

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.173 and 455B.105(11), the Environmental Protection Commission hereby amends Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

The purpose of this rule making is to allow reissuance of NPDES General Permit No. 5 for mining and processing facilities for a period of five years. General Permit No. 5 was originally issued July 18, 2001, and expired July 17, 2006.

General Permit No. 5 authorizes discharges to surface waters throughout the state of Iowa of wash water, materials transport water, scrubber water used for air pollution control, water used for dust suppression, mine or quarry dewatering, and noncontact cooling water used for ancillary mining equipment. Facilities covered under the permit are primarily engaged in mining or quarrying dimension stone; crushed and broken limestone; construction sand and gravel; and clay, ceramic, and refractory minerals, not elsewhere classified, except bentonite and magnesite.

The primary pollutants of concern in discharges from mining and quarrying operations are suspended solids and pH; thus, the general permit includes limitations for these parameters to ensure protection of water quality. Based on information provided by the mining and quarrying community, sulfate is an additional pollutant of concern. The permit requires every facility seeking coverage under the general permit to submit a sample result for sulfate in its Notice of Intent (NOI). The sulfate sample result will determine whether the discharge from the facility is eligible for coverage under NPDES General Permit No. 5. Any discharge with a sulfate concentration greater than 1,514 mg/L will not be eligible for coverage under the general permit, and the facility will be required to apply for an individual NPDES permit.

Discharges to Outstanding Iowa Waters (OIW), Outstanding National Resource Waters (ONRW), and state-owned artificial and natural lakes are not authorized under General Permit No. 5. These discharges that are not authorized are in addition to discharges already excluded from coverage by the previously issued permit.

The permit requires that new and expanded dischargers use best management practices to reduce the discharge of pollutants. The best management practices include using settled wash water for dust suppression, maximizing settling of suspended solids, recycling materials wash water whenever practical, and using hydraulic dredging whenever practical and affordable (sand and gravel facilities only).

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 9, 2011, as **ARC 9364B**. These amendments were modified from those published under Notice of Intended Action to correct the effective date of the permit. In subrule 64.15(5), the effective date of the general permit was changed from July 18, 2011, to July 20, 2011.

The following modifications were made to General Permit No. 5:

1. Discharges from sites where miscellaneous nonmetallic minerals are mined will not be authorized under the permit because discharges of process-generated wastewater pollutants from the majority of nonmetallic mineral mining operations are prohibited by federal and state regulations. Nonmetallic minerals are not mined in Iowa.
2. Discharges from sites where bentonite and magnesite are mined will not be authorized under the permit because discharge of process-generated wastewater from sites that mine these materials is prohibited by federal and state regulations. These materials are not mined in Iowa.
3. The deadline for filing a Notice of Intent was changed from July 17, 2011, to July 19, 2011, to reflect the effective date of the permit (July 20, 2011).
4. The definition of storm water discharge associated with industrial activity was changed to reflect federal and state regulations. Previous regulations considered storm water runoff from construction sites

where more than five acres is disturbed to be associated with industrial activity while the current standard is one acre.

The adopted amendments to Chapter 64 that accompany General Permit No. 5 are summarized below.

1. Revision of the transfer of title and owner address change requirements to include transfer of coverage under General Permit No. 5.
2. Establishment of an effective date for the reissue of General Permit No. 5.
3. Revision of the NPDES fee schedule to include General Permit No. 5 annual fees.

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

These amendments will become effective July 20, 2011.

The following amendments are adopted.

ITEM 1. Amend rule 567—64.14(455B), catchwords, as follows:

567—64.14(455B) Transfer of title ~~or~~ and owner or operator address change.

ITEM 2. Adopt the following **new** subrules 64.14(1) and 64.14(2):

64.14(1) *Permits issued under rule 567—64.2(455B), 567—64.3(455B), or 567—64.6(455B), except 64.6(1)“a”(5).* If title to any disposal system or part thereof for which a permit has been issued is transferred, the new owners shall be subject to all terms and conditions of the permit. Whenever title to a disposal system or part thereof is changed, the department shall be notified in writing of such change within 30 days of the occurrence. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notification of the department of the transfer of title. Whenever the address of the owner is changed, the department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all title transfers and address changes must be reported to the department by mail.

64.14(2) *Permits issued under 64.6(1)“a”(5).* When the operator of a facility changes, the department must be notified of the transfer within 30 days. When a discharge is covered by the general permit, the operator of record shall be subject to all terms and conditions of the permit. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notification of the department of the transfer. Whenever the address of the operator is changed, the department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all transfers and address changes must be reported to the department by mail.

ITEM 3. Amend subrule 64.15(5) as follows:

64.15(5) “Discharge from Mining and Processing Facilities,” NPDES General Permit No. 5, effective ~~July 18, 2001~~ July 20, 2011.

ITEM 4. Amend subparagraph **64.16(3)“a”(5)** as follows:

(5) Discharge from Mining and Processing Facilities, NPDES General Permit No. 5. ~~Fees as established in Iowa Code section 455B.197 are to be submitted by August 30 of every year unless a multiyear fee payment was received in an earlier year. New facilities seeking General Permit No. 5 coverage shall submit fees with the Notice of Intent for coverage. Maximum coverage is five years, four years, three years, and one year, respectively. In the event a facility is no longer eligible to be covered under General Permit No. 5, the remainder of the fees previously paid by the facility shall be applied toward its individual permit fees.~~

<u>Annual Permit Fee</u>	<u>\$125 (per year)</u>
	<u>or</u>
<u>Five-year Permit Fee</u>	<u>\$500</u>
<u>Four-year Permit Fee</u>	<u>\$400</u>
<u>Three-year Permit Fee</u>	<u>\$300</u>

New facilities seeking General Permit No. 5 coverage shall submit fees with the Notice of Intent for coverage. Maximum coverage is for five years. Coverage may also be obtained for four years, three

years, or one year, as shown in the fee schedule above. Existing facilities shall submit annual fees by August 30 of every year, unless a multiyear fee payment was received in an earlier year. In the event a facility is no longer eligible to be covered under General Permit No. 5, the remainder of the fees previously paid by the facility shall be applied toward its individual permit fees.

[Filed 5/19/11, effective 7/20/11]

[Published 6/15/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/15/11.