a permit which has been continued or reissued;

(2) to (4) No change.

ITEM 32. Amend rule 567—64.9(455B) as follows:

567—64.9(455B) Monitoring, record keeping and reporting by operation permit holders. Operation permit holders are subject to any applicable requirements and provisions specified in the operation permit issued by the department and to the applicable requirements and provisions specified in 567—Chapter 63.

ITEM 33. Amend rule 567—64.14(455B) as follows:

567—64.14(455B) Transfer of title and owner or operator address change. ~~If title to any disposal system or part thereof for which a permit has been issued under 567—64.2(455B), 567—64.3(455B) or 567—64.6(455B) is transferred, the new owners shall be subject to all terms and conditions of said permit. Whenever title to a disposal system or part thereof is changed, the department shall be notified in writing of such change within 30 days of the occurrence. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notifying the department of the transfer of title. Whenever the address of the owner is changed, the department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all title transfers or address changes must be reported to the department by mail.~~

64.14(1) *Permits issued under rule 567—64.2(455B), 567—64.3(455B), or 567—64.6(455B), except 64.6(1)“a”(5) and (6).* If title to any disposal system or part thereof for which a permit has been issued under these rules is transferred, the new owners shall be subject to all terms and conditions of the permit. Whenever title to a disposal system or part thereof is changed, the department shall be notified in writing of such change within 30 days of the occurrence. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notification of the department of the transfer of title. Whenever the address of the owner is changed, the department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all title transfers and address changes must be reported to the department by mail.

64.14(2) *Permits issued under 64.6(1)“a”(5) and (6).* When the operator of a facility permitted under subparagraphs 64.6(1)“a”(5) and (6) changes, the department must be notified of the transfer within 30 days. When a discharge is covered by the general permit, the operator of record shall be subject to all terms and conditions of the permit. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notification of the department of the transfer. Whenever the address of the operator is changed, the department shall be notified in writing within 30

days of the address change. Electronic notification is not sufficient; all transfers and address changes must be reported to the department by mail.

ITEM 34. Amend subrule **64.16(1)**, second unnumbered paragraph, as follows:

Fees are nontransferable. ~~If the application is returned to the applicant by the department, the permit fee will be returned. No fees will be returned if the permit or permit coverage is suspended, revoked, or modified, or if the activity is discontinued.~~ Failure to submit the appropriate fee at the time of application renders the application incomplete, and the department shall suspend processing of the application until the fee is received. Failure to submit the appropriate annual fee may result in revocation or suspension of the permit as noted in 64.3(11)“f.”

ITEM 35. Adopt the following new subrule 64.16(7):

64.16(7) Fee refunds.

a. Individual and general permit application, permit, and annual fees may be refunded, completely or in part, at the discretion of the director. Permittees who wish to receive fee refunds should notify the department in writing. Fees may be refunded under various circumstances, including, but not limited to:

(1) A duplicate fee was submitted (for example, two annual fees for the same permit are paid in the same fiscal year).

(2) A fee was overpaid.

(3) A fee was submitted but is not required as part of the permit application or renewal (for example, an individual annual permit fee was submitted for a discontinued permit, a general permit NOI fee was submitted for an individual permit, or an amendment fee was submitted for a permit that cannot be amended).

(4) An application is returned to the applicant by the department without decision.

b. Fees shall not be refunded under any of the following conditions:

(1) If the permit or permit coverage is suspended, revoked, or modified, or if the activity is discontinued or ceased.

(2) If a permit is amended.

(3) If a permit application is withdrawn by the applicant or denied by the department pursuant to 64.5(1).

ITEM 36. Amend subrule 67.1(1) as follows:

67.1(1) General. This chapter establishes standards for the land application of sewage sludge generated during the treatment of domestic sewage in a treatment works. This chapter applies to any person who prepares sewage sludge (generator), to any person who applies sewage sludge to the land (applicator), and to sewage sludge applied to the land. No person shall land apply sewage sludge through any practice for which requirements are established in this chapter except in accordance with such requirements.

In areas that are not specifically addressed in this chapter, but which are addressed in federal regulations at 40 CFR Part 503 ~~as amended through August 4, 1999~~, the federal regulations shall apply under this rule and are hereby adopted by reference under this chapter.

On a case-by-case basis, this department may impose requirements for the land application of sewage sludge in addition to or more stringent than the requirements in this chapter when necessary to protect public health and the environment from any adverse effect of a pollutant in the sewage sludge.