

**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 sections 455B.105 and 455B.173, the Environmental Protection Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 61, “Water Quality Standards,” and Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

The primary purpose of the proposed amendments is to update the Iowa Antidegradation Implementation Procedure, which is currently incorporated by reference in 61.2(2)“e.” These amendments propose to rescind that paragraph and incorporate the Iowa Antidegradation Implementation Procedure in paragraph 64.2(9)“a” and new subparagraph 64.7(2)“f”(5). The Commission and the Department of Natural Resources (Department) received a petition for rule making from the Iowa Association of Municipal Utilities, the Iowa League of Cities, and the Iowa Association of Business and Industry on April 25, 2016. The petition was filed in response to concerns by petitioners regarding the Department’s cost-benefit analysis in its Iowa Antidegradation Implementation Procedure. Petitioners believe that without a bright-line standard to conduct this analysis, municipal and industrial permit applicants will face excessively burdensome costs to quantify, evaluate and compare environmental benefits with the costs of each treatment alternative being considered during the antidegradation review process. Because the Department has not developed a methodology to be utilized for such a comparison or a process and methodology for the review and approval of such an evaluation, the petitioners are urging the Commission to revise the Iowa Antidegradation Implementation Procedure to prevent the imposition of such a burdensome and expensive requirement.

This rule making proposes the replacement of the specific language which has been interpreted to be the basis for requiring the cost-benefit comparison with a bright-line standard for determining the appropriateness of requiring a less degrading wastewater treatment alternative. In addition to requesting comments on the proposed change, the Commission specifically requests that comments be submitted proposing a methodology for a comparison of environmental benefits to costs and a process and methodology for review and approval of such an analysis.

The proposed changes to the Iowa Antidegradation Implementation Procedure are found on pages 4, 15, 16 and 17 of the document along with the applicable effective date. The primary revision concerns the last paragraph on page 15 which is proposed to read as follows:

Alternatives costing less than 115 percent of the base cost of the minimum level of pollution control are considered economically efficient. Alternatives greater than or equal to 115 percent of the base costs are not considered economically efficient.

Other changes to the document are intended to implement this revision. The proposed revision of the Iowa Antidegradation Implementation Procedure can be viewed at: <http://www.iowadnr.gov/Environmental-Protection/Water-Quality/Water-Quality-Standards/Antidegradation>.

Any person may submit written suggestions or comments on the proposed amendments through June 29, 2016. Such written material should be submitted to Jon Tack, Bureau Chief, Water Quality Bureau, Iowa Department of Natural Resources, 502 East Ninth Street, Des Moines, Iowa 50319-0034; fax

(515)281-8895; or by e-mail to [jon.tack@dnr.iowa.gov](mailto:jon.tack@dnr.iowa.gov). Persons who have questions may contact Jon Tack by e-mail or by telephone at (515)725-8401.

A public hearing will be held on Wednesday, June 29, 2016, at 1 p.m. in Conference Room 2 North, Second Floor, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa. Persons attending the hearing may present their views either orally or in writing. Persons will be asked to give their names and addresses for the record and to confine their remarks to the content of the proposed amendments.

Any person who intends to attend the 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.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 455B.172, 455B.173, 455B.174, 455B.183, and 455B.197.

The following amendments are proposed.

ITEM 1. Rescind and reserve paragraph **61.2(2)“e.”**

ITEM 2. Amend paragraph **64.2(9)“a”** as follows:

a. Review of applications for construction permits shall be based on the criteria contained in the “Iowa Wastewater Facilities Design Standards,” the Ten States Standards, the “Iowa Antidegradation Implementation Procedure” as amended through [insert effective date], applicable federal guidelines and standards, standard textbooks, current technical literature and applicable safety standards. To the extent of any conflict between the above criteria, the “Iowa Wastewater Facilities Design Standards” standards shall prevail.

ITEM 3. Adopt the following new subparagraph **64.7(2)“f”(5)**:

(5) Any limitation necessary to comply with the antidegradation policy requirements of 567—subrule 61.2(2) implemented according to procedures hereby incorporated by reference and known as the “Iowa Antidegradation Implementation Procedure,” effective [insert effective date]. This document may be obtained on the department’s Web site at: <http://www.iowadnr.gov/Environmental-Protection/Water-Quality/Water-Quality-Standards>.