

Revisions to Chapter 61- Iowa Water Quality Standards

Provisions not effective for Clean Water Act purposes:

- procedures for deriving NPDES permit limits from wasteload allocations (this is a NPDES permit implementation activity and not a water quality standards issue)
- incorporating the procedures for deriving NPDES limits from wasteload allocations into the “Supporting Document for Iowa Water Quality Management Plans”, Chapter IV, July 1976, as revised on March 29, 2002 (this is a NPDES permit implementation activity and not a water quality standards issue)
- CWA Section 401 certification for U.S. Army Corps of Engineers’ Section 404 nationwide and regional permits (state certifications pursuant to section 401 of the CWA are not subject to approval by EPA)

ENVIRONMENTAL PROTECTION COMMISSION[567]
Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 61, "Water Quality Standards," and Chapter 62, "Effluent and Pretreatment Standards: Other Effluent Limitations or Prohibitions," Iowa Administrative Code.

These amendments establish a new process for deriving water quality-based effluent limits for point sources such as municipal wastewater treatment plants; establish numerical criteria for bromoform, chlorodibromomethane, chloroform, dichlorobromomethane, endrin, and chlorobenzene; and provide Section 401 certification for Corps of Engineers' Section 404 nationwide and regional permits.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 9, 2002, as **ARC 1245B**. Six public hearings were held with notice of the hearings sent to various individuals, organizations, associations and interest groups, and to statewide news network organizations. Comments were received from 103 persons and organizations. Most comments dealt with the permit derivation procedure with the majority in support of the proposed changes. Four (two individuals and two environmental organizations) either opposed the changes or raised issues of concern. The remainder of the comments addressed the Section 401 certification issue. No comments were received on the numeric criteria. A responsiveness summary has been prepared addressing the comments received and the summary can be obtained from the Department of Natural Resources.

The adopted amendments have been modified from those published under Notice of Intended Action. Item 5, the amendment of paragraph 61.2(2)"h," has been changed to include the three regional conditions associated with the Corps' nationwide permits. In addition, this paragraph now references a Department guidance document listing waters of special concern. Under an existing agreement with the Corps, the Corps will be providing preconstruction notice to the Department for projects on those waters. This will allow the Department or other interests to provide comments prior to the Corps taking action on a project that would normally be authorized under a nationwide or regional permit.

These amendments may have an impact upon small businesses.

These amendments are intended to implement Iowa Code chapter 455B, division III, part 1.

These amendments shall become effective July 17, 2002.

The following amendments are adopted.

ITEM 1. Amend **567—Chapter 61**, all references to the document “Supporting Document for Iowa Water Quality Management Plans,” as follows:
“Supporting Document for Iowa Water Quality Management Plans,” Chapter IV, July 1976, as revised on ~~November 8, 2000~~ *March 29, 2002*

ITEM 2. Amend subrule **61.2(2)**, paragraph “**h**,” as follows:

h. This policy shall be applied in conjunction with water quality certification review pursuant to Section 401 of the Act. In the event that activities are specifically exempted from flood plain development permits or any other permits issued by this department in 567—Chapters 70, 71, and 72, the activity will be considered consistent with this policy. Other activities not otherwise exempted will be subject to 567—Chapters 70, 71, and 72 and this policy. The repair and maintenance of a drainage district ditch as defined in 567— 70.2(455B, 481A) will not be considered a violation of the antidegradation policy for the purpose of implementing Title IV of these rules. United States Army Corps of Engineers (Corps) nationwide permits 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 27, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 43, and 44 as promulgated ~~March 9, 2000~~ *March 18, 2002*, are certified pursuant to Section 401 of the Clean Water Act *subject to the following regional conditions:*

(1) Side slopes of a newly constructed channel will be no steeper than 2 horizontal to 1 vertical and planted to permanent, perennial, native vegetation if it is not armored.

(2) Nationwide permits with mitigation may require recording of the permit with the registrar of deeds or other appropriate official charged with the responsibility for maintaining records of title to, or interest in, real property and provide proof of recording to the Corps.

(3) Mitigation shall be scheduled for construction prior to or concurrent with the construction of the main project.

Regional permit numbers 2, 7, 12, and 20 of the Rock Island District of the Corps are also certified. No specific Corps permit or 401 certification is required for activities covered by these permits unless required by the nationwide permit or the Corps, and the activities are allowed subject to the terms of the nationwide and regional permits. *The department will maintain and periodically update a guidance document listing special waters of concern. This document will be provided to the Corps for use in determining whether pre-construction notices should be provided to the department and other interested parties prior to taking action on applications for projects that would normally be covered by a nationwide or regional permit and not require preconstruction notice under national nationwide permit conditions.*

ITEM 3. Amend subrule **61.2(4)**, paragraph “**f**,” subparagraph **(3)**, as follows:

(3) The statewide average background values presented in ~~Table IV-5~~ *Table IV-2* of the “Supporting Document for Iowa Water Quality Management Plans,” Chapter IV, July 1976, as revised on ~~November 8, 2000~~ *March 29, 2002*.

ITEM 4. Amend the following parameters listed in subrule **61.3(3)**, Table 1, Criteria for Chemical Constituents:

TABLE 1: Criteria for Chemical Constituents
(all values as micrograms per liter unless noted otherwise)

| Parameter | | Use Designations | | | | |
|--------------------------------------|--|---------------------|---------------------|-------|---------------------|------------|
| | | B(CW) | B(WW) | B(LR) | B(LW) | C |
| Bromoform | Human Health – F & W | - | - | - | - | 43 |
| | <i>Human Health - Fish</i> | 3600 | 3600 | - | 3600 | - |
| Chlorobenzene | Human Health – Fish | 20 21* | 20 21* | | 20 21* | |
| | Human Health – F & W MCL | | | | | 680 100 |
| Chlorodibromomethane | Human Health – F & W | - | - | - | - | 4.1 |
| | <i>Human Health - Fish</i> | 340 | 340 | - | 340 | - |
| Chloroform | Human Health – F & W | - | - | - | - | 57 |
| | <i>Human Health - Fish</i> | 4700 | 4700 | - | 4700 | - |
| Dichlorobromomethane | Human Health – F & W | - | - | - | - | 5.6 |
| | <i>Human Health - Fish</i> | 460 | 460 | - | 460 | - |
| Endrin | Chronic | .05 | .036 | .036 | .036 | - |
| | Acute | .12 | .086 | .086 | .086 | - |
| | Human Health - Fish | 8.1 0.81 | 8.1 0.81 | - | 8.1 0.81 | - |
| | Human Health – F & W | - | - | - | - | .76 |
| Monochlorobenzene | MCL | | | | 100 | |
| Trihalomethanes (total) ^C | MCL | | | | 100 80 | |

* units expressed in milligrams/liter

+ represents the noncarcinogenic human health parameters

(c) ~~total trihalomethanes includes the sum of bromodichloromethane, dibromochloromethane, tribromomethane (bromoform), and trichloromethane (chloroform)~~ The sum of the four trihalomethanes (bromoform [tribromomethane], chlorodibromo-methane, chloroform [trichloromethane], and dichlorobromomethane) may not exceed the MCL.

ITEM 5. Amend subrule 62.8(2) as follows:

62.8(2) Effluent limitations necessary to meet water quality standards. No effluent, alone or in combination with the effluent of other sources, shall cause a violation of any applicable water quality standard. When it is found that a discharge that would comply with applicable effluent standards in 62.3(455B), 62.4(455B) or 62.5(455B) or effluent limitations in 62.6(455B) would

cause violation of water quality standards, the discharge will be required to meet whatever effluent limitations are necessary to achieve water quality standards, including the nondegradation policy of 567—subrule 61.2(2). Any such effluent limitation shall be determined using a statistically based portion of the calculated waste load allocation, as described in “Supporting Document for Iowa Water Quality Management Plans,” (Iowa Department of Water, Air, and Waste Management, July 1976, Chapter IV, as revised on ~~March 20, 1990~~ *March 29, 2002*). (Copy available upon request to the Department of Natural Resources, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50319. Copy on file with the Iowa Administrative Rules Coordinator.)

[Filed 5/24/02, effective 7/17/02]

[Published 6/12/02]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/12/02.