

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.105(3) and 455B.173, the Environmental Protection Commission (Commission) hereby adopts amendments to Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

These amendments reduce from two to one the number of proofs of public notice, also known as the Notice of Intent, required to be submitted to the Department of Natural Resources (Department) as part of the application to obtain storm water general permit coverage. This reduction implements changes in recent legislation, 2013 Iowa Acts, House File 311, which modified Iowa Code section 455B.103A(1)“b” by reducing the public noticing requirements from two newspapers to one newspaper.

These amendments also remove the requirement that storm water permit holders submit to the Department transfer agreements executed when building lots in developments are transferred. When building lots are transferred and storm water permit coverage will be required for further building activities, the buyer and seller may decide together if the lots are to be covered under the seller’s permit authorization for the development or if the buyer will obtain permit coverage for the lots. An agreement is then signed in which the buyer’s and seller’s intent is specified, as required by subrule 64.6(6). Currently, this agreement is required to be submitted to the Department.

This requirement has proven to be an unnecessary regulatory burden on the public. Therefore, the Commission is removing this requirement from both the Iowa Administrative Code and the storm water general permits which are adopted in rule 567—64.15(455B). The transfer agreements are still required to be retained by the permittee(s).

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 13, 2013, as **ARC 1176C**. Comments were accepted from November 13, 2013, to December 12, 2013. A public hearing was held on December 12, 2013. No comments were received. These amendments are identical to those published under Notice of Intended Action.

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

These amendments are intended to implement Iowa Code chapter 455B, division I.

These amendments will become effective March 26, 2014.

The following amendments are adopted.

ITEM 1. Amend subparagraph **64.6(1)“c”(1)**, introductory paragraph, as follows:

(1) General Permits No. 1, No. 2 and No. 3. A demonstration that a public notice was published in at least ~~two newspapers~~ one newspaper with the largest circulation in the area in which the facility is located or the activity will occur. ~~If a facility or activity authorized by General Permit No. 3 is to be relocated to a site not included in the original notice, a public notice need be published in only one newspaper.~~ The newspaper ~~notices~~ notice shall, at the minimum, contain the following information:

ITEM 2. Amend subrule 64.6(6) as follows:

64.6(6) Transfer of ownership—construction activity part of a larger common plan of development. For construction activity which is part of a larger common plan of development, such as a housing or commercial development project, in the event a permittee transfers ownership of all or any part of property subject to NPDES General Permit No. 2, both the permittee and transferee shall be responsible for compliance with the provisions of the general permit for that portion of the project which has been transferred, including when the transferred property is less than one acre in area, ~~from and after the date the department receives written notice of the transfer,~~ provided that:

a. The transferee is notified in writing of the existence and location of the general permit and pollution prevention plan, and of the transferee’s duty to comply, and proof of such notice is included with the notice to the department of the transfer.

b. If the transferee agrees, in writing, to become the sole responsible permittee for the property which has been transferred, then the transferee shall be solely responsible for compliance with the

provisions of the general permit for the transferred property ~~from and after the date the department receives written notice of the transferee's assumption of responsibility.~~

c. If the transferee agrees, in writing, to obtain coverage under NPDES General Permit No. 2 for the property which has been transferred, then the transferee is required to obtain coverage under NPDES General Permit No. 2 for the transferred property ~~from and after the date the department receives written notice of the transferee's assumption of responsibility for permit coverage.~~ After the transferee has agreed, in writing, to obtain coverage under NPDES General Permit No. 2 for the transferred property and the department has received written notice of the transferee's assumption of responsibility for permit coverage for the transferred property, the authorization issued under NPDES General Permit No. 2 to the transferor for the transferred property shall be considered by the department as not providing NPDES permit coverage for the transferred property and the transferor's authorization issued under NPDES General Permit No. 2 for, and only for, the transferred property; shall be deemed by the department as being discontinued without further action of the transferor.

d. All notices ~~sent to the department~~ as described in this subrule shall contain the name of the development as submitted to the department in the original Notice of Intent and as modified by any subsequent written notices of name changes submitted to the department, the authorization number assigned to the authorization by the department, the legal description of the transferred property including lot number, if any, and any other information necessary to precisely locate the transferred property and to establish the legality of the document.

ITEM 3. Amend subrules 64.15(1) to 64.15(3) as follows:

64.15(1) Storm Water Discharge Associated with Industrial Activity, NPDES General Permit No. 1, effective October 1, 2012, to October 1, 2017, as amended on March 26, 2014. Facilities assigned Standard Industrial Classification 1442, 2951, or 3273, and those facilities assigned Standard Industrial Classification 1422 or 1423 which are engaged primarily in rock crushing are not eligible for coverage under General Permit No. 1.

64.15(2) Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES General Permit No. 2, effective October 1, 2012, to October 1, 2017, as amended on March 26, 2014.

64.15(3) Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants, and Construction Sand and Gravel Facilities, NPDES General Permit No. 3, effective October 1, 2012, to October 1, 2017, as amended on March 26, 2014. General Permit No. 3 authorizes storm water discharges from facilities primarily engaged in manufacturing asphalt paving mixtures and which are classified under Standard Industrial Classification 2951, primarily engaged in manufacturing Portland cement concrete and which are classified under Standard Industrial Classification 3273, those facilities assigned Standard Industrial Classification 1422 or 1423 which are primarily engaged in the crushing, grinding or pulverizing of limestone or granite, and construction sand and gravel facilities which are classified under Standard Industrial Classification 1442. General Permit No. 3 does not authorize the discharge of water resulting from dewatering activities at rock quarries.

[Filed 1/28/14, effective 3/26/14]

[Published 2/19/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/14.