

CHAPTER 93
NONPOINT SOURCE POLLUTION CONTROL SET-ASIDE PROGRAMS

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

567—93.1(455B,466) Statutory authority. The authority for the Iowa department of natural resources to administer the clean water state revolving fund (CWSRF) to assist in the construction of wastewater treatment facilities and water pollution control projects is provided by Iowa Code sections 455B.291 to 455B.299.

567—93.2(455B,466) Scope of title. The department has jurisdiction over the surface water and groundwater of the state to prevent, abate and control pollution. As part of that general responsibility, the department and the Iowa finance authority are jointly delegated the administration of the CWSRF. Definitions provided in 567—Chapter 90 apply to this chapter.

567—93.3(455B,466) Purpose. Iowa's nonpoint source management plan identifies several sources of nonpoint source pollutants. In addition to assisting publicly owned treatment works, it is the intent of the commission to set aside a portion of the CWSRF for the purpose of making low-interest loans for nonpoint source water pollution control projects. Four separate set-asides are identified as follows:

93.3(1) *Onsite wastewater treatment and disposal systems set-aside.* The purpose of this set-aside is to assist homeowners to rehabilitate or improve existing onsite wastewater treatment and disposal systems.

93.3(2) *Livestock water quality facilities set-aside.* The purpose of the set-aside is to assist owners of existing animal feeding operations to meet state and federal requirements or to prevent, minimize or eliminate water pollution. Projects may be selected using the rating and ranking process in 567—Chapter 91.

93.3(3) *Local water protection projects set-aside.* The purpose of the set-aside is to assist local water protection projects that will provide water quality improvement or protection. Projects may be selected using the rating and ranking process in 567—Chapter 91.

93.3(4) *General nonpoint source project assistance set-aside.* The purpose of the set-aside is to assist general nonpoint source projects that will provide water quality improvements or water quality protection. This set-aside allows for funding of the water quality protection portion of nontraditional projects. Projects may be selected using the rating and ranking process in 567—Chapter 91.

[ARC 8596B, IAB 3/10/10, effective 4/14/10; ARC 1336C, IAB 2/19/14, effective 3/26/14]

567—93.4(455B,466) Onsite wastewater system assistance program.

93.4(1) *Onsite wastewater system assistance program.* Assistance under the onsite wastewater treatment system assistance program shall be in the form of low-interest loans made by participating lending institutions through a linked deposit arrangement with the CWSRF. The following eligibility conditions and restrictions apply to such assistance.

a. Location restrictions. Assistance is available for the improvement or rehabilitation of onsite wastewater treatment systems serving homes that do not have a connection to a publicly owned treatment works.

b. County eligibility. Assistance shall be provided only for systems located in counties that have an environmental health program meeting minimum standards for onsite sewage systems. The department shall maintain for public record a list of all counties meeting such standards. At a minimum, counties must carry out statutory responsibilities as provided in Iowa Code section 455B.172 as well as provide for the following measures. The department will adopt guidance in cooperation with county boards of health to evaluate the adequacy of county programs.

(1) Proper site evaluations to determine the appropriate design and size of onsite wastewater treatment systems prior to permitting and installation.

(2) Inspection of onsite systems by a qualified inspector at the time of renovation or construction.

(3) Enforcement of existing monitoring requirements, in accordance with rule 567—69.2(455B), for existing, permitted onsite systems with secondary treatment which discharge aboveground, such as those authorized by NPDES General Permit No. 4 in rule 567—64.6(455B).

(4) Assurance of regular system maintenance and monitoring for the life of the loan for those systems receiving assistance under the onsite wastewater systems assistance program.

c. Eligible project costs. The amount of assistance available shall be limited to the total costs deemed necessary, reasonable, and directly related to the repair, rehabilitation, or replacement of an onsite treatment system needed to meet state or local standards for onsite systems. Eligible costs include all costs directly related to the design, permitting and construction of an onsite wastewater treatment system.

d. Applicant eligibility. Assistance is limited to applicants who meet the applicable provisions of 567—Chapter 69 and all other local provisions for the siting and construction of onsite wastewater treatment and disposal systems.

e. Project eligibility. Assistance can be provided only for the repair, rehabilitation, or replacement of existing onsite wastewater treatment and distribution systems. Assistance is not available for new housing. A system serving an equivalent of 16 individuals or more (with an average daily flow of 1500 gallons or more) is considered a public system (requiring permitting by the DNR) and is not eligible under this program.

93.4(2) *Applying for assistance.* Prior to applying for a loan from a participating lending institution, an eligible individual or entity must receive approval of the proposed improvements from the county in which the onsite wastewater treatment system is located. Application for project approval shall be made on forms provided by the department or its agent. Forms may also be downloaded from www.iowasrf.com.

a. County requirements for individual applicants. County approval forms shall include:

- (1) A description of the type and general specifications of the proposed work.
- (2) Project cost estimate(s).
- (3) A proposed construction schedule.

b. County requirements for cluster system applicants. County applications for cluster systems using onsite technology must include:

(1) A description, if available, of each participating property owner's current onsite wastewater treatment system, including a discussion of existing and potential problems or failures in the current treatment scheme.

- (2) An estimate of the population and number of households to be served.
- (3) A rationale for the proposed design of the new treatment system.
- (4) Descriptions of the management entity and program.

93.4(3) *County review and approval.* The county shall review applications to determine if the proposed work meets the applicable provisions of 567—Chapter 69 and all other relevant local provisions for the siting and construction of onsite wastewater treatment and distribution systems. For proposed projects that meet relevant criteria, the county shall issue a permit or certificate. The county permit or certificate shall be accompanied by a cost estimate and proposed construction schedule. A county may deny an application for reasons of noncompliance with applicable state and local criteria. Written notification of the denial shall be provided to the applicant and shall state the reason(s) that the application was denied.

93.4(4) *Eligible costs.* All costs directly related to the design, permitting, construction, and financing of the onsite wastewater treatment system are eligible for loans. Eligible costs include the removal of existing structures, such as abandoned septic tanks, earth moving or any land purchases directly related to proper wastewater treatment.

93.4(5) *Ineligible costs.* Costs for additional earthwork, reseeding, replanting, or any other aesthetic improvements are not eligible. Maintenance or monitoring costs will not be allowed as part of the loan.

93.4(6) *Recipient record keeping.* The loan recipient shall maintain adequate records that document all costs associated with the project. The loan recipient shall agree to provide access to these records to the department, the state auditor, the EPA SRF project manager, and the Office of the Inspector General at the Environmental Protection Agency. The loan recipient shall retain all project records and documents for inspection and audit purposes for a period of three years from the date of the final loan payment.

93.4(7) *Site access.* The loan recipient shall agree to provide the department and the administrative authority access to the construction site to verify that the loan was used for the purpose intended and that the constructed works meet applicable state and local environmental requirements and ordinances for onsite wastewater treatment systems. The loan recipient also shall agree to provide access to the onsite system for periodic monitoring by the department and administrative authority, at times mutually agreed upon with the system owner, for the duration of the loan.

93.4(8) *Priority allocation of funds and intended use plan.* The department shall, on an annual basis, prepare a plan describing the amount of funding available for loans under the program for the coming state fiscal year. The plan shall also identify those counties qualified to participate in the program and provide an estimate of the loan funds needed in those counties within the coming year. To the extent that the pool of funds available for lending involves funds controlled by Title VI of the federal Clean Water Act, this plan shall be incorporated into the annual intended use plan authorized in 567—Chapter 92.

93.4(9) *Targeted assistance.* The department may set aside a portion of the annual available funds identified in the IUP for financing onsite wastewater treatment systems in targeted areas. Such targeted areas may include impaired watersheds, high-density housing areas, agricultural drainage areas, or other environmentally sensitive or degraded areas where the repair and rehabilitation of onsite wastewater treatment systems are needed to preserve and protect water quality. The annual intended use plan shall specify the need for targeted assistance, the areas covered, and the estimate of funds needed to address the water quality problems.

[ARC 8596B, IAB 3/10/10, effective 4/14/10; ARC 1336C, IAB 2/19/14, effective 3/26/14]

567—93.5(455B) Livestock water quality facilities requirements.

93.5(1) *Livestock water quality facilities assistance.* Assistance shall be in the form of low-interest loans made by participating lending institutions through a linked deposit arrangement with the CWSRF. The following eligibility conditions and restrictions for participation apply to such assistance.

a. Eligible project costs. All costs directly related to the design, permitting, construction, and financing of the water pollution control facilities are eligible. The amount of assistance available shall be limited to the total costs deemed necessary, reasonable and directly related to the facilities required to provide water pollution control as required by the department or to prevent, minimize or eliminate water pollution.

b. Applicant eligibility. Assistance is limited to livestock producers operating animal feeding operations according to federal law. Concentrated animal feeding operations as defined in 40 CRF Section 122.23 are not eligible.

Loans will be made only to livestock producers that are operators of record or have legal control of the property containing the animal feeding operation for the duration of the loan. The department has the discretion to deny applications for producers if the department has issued an administrative order to the producer pursuant to Iowa Code section 455B.175, if the department notifies the producer in writing of intent to recommend referral or the commission refers the action to the attorney general pursuant to Iowa Code section 455B.175, or if the attorney general has commenced legal proceedings against the producer pursuant to Iowa Code section 455B.112.

c. Eligible projects. The water pollution control facilities considered eligible for assistance include: manure storage structures, solids settling basins, composting facilities and equipment, lagoons (including fencing), portions of feeding floors or loafing areas used for waste collection, water and sediment control basins, vegetative filters or buffers, surface water diversion structures, agitation or transfer pumps, dry bedded confinement feeding operation buildings or structures pursuant to 2009 Iowa Code Supplement chapter 459B when all or part of an open feedlot is replaced, and other practices shown to improve or protect water quality. Replacement animal feeding operations may be eligible where an existing animal feeding operation is eliminated to prevent a water quality impairment or mitigate a documented impairment. Engineering or technical service fees associated with the aforementioned practices are also eligible. A one-time purchase of attachments integral to the manure management system, such as blades, buckets, choppers, or spreaders, may be eligible at the time that an open feedlot is replaced with a dry bedded confinement building.

d. Funding formula. Loans for water quality projects for facilities being expanded by an increase in the animal unit capacity shall be funded according to the following formula:

Existing animal unit capacity/new animal unit capacity × total eligible project cost × 1.5 = maximum linked deposit amount

Example: 450 AUC / 900 AUC × \$500,000 × 1.5 = \$375,000

Example: 300 AUC / 600 AUC × \$300,000 × 1.5 = \$225,000

Example: 50 AUC / 900 AUC × \$500,000 × 1.5 = \$41,666

If existing areas in open feedlots are kept open where some pens are replaced and the operation is expanded through the addition of a dry bedded confinement feeding operation building, the remaining open lot areas must comply with 567—65.101(459A).

93.5(2) *Applying for assistance.* Application for project approval shall be made on forms provided by the department or its agent. Forms may also be downloaded from www.iowasrf.com.

93.5(3) *Project review and approval.* Prior to receiving assistance, the applicant shall submit an application to the local soil and water conservation district. The district will evaluate the application, provide an estimated cost, and certify that the practice is eligible and compatible with state water quality goals. All practices must comply with 567—Chapter 65 and shall be constructed to applicable USDA Natural Resource Conservation Service (NRCS) standards. NRCS staff or another technical service provider shall attest that the practice will be constructed to these specifications and standards.

93.5(4) *Duration of the project.* The project is to be maintained, kept in place or operated as proposed for the life of the loan. If an open lot is closed and replaced with an eligible replacement facility, the department or department's agent shall place a restrictive covenant that prohibits the operation of an open feedlot at the site being replaced for the life of the loan. The site or portion of the site that may not house animals shall be defined by the local soil and water conservation district.

93.5(5) *Manure management plan required.* The livestock producer shall have a manure management plan that fits the requirements of 567—65.17(459), a nutrient management plan as defined in 567—65.112(459A), or a comprehensive nutrient management plan as defined by the NRCS, to be eligible for the loan or, as part of the loan, develop a manure management plan, nutrient management plan, or comprehensive nutrient management plan.

a. Costs for development of a manure management plan, nutrient management plan, or comprehensive nutrient management plan are eligible costs.

b. Costs for updating a manure management plan, nutrient management plan, or comprehensive nutrient management plan are eligible costs if required for the implementation of a water quality project financed through the livestock water quality facilities program.

93.5(6) *Ineligible costs.* Costs for development of a new AFO as defined in 567—90.2(455B) are ineligible. Other ineligible costs include but are not limited to: costs for water pollution control facilities, including design, permitting, construction or financing, that allow for the animal feeding operation to expand and become a concentrated animal feeding operation; costs for the purchase of land to be used for application of wastewater or manure; costs for operation and maintenance; and costs for refinancing of water pollution control facilities constructed prior to approval by the department or the department's agent.

93.5(7) *Recipient record keeping.* The loan recipient shall maintain adequate records that document all costs associated with the project. The loan recipient shall agree to provide access to these records to the department, the state auditor, the EPA SRF project manager, and the Office of the Inspector General at the Environmental Protection Agency. The loan recipient shall retain all project records and documents for inspection and audit purposes for a period of three years from the date of the final loan payment.

93.5(8) *Site access.* The livestock producer shall agree to provide the department and the department's agent access to the construction site to verify that the loan was used for the purpose intended and that the construction work meets the applicable state and federal requirements for animal feeding operations. The livestock producer also shall agree to provide the department and the department's agent periodic access to the animal feeding operation, pursuant to biosecurity requirements in 567—paragraph 65.113(9)“b,” for the duration of the loan to ensure that the constructed facility is being operated and maintained as designed.

[ARC 8596B, IAB 3/10/10, effective 4/14/10]

567—93.6(455B) Local water protection project requirements.

93.6(1) Local water protection project assistance. Assistance under the CWSRF shall be in the form of low-interest loans made by participating lending institutions through a linked deposit arrangement with the CWSRF. The following eligibility conditions and restrictions for participation apply to such assistance.

a. Eligible project costs. The amount of assistance available shall be limited to the total costs deemed necessary, reasonable and directly related to the practices required to provide water quality improvements.

b. Applicant eligibility. Assistance is available to any person who owns or has legal control over land that needs local water protection projects installed to control runoff of sediments, nutrients, pesticides or other nonpoint source pollutants into waters of the state. Loans will be made only to persons who are owners of record or persons who have legal control of the property where the local water protection projects are to be installed.

c. Eligible practices. The local water protection practices that are considered eligible include, but are not limited to, contour buffer strips, diversion, fence, field border, field windbreak, filter strips, grade stabilization structure, grassed waterway, pasture and hayland planting, planned grazing system, pond, riparian forest and vegetative buffers, sediment basin, terrace, underground outlet with secondary water quality treatment, waste management system, water and sediment control basin, stream bank stabilization and restoration, and other practices that are shown to improve or protect water quality.

93.6(2) Applying for assistance. Application for project approval shall be made on forms provided by the department or its agent. Forms may also be downloaded from www.iowasrf.com.

93.6(3) Project review and approval. Prior to receiving assistance, the applicant shall submit an application to the local soil and water conservation district. The local soil and water conservation district will evaluate the application, provide an estimated cost, and certify that the practice is compatible with state water quality goals. All practices shall be constructed to meet NRCS standards and specifications. NRCS or another technical service provider shall attest that the practice will be constructed to these specifications and standards.

93.6(4) Duration of the project. The project is to be maintained, kept in place or operated as proposed for the life span of the practice, but in no case for less than the life of the loan.

93.6(5) Eligible costs. All costs directly related to the implementation of local water protection projects approved in the memorandum of project approval are eligible costs.

93.6(6) Ineligible costs. Ineligible costs include costs for overbuilding a practice beyond what is required to maintain or improve water quality and costs for the purchase of land.

93.6(7) Site access. The applicant shall agree to provide the department or the department's agent access to the project site to verify that the loan was used for the purpose intended.

[ARC 8596B, IAB 3/10/10, effective 4/14/10]

567—93.7(455B) General nonpoint source project requirements.

93.7(1) General nonpoint source assistance. Assistance under the CWSRF general nonpoint source (GNS) set-aside shall be in the form of low-interest loans made directly or by participating lending institutions through a linked deposit or participation arrangement with the CWSRF. The following eligibility conditions and restrictions for participation apply to such assistance.

a. Eligible project costs. The amount of assistance available shall be limited to the total costs deemed necessary, reasonable and directly related to the facilities or practices required to provide water quality improvements, restoration or protection. Participation in nontraditional projects where the primary purpose is not water quality protection or improvement will be limited to the portion of the project that is directly related to water quality improvement, restoration or protection.

b. Applicant eligibility. Assistance is available to projects for which facilities are needed to protect, restore or improve water quality from nonpoint source pollution. Only applicants that are owners of record of the property or have long-term control of the property where the project is to be implemented are eligible. In applications where the water pollution control project is a plan or document that will direct water quality protection or improvement efforts, loans will be made to applicants that have the capacity and capability of implementing the plan and repaying the loan.

c. Project eligibility. Eligible projects include, but are not limited to, practices to address nonpoint source pollution control needs associated with storm water treatment and green infrastructure, silviculture,

groundwater protection, marinas, resource extraction, brownfield remediation, aboveground and underground storage tanks, sanitary landfills, hydromodification, and watershed planning. Nontraditional nonpoint source projects that may have a water quality protection or improvement component include, but are not limited to, bird sanctuaries and wildlife enhancement projects, vegetative plants, sediment removal and other lake restoration practices, wetland mitigation bank and education programs.

93.7(2) *Applying for assistance.* Applications for storm water and green infrastructure projects shall be submitted to local soil and water conservation districts. Applications for other GNS projects shall be submitted to the department at State Revolving Fund, Iowa Department of Natural Resources, 401 SW 7th Street, Suite M, Des Moines, Iowa 50309. Forms may also be downloaded from www.iowasrf.com. Application forms will be provided by the department. Applications shall include an explanation of how the water quality will be protected, improved or restored by the proposed project. Applications will be accepted on a continuous basis.

93.7(3) *Project approval.* The department will evaluate eligibility and project design and provide the applicant a memorandum of approval for the proposed water pollution control project. The department will earmark the set-aside funds for the water pollution control projects to be funded.

93.7(4) *Eligible costs.* All costs directly related to the implementation of the project approved in the memorandum of approval are eligible costs.

93.7(5) *Ineligible costs.* Costs for livestock water quality facilities are not eligible under this set-aside and are provided for in rule 567—93.5(455B). Costs for the purchase of land are not eligible costs unless specifically approved by the commission.

93.7(6) *Site access.* The recipient shall agree to provide the department and the department's agent access to the project site to verify that the loan was used for the purpose intended.

[ARC 8596B, IAB 3/10/10, effective 4/14/10]

These rules are intended to implement Iowa Code sections 455B.291 to 455B.299, 466.8 and 466.9 and 2009 Iowa Code Supplement chapter 459B.

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