

567—60.7(455B) Terms and conditions of NPDES permits.

60.7(1) *Prohibited discharges.* No NPDES permit may authorize any of the discharges prohibited by rule 567—62.1(455B).

60.7(2) *Application of effluent and pretreatment standards, WQS, and other requirements.* Each NPDES permit shall include any of the following that is applicable:

a. An effluent limitation guideline; a standard of performance for a new source; or an effluent standard, effluent prohibition, or pretreatment standard promulgated by the administrator under Sections 301, 304, 306, or 307 of the CWA and adopted by reference in 567—Chapter 62.

b. A water quality-based effluent limitation established by the administrator pursuant to Section 302 of the CWA.

c. Prior to promulgation of applicable effluent and pretreatment standards under Sections 301, 302, 306, and 307 of the CWA, such conditions as the director determines are necessary to carry out the provisions of the CWA.

d. Any other limitation, including those necessary to:

(1) Meet or implement any applicable WQS, treatment or pretreatment standards, or compliance schedules established pursuant to any Iowa law or regulation;

(2) Meet any other federal law or regulation;

(3) Implement total maximum daily loads established pursuant to Section 303(d) of the CWA; or

(4) Comply with the antidegradation policy requirements of 567—subrule 61.2(2) implemented according to the “Iowa Antidegradation Implementation Procedure,” effective February 17, 2010, hereby incorporated by reference, and available on the department’s website.

e. Limitations pursuant to 40 CFR §122.44(d)(1)(i), (ii), and (iii).

60.7(3) *Effluent limitations in NPDES permits.*

a. In the application of effluent standards and limitations, WQS, and other legally applicable requirements, pursuant to 60.7(2), the director shall, unless impracticable, specify average and maximum daily quantitative limitations for the level of pollutants in the authorized discharge in terms of weight (except pH, temperature, radiation, and any other pollutants not appropriately expressed by weight). The director may, in addition to the specification of daily quantitative limitations by weight, specify other limitations for the level of pollutants authorized in the discharge.

b. The manner in which effluent limitations are expressed will depend upon the nature of the discharge.

(1) Continuous discharges shall be limited by daily loading figures and, where appropriate, may be limited as to concentration or discharge rate (e.g., for toxic or highly variable continuous discharges).

(2) Noncontinuous discharges should be more particularly described and limited in accordance with 40 CFR §122.45(e).

60.7(4) *Compliance schedules in NPDES permits.* An NPDES permit may specify a compliance schedule in accordance with 40 CFR §122.47. Compliance shall be achieved as soon as possible, consistent with the guidelines and requirements of the CWA and with the provisions of Iowa Code sections 455B.173(2)“*b*” and 455B.173(3)“*b*.” If a permittee fails or refuses to comply with an interim or final requirement in an NPDES permit, such noncompliance shall constitute a violation of the permit for which the director may, pursuant to this chapter and 567—Chapter 7, modify, suspend or terminate the permit or take direct enforcement action. Compliance schedules shall not relieve the permittee of the duty to obtain a construction permit pursuant to this chapter.

60.7(5) *Compliance schedules in NPDES permits for disadvantaged communities (DCs).* If compliance with applicable federal or state regulations or an order of the department will result in substantial and widespread economic and social impact (SWESI) to ratepayers and an affected community, the director may establish in an NPDES permit a compliance schedule that will result in an improvement of water quality and reasonable progress toward complying with the applicable requirements but does not result in SWESI.

a. *DC status.* The director shall find that a regulated entity and the affected community are a DC according to Iowa Code section 455B.199B(2).

b. DC analysis (DCA). A regulated entity or affected community must submit a DCA to the director to be considered for disadvantaged status.

(1) When new requirements in a proposed or reissued NPDES permit may result in SWESI, a DCA may be submitted by:

1. A POTW or semipublic facility;
2. A wastewater DS for the treatment or disposal of domestic sewage that is not a semipublic DS or a PSDS and that is not owned by a city or sanitary sewer district; or
3. Any other owner of a wastewater DS that is not a PSDS and does not discharge industrial wastes.

(2) A DCA may be submitted prior to the issuance of an initial NPDES permit if the facility does not discharge industrial wastes and is not a new source or new discharger.

c. DCA contents.

(1) A DCA must contain all of the following:

1. Proposed TAPC as defined in 60.7(5)“d.”
2. The number of households or ratepayers in the affected community.
3. A description of the bond rating of the affected community over the last year, if available.
4. The user rates, as follows:

- For a municipality or other community, the current sewer rate ordinances, including the sewer rates of any industrial users;

- For a water treatment facility, the water rate schedules or tables; or

- For any other entity, the monthly ratepayer charge for wastewater treatment.

5. An explanation of why the regulated entity or affected community believes that compliance with the proposed requirements will result in SWESI.

(2) If a DCA is submitted by or for an entity other than a municipality, community, or water treatment facility, the DCA must also contain either:

1. For entities with more than ten households or ratepayers, the MHI or ratepayer income, as determined by an income survey conducted by the regulated entity; or
2. For entities with ten or fewer households or ratepayers, an estimate of MHI or ratepayer income.

d. Definition of total annual project costs (TAPC). “Total annual project costs” means the current costs of wastewater treatment in the community (if any) plus the future costs of proposed wastewater system improvements that will meet or exceed all applicable federal or state regulations or requirements of an order of the department. The TAPC shall include any current and proposed facility O&M costs and any existing and proposed system debt, as expressed in current and proposed sewer rates. The costs shall be amortized for a 30-year loan period at an interest rate equal to the current state revolving fund interest rate. Awarded grant funding must be subtracted from the TAPC.

The TAPC formula is: $TAPC = [(Estimated\ costs\ to\ design\ and\ build\ proposed\ project - Awarded\ grant\ funding)\ amortized\ over\ 30\ years] + Current\ annual\ system\ budget,\ including\ O\&M\ and\ existing\ debt\ service + Future\ annual\ O\&M\ costs.$

e. DC matrix (DCM). Upon receipt of a complete DCA, the director shall use the DCM to evaluate the disadvantaged status of an entity or community. A regulated entity or affected community shall be considered a DC if the point total derived in the DCM is equal to or greater than 12. The following data sources shall be used to derive the point total in the DCM:

(1) The TAPC, the number of households or ratepayers in a community, and the bond rating of the community, as stated in the DCA;

(2) The MHI of either:

1. The community, as found in the most recent American Community Survey or United States Census or as stated in an income survey conducted by the regulated entity or community; or
2. The ratepayer group, as stated in an income survey conducted by the regulated entity; and

(3) The unemployment rate of the local county and of the state as found in the most recent Iowa Workforce Information Network unemployment data.

f. Ratio and determination. The ratio of the TAPC per household or per ratepayer to MHI shall be calculated in the DCM as follows: the TAPC shall be divided by the number of households or ratepayers to

obtain the costs per household or ratepayer, and the costs per household or ratepayer shall be divided by the MHI to obtain the ratio. If the ratio of compliance costs to MHI is:

- (1) Less than 1 percent, the entity or community is not considered disadvantaged.
- (2) Greater than or equal to 2 percent, the entity or community is considered a DC.
- (3) Greater than or equal to 1 percent and less than 2 percent, the director shall use the point total in the DCM to determine if the entity or community is disadvantaged.

g. *DC compliance schedule—first part.* A compliance schedule established in an NPDES permit for a DC as a result of SWESI may contain one or two parts. The first part of a DC compliance schedule shall encompass one five-year NPDES permit cycle and require the permittee to submit an alternatives report, an alternatives implementation compliance plan (AICP), and annual progress reports.

(1) Alternatives report. An alternatives report shall be submitted no later than two years after permit issuance and shall:

1. Detail the alternative pollution control measures that will be investigated and contain an examination of all other appropriate measures that may achieve compliance with applicable federal or state regulations or an order of the department without creating SWESI;
2. Describe which measures will be evaluated for feasibility and affordability during the next portion of the compliance schedule; and
3. Include a plan for pursuing funding options, including grants and low-interest loans.

(2) Alternatives implementation compliance plan (AICP). An AICP shall be submitted no later than 4½ years after permit issuance and shall include:

1. The results of the investigation detailed in the alternatives report;
2. A description of any feasible and affordable alternative(s) that will be implemented;
3. A schedule of the time necessary to implement the alternative(s); and
4. An updated DCA.

h. *DC compliance schedule—second part.* If the entity or community continues to qualify as disadvantaged according to the DCM evaluation of the DCA submitted with the AICP, the entity or community may receive a second compliance schedule as specified in this subrule.

(1) AICP schedule. If the AICP proposes an implementation schedule, the proposed schedule shall be included in the community's NPDES permit.

(2) Future compliance plan (FCP). The submittal of an FCP will be necessary only if the AICP concludes that the DC cannot feasibly implement any alternatives and if the community is still disadvantaged according to the DCM evaluation of the DCA submitted with the AICP. An FCP shall be submitted no later than three years after permit issuance. A compliance schedule requiring an FCP shall also require annual progress reports, including an updated DCA. If a DCM evaluation determines that an entity or community is no longer disadvantaged based on the most recent DCA, the NPDES permit may be amended to change the compliance schedule. An FCP shall:

1. Detail how the DC will meet the applicable federal or state regulations or an order of the department and the period necessary to do so, and
2. Review the types of technology capable of treating the pollutant of concern and the costs of installing and operating each technology. All technically feasible alternatives shall be explored.

(3) Schedule extension. The second part of a DC compliance schedule may be extended at the director's discretion.

i. Compliance schedules issued in accordance with this subrule shall comply with 60.7(4).

60.7(6) *Disadvantaged unsewered communities (DUCs).* If compliance with applicable federal or state regulations or an order of the department will result in SWESI to the ratepayers of an unsewered community, the director may negotiate a compliance agreement that will result in an improvement of water quality and reasonable progress toward complying with the applicable regulations but does not result in SWESI.

a. *DUC status.* The director shall find that an unsewered community is a DUC according to Iowa Code section 455B.199B(3).

b. *DUC analysis (DUCA).*

(1) An unsewered community must submit a DUCA to the director to be considered for DUC status. Only unsewered communities may submit a DUCA under this subrule. For the purposes of this subrule, an unsewered community is defined as a grouping of ten or more residential houses with a density of one house or more per acre and with either no wastewater treatment or inadequate wastewater treatment. An entity defined in 60.1(2) as a PSDS may not submit a DUCA or qualify for a DUC compliance agreement under this subrule.

(2) An unsewered community may submit a DUCA to the director prior to the issuance of or amendment to an administrative order with requirements that could result in SWESI and that are based on applicable federal or state regulations or an order of the department.

c. DUCA contents. A DUCA must contain all of the following:

- (1) Proposed TAPC as defined in 60.7(6)“d”;
- (2) The number of households in the unsewered community and source of household information;
- (3) Total amount of any awarded grant funding;
- (4) MHI or ratepayer income information. If no MHI information is available for the unsewered community, the community should conduct a rate survey to determine the MHI; and

(5) An explanation of why the unsewered community believes that compliance with the proposed requirements will result in SWESI.

d. Definition of total annual project costs (TAPC). “Total annual project costs” means the future costs of proposed wastewater system installation or improvements that will meet or exceed all applicable federal or state regulations or requirements of an order of the department. The TAPC shall include the proposed facility O&M costs and the proposed debt of the system as expressed in the proposed sewer rates. The costs shall be amortized over a 30-year loan period at an interest rate equal to the current state revolving fund interest rate. Awarded grant funding must be subtracted from the TAPC.

The TAPC formula for an unsewered community is: $TAPC = [(Estimated\ costs\ to\ design\ and\ build\ proposed\ project - Awarded\ grant\ funding)\ amortized\ over\ 30\ years] + Future\ annual\ O\&M\ costs.$

e. DUC matrix (DUCM). Upon receipt of a complete DUCA, the director shall use the DUCM to evaluate the disadvantaged status of an unsewered community. An unsewered community shall be considered a DUC if the point total derived from the DUCM is equal to or greater than 10. The following data sources shall be used to derive the point total in the DUCM:

- (1) The TAPC and number of households in the unsewered community, as stated in the DUCA;
- (2) The MHI of the unsewered community as found in the most recent American Community Survey or United States Census or as stated in an income survey conducted by the unsewered community; and
- (3) The unemployment rate of the local county and of the state as found in the most recent Iowa Workforce Information Network unemployment data.

f. Ratio and determination. The director shall not require installation of a wastewater DS by an unsewered community if the director determines that such installation would create SWESI, in accordance with Iowa Code section 455B.199B.

(1) The ratio of TAPC per household to MHI shall be calculated in the DUCM as follows: the TAPC shall be divided by the number of households to obtain the costs per household, and the costs per household shall be divided by the MHI to obtain the ratio.

- (2) If the ratio of compliance costs to MHI is:
 1. Less than 1 percent, the unsewered community is not considered disadvantaged.
 2. Greater than or equal to 2 percent, the unsewered community is considered a DUC.
 3. Greater than or equal to 1 percent and less than 2 percent, the director shall use the point total in the DUCM to determine if the unsewered community is disadvantaged.

g. DUC compliance agreement. A compliance agreement negotiated with a DUC as a result of SWESI shall require the unsewered community to submit an alternatives report and an AICP.

(1) Alternatives report. An alternatives report shall be submitted no later than two years after a DUC determination and shall:

1. Detail the alternative pollution control measures that will be investigated and contain an examination of all other appropriate measures that may achieve compliance with the WQS without creating SWESI;

2. Describe which measures will be evaluated for feasibility and affordability after the report submittal; and

3. Include a plan for pursuing funding options, including grants and low-interest loans.

(2) Alternatives implementation compliance plan (AICP). An AICP shall be submitted no later than 4½ years after a DUC determination. An AICP shall include:

1. The results of the investigation detailed in the alternatives report,

2. A description of any feasible and affordable alternative(s) that will be implemented,

3. A schedule of the time necessary to implement the alternative(s), and

4. An updated DUCA.

(3) AICP schedule. If the AICP proposes an implementation schedule of one or more feasible alternatives, the proposed schedule shall be included in an administrative order between the department and the unsewered community. If the feasible alternative that will be implemented requires a construction, operation, or NPDES permit, the unsewered community shall comply with the rules regarding those permits in this chapter.

(4) Future compliance plan (FCP). The submittal of an FCP will be necessary only if the AICP concludes that the unsewered community cannot feasibly implement any alternatives and if the community is still disadvantaged according to the DUCM evaluation of the DUCA submitted with the AICP. An FCP shall be submitted no later than seven years after a DUC determination. An administrative order requiring an FCP shall also require the submittal of biennial progress reports containing an updated DUCA. If the DUCM evaluation determines that an unsewered community is no longer disadvantaged based on the most recent DUCA, the order may be amended at the director's discretion. An FCP shall:

1. Detail how the unsewered community will meet the WQS and the period necessary to do so; and

2. Review the types of technology capable of treating the pollutant of concern and the costs of installing and operating each type of technology. All technically feasible alternatives shall be explored.

60.7(7) *Other terms and conditions of NPDES permits.* Each NPDES permit shall provide for and ensure all of the following:

a. That all discharges authorized by the NPDES permit shall be consistent with the terms and conditions of the permit.

b. That facility expansions, production increases, or process modifications that result in new or increased pollutant discharges will be reported by submission of a new permit application or, if such discharge does not violate effluent limitations specified in the NPDES permit, by submission to the director of notice of such new or increased discharges of pollutants.

c. That the discharge of any pollutant more frequently than or at a level in excess of that identified and authorized by the permit shall constitute a violation of the terms and conditions of the permit.

d. That if the terms and conditions of a GP are no longer applicable to a discharge, the applicant shall apply for an individual NPDES permit.

e. That the permit may be amended, revoked and reissued, or terminated in whole or in part for the causes provided in 60.3(6)“c.”

f. That the permittee allows for facility inspection and entry pursuant to 40 CFR §122.41(i), which is adopted by reference.

g. That, if the permit is for a discharge from a POTW, the permittee shall provide notice to the director:

(1) 180 days in advance of any new introduction of pollutants into the POTW from a new source if such source was discharging pollutants;

(2) 60 days in advance of any substantial change in the volume or character of pollutants being introduced into the POTW by a source introducing pollutants into the POTW at the time of permit issuance; and

(3) Pursuant to 60.3(3)“c.”

Such notice shall include information on the quality and quantity of effluent to be introduced into the POTW and any anticipated impact of such change on the quantity or quality of effluent to be discharged from the POTW.

h. That, if the permit is for a discharge from a POTW, the permittee shall require any industrial user to comply with the requirements of Sections 204(b), 307, and 308 of the CWA.

i. That the facility is properly operated and maintained pursuant to 40 CFR §122.41(e), which is adopted by reference.

j. That the permit will be modified upon the establishment of a toxic effluent standard or prohibition pursuant to 40 CFR §122.44(b)(1), which is adopted by reference.

k. That the permittee shall take all reasonable steps to minimize or prevent any discharge in violation of the permit that has a reasonable likelihood of adversely affecting human health or the environment.

l. That the need to halt or reduce the permitted activity is not a defense in an enforcement action pursuant to 40 CFR §122.41(c), which is adopted by reference.

60.7(8) *POTW compliance—plan of action (POA).* The owner of a POTW must prepare and implement a POA to achieve and maintain compliance with final effluent limitations in its NPDES permit as specified below:

a. The director shall notify a POTW owner of the POA requirement and of an opportunity to meet with department staff to discuss the plan requirements. The POTW owner shall submit the POA to the appropriate regional department field office within six months of such notice unless a longer time is needed and is authorized in writing by the director.

b. A POA must identify the deficiencies and needs of the system, describe the causes of such deficiencies or needs, propose specific measures and a schedule to correct the deficiencies or meet the needs, and discuss the method of financing the proposed improvements. A POA may include the submittal of a DCA in accordance with 60.7(5) or may provide for a phased construction approach to meet interim and final limitations.

This rule is intended to implement Iowa Code chapter 455B, subchapter III, part 1 (Iowa Code sections 455B.171 through 455B.187 and 455B.199B).

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