

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 CFR 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]