

CHAPTER 64  
WASTEWATER CONSTRUCTION AND OPERATION PERMITS

[Prior to 7/1/83, DEQ Ch 19]

[Prior to 12/3/86, Water, Air and Waste Management[900]]

**567—64.1(455B) Definitions.** In addition to the definitions in Iowa Code sections 455B.101 and 455B.171, the following definitions shall apply to this chapter.

**64.1(1)** “*Application for construction permit*” means the engineering report, plans and specifications and other data deemed necessary by the department for the construction of a proposed wastewater disposal system or part thereof.

**64.1(2)** “*Construction permit*” means a written approval of the director to construct a wastewater disposal system or part thereof in accordance with the plans and specifications approved by the department.

**64.1(3)** “*Application for operation permit*” means an application for a written operation permit made on a form provided by the department.

**64.1(4)** “*Operation permit*” means a written permit by the director authorizing the operation of a wastewater disposal system or part thereof or discharge source, and, if applicable, the discharge of wastes from said disposal system or part thereof or discharge source to waters of the state. An operation permit will be issued as an NPDES permit if the regional administrator has approved the department’s NPDES program and an NPDES permit is required for the disposal system.

**64.1(5)** “*Private sewage disposal system*” means a system which provides for the treatment or disposal of domestic sewage from four or fewer dwelling units or the equivalent of less than 16 individuals on a continuing basis.

**64.1(6)** “*Semipublic sewage disposal system*” means a system for the treatment or disposal of domestic sewage which is not a private sewage disposal system and which is not owned by a city, a sanitary sewer district, or a designated and approved management agency under Section 208 of the Act (33 U.S.C. 1288).

**567—64.2(455B) Permit to construct.**

**64.2(1)** No person shall construct, install or modify any wastewater disposal system or part thereof or extension or addition thereto without, or contrary to any condition of, a construction permit issued by the director or by a local public works department authorized to issue such permits under 567—Chapter 9, nor shall any connection to a sewer extension in violation of any special limitation specified in a construction permit pursuant to 64.2(10), paragraph “a,” “b,” or “f” be allowed by any person subject to the conditions of the permit.

**64.2(2)** The site for each new wastewater treatment plant or expansion or upgrading of existing facilities must be inspected and approved by the department prior to submission of plans and specifications. Applications must be submitted in accordance with 567—60.4(455B).

**64.2(3)** Site approval under 64.2(2) shall be based on the criteria contained in the Ten States Standards, design manuals published by the department, applicable federal guidelines and standards, standard textbooks, current technical literature and applicable safety standards. To the extent that separation distances of this subrule conflict with the separation distances of 567—subrule 23.5(1) or 23.5(2), the greater distance shall prevail. The following separation distances from treatment or lagoon water surface shall apply:

*a.* 1000 feet from the nearest inhabitable residence, commercial building, or other inhabitable structure. If the inhabitable or commercial building is the property of the owner of the proposed treatment facility, or there is written agreement with the owner of the building, the separation criteria shall not apply. Any such written agreement shall be filed with the county recorder and recorded for abstract of title purposes, and a copy submitted to the department.

*b.* 1000 feet from public shallow wells.

*c.* 400 feet from public deep wells.

*d.* 400 feet from private wells.

*e.* 400 feet from lakes and public impoundments.

*f.* 25 feet from property lines and rights-of-way.

When the above separation distances cannot be maintained for the expansion, upgrading or replacement of existing facilities, the separation distances shall be maintained at no less than 90 percent of the existing separation distance on the site, providing no data is available indicating that a problem has existed or will be created.

**64.2(4)** Applications for a construction permit must be submitted to the director in accordance with 567—60.4(455B) at least 120 days in advance of the date of start of construction.

**64.2(5)** The director shall act upon the application within 60 days of receipt of a complete application by either issuing a construction permit or denying the construction permit in writing unless a longer review period is required and the applicant is so notified in writing. Notwithstanding the 120-day requirement in 64.2(4), construction of the approved system may commence immediately after the issuance of a construction permit.

**64.2(6)** The construction permit shall expire if construction thereunder is not commenced within one year of the date of issuance thereof. The director may grant an extension of time to commence construction if it is necessary or justified, upon showing of such necessity or justification to the director.

**64.2(7)** The director may modify or revoke a construction permit for cause which shall include but not be limited to the following:

- a.* Failure to construct said wastewater disposal system or part thereof in accordance with the approved plans and specifications.
- b.* Violation of any term or condition of the permit.
- c.* Obtaining a permit by misrepresentation of facts or failure to disclose fully all material facts.
- d.* Any change during construction that requires material changes in the approved plans and specifications.

**64.2(8)** A construction permit shall not be required for the following:

- a.* Storm sewers or storm water disposal systems that transport only storm water.
- b.* Any new disposal system or extension or addition to any existing disposal system that receives only domestic or sanitary sewage from a building, housing or occupied by 15 persons or less.

**64.2(9)** Review of applications.

*a.* Review of applications for construction permits shall be based on the criteria contained in the “Iowa Wastewater Facilities Design Standards,” the Ten States Standards, applicable federal guidelines and standards, standard textbooks, current technical literature and applicable safety standards. To the extent of any conflict between the above criteria the “Iowa Wastewater Facilities Design Standards” standards shall prevail.

*b.* The chapters of the “Iowa Wastewater Facilities Design Standards”\* that apply to wastewater facilities projects, and the date of adoption of those chapters are:

<u>Chapter</u>	<u>Date of Adoption</u>
11. Project submittals	April 25, 1979
12. Iowa Standards for Sewer Systems	September 6, 1978 (Amended March 28, 1979 and May 20, 1987)
13. Wastewater pumping stations and force mains	March 19, 1985
14. Wastewater treatment works	March 22, 1984 (Amended May 20, 1987)
15. Screening and grit removal	February 18, 1986
16. Settling	March 22, 1984 (Amended May 20, 1987)
17. Sludge handling & disposal	March 26, 1980
18. Biological treatment	
<i>A.</i> Fixed film media treatment	October 21, 1985
<i>B.</i> Activated sludge	March 22, 1984

C. Wastewater treatment ponds (Lagoons)	April 25, 1979 (Amended May 20, 1986 and May 20, 1987)
19. Supplemental treatment processes	November 13, 1986
20. Disinfection	February 18, 1986
21. Land application of wastewater	April 25, 1979

\*The design manual as adopted and amended is available upon request to department, also filed with administrative rules coordinator.

*c.* Variances from the design standards and siting criteria which provide in the judgment of the department for substantially equivalent or improved effectiveness may be requested when there are unique circumstances not found in most projects. The director may issue variances when circumstances are appropriate. The denial of a variance may be appealed to the commission.

*d.* When reviewing the variance request the director may consider the unique circumstances of the project, direct or indirect environmental impacts, the durability and reliability of the alternative, and the purpose and intent of the rule or standard in question.

*e.* Circumstances that would warrant consideration of a variance (which provides for substantially equivalent or improved effectiveness) may include the following:

(1) The utilization of new equipment or new process technology that is not explicitly covered by the current design standards.

(2) The application of established and acceptable technologies in an innovative manner not covered by current standards.

(3) It is reasonably clear that the conditions and circumstances which were considered in the adoption of the rule or standard are not applicable for the project in question and therefore the effective purpose of the rule will not be compromised if a variance is granted.

**64.2(10)** Applications for sanitary sewer extension construction permits shall conform to the Iowa Standards for Sewer Systems, and approval shall be subject to the following:

*a.* A sanitary sewer extension construction permit may be denied if, at the time of application, the treatment facility treating wastewater from the proposed sewer is not in substantial compliance with its operating permit or if the treatment facility receives wastes in volumes or quantities that exceed its design capacity and interfere with its operation or performance.

If the applicant is operating under a compliance schedule which is being adhered to that leads to resolution of the substantial compliance issues or if the applicant can demonstrate that the problem has been identified, the planning completed, and corrective measures initiated, then the construction permit may be granted.

*b.* A sanitary sewer extension construction permit may be denied if bypassing has occurred at the treatment facility, except when any of the following conditions are being met:

(1) The bypassing is due to a combined sewer system, and the facility is in compliance with a long-term CSO control plan approved by the department.

(2) The bypassing occurs as a result of a storm with an intensity or duration greater than that of a storm with a return period of five years. (See App. A)

(3) The department determines that timely actions are being taken to eliminate the bypassing.

*c.* A sanitary sewer extension construction permit may be denied if an existing downstream sewer is or will be overloaded or surcharged, resulting in bypassing, flooded basements, or overflowing manholes, unless:

(1) The bypassing or flooding is the result of a precipitation event with an intensity or duration greater than that of a storm with a return period of two years. (See App. A); or

(2) The system is under full-scale facility planning (I/I and SSES) and the applicant provides a schedule that is approved by the department for rehabilitating the system to the extent necessary to handle the additional loadings.

*d.* Potential loads. Construction permits may be granted for sanitary sewer extensions that are sized to serve future loads that would exceed the capacity of the existing treatment works. However, initial connections shall be limited to the load that can be handled by the existing treatment works. The department will determine this load and advise the applicant of the limit. This limitation will be in effect until additional treatment capacity has been constructed.

**64.2(11)** Certification of completion. Within 30 days after completion of construction, installation or modification of any wastewater disposal system or part thereof or extension or addition thereto, the permit holder shall submit a certification by a registered professional engineer that the project was completed in accordance with the approved plans and specifications.

**567—64.3(455B) Permit to operate.**

**64.3(1)** Except as provided otherwise in this subrule and in 567—Chapter 65, no person shall operate any wastewater disposal system or part thereof without, or contrary to any condition of, an operation permit issued by the director; nor shall the permittee of a system to which a sewer extension has been made under a construction permit limited pursuant to 64.2(10), paragraph “*a*,” “*b*” or “*f*,” allow a connection to such sewer extension in violation of any special limitation in such construction permit. An operation permit is not required for the following:

- a.* Private sewage disposal system which does not discharge into a water of the state.
- b.* A semipublic sewage disposal system, the construction of which has been approved by the department and which does not discharge into a water of the state.
- c.* Any discharge of sewage from vessels, effluent from properly functioning marine engines, laundry, shower, and galley sink wastes, or any other discharge incidental to the normal operation of a vessel: Provided, that this exclusion shall not be construed to apply to rubbish, trash, garbage, or other such materials discharged overboard; nor to discharges when the vessel is being used in a capacity other than as a means of transportation.
- d.* Discharges to aquaculture projects as defined in 40 CFR §122.25 (eff. 12-18-84).
- e.* Discharges of dredged or fill material into navigable waters which are regulated under Section 404 of the Act.
- f.* Any discharge of pollutants directly to another waste disposal system for final treatment and disposal, with the exception of storm water point sources. (This exclusion from requiring an operation permit applies only to the actual addition of materials into the subsequent treatment works. Plans or agreements to make such additions in the future do not relieve dischargers of the obligation to apply for and receive permits until the discharges of pollutants to navigable waters are actually eliminated. It also should be noted that, in all appropriate cases, pretreatment standards promulgated by the administrator pursuant to Section 307(b) of the Act and adopted by reference by the commission and other pretreatment standards and requirements must be complied with.)
- g.* Any discharge in compliance with the instruction of an On-Scene Coordinator pursuant to 40 CFR Part 300 [The National Oil and Hazardous Substances Pollution Plan] or 33 CFR §153.10(e) [Pollution by Oil and Hazardous Substances].
- h.* Water pollution from agricultural and silvicultural activities, runoff from orchards, cultivated crops, pastures, rangelands, and forestlands, except that this exclusion shall not apply to the following:
  - (1) Discharges from concentrated aquatic animal production facilities as defined in 40 CFR §122.24 (eff. 12-18-84);
  - (2) Discharges from concentrated animal feeding operations as defined in 40 CFR §122.23 (eff. 12-18-84);
  - (3) Discharges from silvicultural point sources as defined in 40 CFR §122.27 (eff. 12-18-84);
  - (4) Storm water discharge associated with industrial activity as defined in 567—Chapter 60.
- i.* Return flows from irrigated agriculture.

**64.3(2)** Rescinded, effective 2/20/85.

**64.3(3)** The owner of any disposal system or part thereof in existence before August 21, 1973, for which a permit has been previously granted by the Iowa department of health or the Iowa department

of environmental quality shall submit such information as the director may require to determine the conformity of such system and its operation with the rules of the department by no later than 60 days after the receipt of a request for such information from the director.

**64.3(4) Applications.**

*a. Individual permit.* Except as provided in 64.3(4) “b” or 64.3(4) “c,” applications for operation permits required under 64.3(1) shall be made on forms provided by the department. The application for an operation permit under 64.3(1) shall be filed at least 180 days prior to the date operation is scheduled to begin unless a shorter period of time is approved by the director. Permit applications for a new discharge of storm water associated with construction activity as defined in 567—Chapter 60 under “storm water discharge associated with industrial activity” must be submitted at least 60 days before the date on which construction is to commence. Applications submitted to the department must be accompanied by the appropriate permit fee as specified in rule 64.16(455B). The director shall issue operation permits for applications filed pursuant to 64.3(1) within 90 days of the receipt of a complete application unless the application is for an NPDES permit or unless a longer period of time is required and the applicant is so notified. The director may require the submission of additional information deemed necessary to evaluate the application. If the application is incomplete or otherwise deficient, processing of the application shall not be completed until such time as the applicant has supplied the missing information or otherwise corrected the deficiency.

*b. General permit.* A Notice of Intent for coverage under a general permit must be made on the appropriate form provided by the department listed in 567—subrule 60.3(2) and in accordance with 567—64.6(455B). A Notice of Intent must be submitted to the department according to the following:

(1) For existing storm water discharge associated with industrial activity, with the exception of discharges identified in subparagraphs (2) and (3) of this paragraph, on or before October 1, 1992.

(2) For any existing storm water discharge associated with industrial activity from a facility or construction site that is owned or operated by a municipality with a population of less than 100,000 other than an airport, power plant or uncontrolled sanitary landfill, on or before March 10, 2003.

For purposes of this subparagraph, municipality means city, town, borough, county, parish, district, association, or other public body created by or under state law. The entire population served by the public body shall be used in the determination of the population.

(3) For any existing storm water discharge associated with small construction activity on or before March 10, 2003.

(4) For storm water discharge associated with industrial activity which initiates operation after October 1, 1992, with the exception of discharges identified in subparagraphs (2) and (3) of this paragraph, where storm water discharge associated with industrial activity could occur as defined in rule 567—60.2(455B).

(5) For any private sewage disposal system installed after July 1, 1998, where subsoil discharge is not possible.

(6) For any discharge, except a storm water only discharge, from a mining or processing facility after July 18, 2001.

*c. Group applications.* Group applications identified in 40 CFR Part 122.26(c)(2) as amended through June 15, 1992, that were submitted and approved by the U.S. Environmental Protection Agency will be accepted by the department as an application for an NPDES permit for a storm water discharge associated with industrial activity. A copy of the group application does not need to be submitted to the department. The department will notify a participant in a group application of the required application and individual permit fees as specified in 64.16(3) “b” if an industry specific general permit is not available for the participants in the group.

**64.3(5) Requirements for industries that discharge to another disposal system except storm water point sources.**

*a.* The director may require any person discharging wastes to a publicly or privately owned disposal system to submit information similar to that required in an application for an operation permit, but no operation permit is required for such discharge.

Major contributing industries must submit a treatment agreement which meets the following criteria:

- (1) The agreement must be on a form provided by the department; and
- (2) Must identify and limit the monthly average and the daily maximum quantity of compatible and incompatible pollutants discharged to the disposal system and the variations in daily flow; and
- (3) Be signed by the industrial contributor and the owner of the disposal system accepting the wastewater; and
- (4) Provide that the quantities to be discharged to the disposal system must be in accordance with the applicable standards and requirements in 567—Chapter 62.

*b.* A major contributing industry should submit a new treatment agreement form 60 days in advance of a proposed expansion, production increase or process modification that may result in discharges of sewage, industrial waste, or other waste in excess of the discharge stated in the existing treatment agreement. An industry that would become a major contributing industry as a result of a proposed expansion, production increase or process modification should submit a treatment agreement form 60 days in advance of the proposed expansion, production increase or process modification.

*c.* A treatment agreement form must be submitted at least 180 days before a new major contributing industry proposes to discharge into a wastewater disposal system. The owner of a wastewater disposal system shall notify the director by submitting a complete treatment agreement to be received at least ten days prior to making any commitment to accept waste from a proposed new major contributing industry. However, the department may notify the owner that verification of the data in the treatment agreement may take longer than ten days and advise that the owner should not enter a commitment until the data is verified.

*d.* A treatment agreement form for each major contributing industry must be submitted with the facility plan or preliminary engineering report for the construction or modification of a wastewater disposal system. These agreements will be used in determining the design basis of the new or upgraded system.

*e.* Treatment agreement forms from major contributing industries shall be required as a part of the application for a permit to operate the wastewater disposal system receiving the wastes from the major contributing industry.

**64.3(6)** Rescinded, effective 7/23/86.

**64.3(7)** Operation permits may be granted for any period of time not to exceed five years. Applications for renewal of an operation permit must be submitted to the department 180 days in advance of the date the permit expires. General permits will be issued for a period not to exceed five years. Each permit to be renewed shall be subject to the provisions of all rules of the department in effect at the time of the renewal.

**64.3(8)** Identity of signatories of operation permit applications. The person who signs the application for an operation permit shall be:

*a. Corporations.* In the case of corporations, a principal executive officer of at least the level of vice president.

*b. Partnerships.* In the case of a partnership, a general partner.

*c. Sole proprietorships.* In the case of a sole proprietorship, the proprietor.

*d. Public facilities.* In the case of a municipal, state, or other public facility, by either the principal executive officer, or the ranking elected official.

*e. Storm water discharge associated with industrial activity from construction activities.* In the case of a storm water discharge associated with construction activity, either the owner of the site or the general contractor.

The person who signs NPDES reports shall be the same, except that in the case of a corporation or a public body, monitoring reports required under the terms of the permit may be submitted by the person who is responsible for the overall operation of the facility from which the discharge originates.

**64.3(9)** When necessary to comply with present standards which must be met at a future date, an operation permit shall include a schedule for the alteration of the permitted facility to meet said standards. Such schedules shall not relieve the permittee of the duty to obtain a construction permit pursuant to 64.2(455B). When necessary to comply with a pretreatment standard or requirement which must be met

at a future date, a major contributing industry will be given a compliance schedule for meeting those requirements.

**64.3(10)** Operation permits shall contain such conditions as are deemed necessary by the director to ensure compliance with all applicable rules of the department, including monitoring and reporting conditions, to protect the public health and beneficial uses of state waters, and to prevent water pollution from waste storage or disposal operations.

**64.3(11)** The director may suspend or revoke in whole or in part any individual operation permit or coverage under a general permit for cause. Except for general permits, the director may modify in whole or in part any individual operation permit for cause. A variance or modification to the terms and conditions of a general permit shall not be granted. If a variance or modification to a general permit is desired, the applicant must apply for an individual permit following the procedures in 64.3(4) "a."

Cause for modification, suspension or revocation of a permit includes the following:

- a. Violation of any term or condition of the permit.
- b. Obtaining a permit by misrepresentation of fact or failure to disclose fully all material facts.
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.
- d. Failure to submit such records and information as the director shall require both generally and as a condition of the operation permit in order to ensure compliance with the discharge conditions specified in the permit.
- e. Failure or refusal of an NPDES permittee to carry out the requirements of 64.7(5) "c."
- f. Failure to provide all the required application materials or appropriate fees.

#### **567—64.4(455B) Issuance of NPDES permits.**

**64.4(1)** *Individual permit.* The director shall, when an operation permit expires and an NPDES permit is required for the discharge, and, upon proper application, issue an individual NPDES permit in accordance with 64.5(455B), 64.7(455B), 64.8(1) and 64.9(455B).

**64.4(2)** *General permit.*

a. The director may issue general permits which are consistent with 64.4(2) "b" and the requirements specified in 64.6(455B), 64.7(455B), 64.8(2), and 64.9(455B) for the following activities:

- (1) Storm water point sources requiring an NPDES permit pursuant to Section 402(p) of the federal Clean Water Act and 40 CFR 122.26 (as amended through June 15, 1992).
- (2) Private sewage disposal system discharges permitted under IAC 567—Chapter 69 where subsoil discharge is not possible as determined by the administrative authority.
- (3) For any discharge, except a storm water only discharge, from a mining or processing facility.

b. Each general permit issued by the department must:

- (1) Be adopted as an administrative rule in accordance with Iowa Code chapter 17A, the Administrative Procedure Act. Each proposed permit will be accompanied by a fact sheet setting forth the principal facts and methodologies considered during permit development,
- (2) Correspond to existing geographic or political boundaries, and
- (3) Be identified in 567—64.15(455B).

c. If an NPDES permit is required for an activity covered by a general permit, the applicant may seek either general permit coverage or an individual permit. Procedures and requirements for obtaining an individual NPDES permit are detailed in 64.3(4) "a." Procedures for filing a Notice of Intent for coverage under a general permit are described in 567—64.6(455B) "Completing a Notice of Intent for Coverage Under a General Permit."

#### **567—64.5(455B) Notice and public participation in the individual NPDES permit process.**

**64.5(1)** *Formulation of tentative determination and draft NPDES permit.* The department shall make a tentative determination to issue or deny an NPDES permit for the discharge described in a Refuse Act or NPDES application in advance of the public notice of 64.5(2). If the tentative determination is to issue the NPDES permit, the department shall prepare a draft NPDES permit. The draft permit shall include the following:

a. Effluent limitations identified pursuant to 64.6(2) and 64.6(3), for those pollutants proposed to be limited.

b. If necessary, a proposed schedule of compliance, including interim dates and requirements, identified pursuant to 64.6(4), for meeting the effluent limitations and other permit requirements.

c. Any other special conditions (other than those required in 64.6(5)) which will have a significant impact upon the discharge described in the NPDES application.

**64.5(2) Public notice.**

a. Prior to the issuance of an NPDES permit, public notice shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed discharge and of the tentative determination to issue or deny an NPDES permit for the proposed discharge. Procedures for the circulation of public notice shall include at least the procedures of subparagraphs (1) to (3).

(1) The public notice shall be circulated by the applicant within the geographical areas of the proposed discharge by posting the public notice in the post office and public places of the city nearest the premises of the applicant in which the effluent source is located; by posting the public notice near the entrance to the applicant's premises and in nearby places; and by publishing the public notice in local newspapers and periodicals, or, if appropriate, in a newspaper of general circulation.

(2) The public notice shall be mailed by the department to any person upon request.

(3) Upon request the department shall add the name of any person or group to the mailing list, described in 567—4.2(455B), to receive copies of all public notices concerning proposed NPDES permits within the state or within a certain geographical area and shall mail a copy of all public notices to such persons.

b. The department shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views on the tentative determinations with respect to the NPDES application. All written comments submitted during the 30-day comment period shall be retained by the department and considered by the director in the formulation of the director's final determinations with respect to the NPDES application. The period for comment may be extended at the discretion of the department.

c. The contents of the public notice of a proposed NPDES permit shall include at least the following:

(1) The name, address, and telephone number of the department.

(2) The name and address of each applicant.

(3) A brief description of each applicant's activities or operations which result in the discharge described in the NPDES application (e.g., municipal waste treatment plant, corn wet milling plant, or meat packing plant).

(4) The name of the waterway to which each discharge of the applicant is made and a short description of the location of each discharge of the applicant on the waterway indicating whether such discharge is a new or an existing discharge.

(5) A statement of the department's tentative determination to issue or deny an NPDES permit for the discharge or discharges described in the NPDES application.

(6) A brief description of the procedures for the formulation of final determinations, including the 30-day comment period required by paragraph "b" of this subrule and any other means by which interested persons may influence or comment upon those determinations.

(7) The address and telephone number of places at which interested persons may obtain further information, request a copy of the draft permit prepared pursuant to 64.5(1), request a copy of the fact sheet, if any, described in 64.5(3) and inspect and copy NPDES forms and related documents.

**64.5(3) Fact sheets.**

a. For every discharge which has a total volume of more than 500,000 gallons on any day of the year, the department shall prepare and, upon request, shall send to any person a fact sheet with respect to the application described in the public notice. The contents of such fact sheets shall include at least the following information:

(1) A sketch or detailed description of the location of the discharge described in the NPDES application.



(2) A quantitative description of the discharge described in the NPDES application which includes at least the following: the rate or frequency of the proposed discharge (if the discharge is continuous, the average daily flow in gallons per day or million gallons per day); for thermal discharges subject to limitation under the Act, the average summer and winter discharge temperatures in degrees Fahrenheit; and the average daily discharge in pounds per day of any pollutants which are present in significant quantities or which are subject to limitations or prohibition under Section 301, 302, 306 or 307 of the Act and regulations published thereunder.

(3) The tentative determinations required under 64.5(1).

(4) A brief citation, including a brief identification of the uses for which the receiving waters have been classified, of the water quality standards applicable to the receiving waters and effluent standards and limitations applicable to the proposed discharge.

(5) A fuller description of the procedures for the formulation of final determinations than that given in the public notice including: the 30-day comment period required by 64.5(2); procedures for requesting a public hearing and the nature thereof; and any other procedures by which the public may participate in the formulation of the final determinations.

*b.* Upon request the department shall add the name of any person or group to a mailing list, described in 4.2(455B), to receive copies of fact sheets and shall mail a copy of all fact sheets to such person.

**64.5(4) Notice to other government agencies.** Prior to the issuance of an NPDES permit, the department shall notify other appropriate government agencies of each complete application for an NPDES permit and shall provide such agencies an opportunity to submit their written views and recommendations. Procedures for such notification shall include the procedures of paragraphs “a” to “d.”

*a.* At the time of issuance of public notice pursuant to 64.5(2), the department shall transmit the fact sheet, if any, to any other state whose waters may be affected by the issuance of the NPDES permit and, upon request, the department shall provide such state with a copy of the NPDES application and a copy of the proposed permit prepared pursuant to 64.5(1). Each affected state shall be afforded an opportunity to submit written recommendations to the department and to the regional administrator which the director may incorporate into the permit if issued. Should the director fail to incorporate any written recommendation thus received, the director shall provide to the affected state or states and to the regional administrator a written explanation of the reasons for failing to accept any written recommendation.

*b.* At the time of issuance of public notice pursuant to 64.5(2), the department shall mail the public notice for proposed discharges (other than minor discharges) into navigable waters and the fact sheet, if any, to the appropriate district engineer of the army corps of engineers.

(1) The department and the district engineer for each corps of engineers district within the state may arrange for: notice to the district engineer of minor discharges; waiver by the district engineer of the right to receive fact sheets with respect to classes, types, and sizes within any category of point sources and with respect to discharges to particular navigable waters or parts thereof; and any procedures for the transmission of forms, period of comment by the district engineer (e.g., 30 days), and for objections of the district engineer.

(2) A copy of any written agreement between the department and a district engineer shall be forwarded to the regional administrator and shall be available to the public for inspection and copying in accordance with 567—Chapter 4.

*c.* Upon request the department shall mail the public notice and fact sheet, if any, to any other federal, state, or local agency, or any affected country, and provide such agencies an opportunity to respond, comment, or request a public hearing pursuant to 64.5(6).

*d.* The department shall mail the public notice and fact sheet, if any, for any proposed NPDES permit within the geographical area of a designated and approved management agency under Section 208 of the Act (33 U.S.C. 1288).

*e.* The department shall mail the public notice and fact sheet, if any, to the local board of health for the purpose of assisting the applicant in coordinating the applicable requirements of the Act and Iowa Code chapter 455B with any applicable requirements of the local board of health.

**64.5(5) *Public access to NPDES information.*** The records of the department connected with NPDES permits are available for public inspection and copying to the extent provided in 567—Chapter 4.

**64.5(6) *Public hearings on proposed NPDES permits.*** The applicant, any affected state, the regional administrator, or any interested agency, person or group of persons may request or petition for a public hearing with respect to an NPDES application. Any such request shall clearly state issues and topics to be addressed at the hearing. Any such request or petition for public hearing must be filed with the director within the 30-day period prescribed in 64.5(2) “b” and shall indicate the interest of the party filing such request and the reasons why a hearing is warranted. The director shall hold an informal and noncontested case hearing if there is a significant public interest (including the filing of requests or petitions for such hearing) in holding such a hearing. Frivolous or insubstantial requests for hearing may be denied by the director. Instances of doubt should be resolved in favor of holding the hearing. Any hearing held pursuant to this subrule shall be held in the geographical area of the proposed discharge, or other appropriate area in the discretion of the director, and may, as appropriate, consider related groups of permit applications.

**64.5(7) *Public notice of public hearings.***

*a.* Public notice of any hearing held pursuant to 64.5(6) shall be circulated at least as widely as was the notice of the NPDES application.

(1) Notice shall be published in at least one newspaper of general circulation within the geographical area of the discharge;

(2) Notice shall be sent to all persons and government agencies which received a copy of the notice or the fact sheet for the NPDES application;

(3) Notice shall be mailed to any person or group upon request; and

(4) Notice pursuant to subparagraphs (1) and (2) of this paragraph shall be made at least 30 days in advance of the hearing.

*b.* The contents of public notice of any hearing held pursuant to 64.5(6) shall include at least the following:

(1) The name, address, and telephone number of the department;

(2) The name and address of each applicant whose application will be considered at the hearing;

(3) The name of the waterway to which each discharge is made and a short description of the location of each discharge on the waterway;

(4) A brief reference to the public notice issued for each NPDES application, including identification number and date of issuance;

(5) Information regarding the time and location for the hearing;

(6) The purpose of the hearing;

(7) A concise statement of the issues raised by the person requesting the hearing;

(8) The address and telephone number of the premises where interested persons may obtain further information, request a copy of the draft NPDES permit prepared pursuant to 64.5(1), request a copy of the fact sheet, if any, prepared pursuant to 64.5(3), and inspect and copy NPDES forms and related documents; and

(9) A brief description of the nature of the hearing, including the rules and procedures to be followed.

**567—64.6(455B) Completing a Notice of Intent for coverage under a general permit.**

**64.6(1) *Contents of a complete Notice of Intent.*** An applicant proposing to conduct activities covered by a general permit shall file a complete Notice of Intent by submitting to the department materials required in paragraphs “a” to “c” of this subrule.

*a. Notice of Intent Application Form.* The following Notice of Intent forms must be completed in full.

(1) General Permit No.1 “Storm Water Discharge Associated with Industrial Activity,” Form 542-1415.

(2) General Permit No.2 “Storm Water Discharge Associated with Industrial Activity for Construction Activities,” Form 542-1415.

(3) General Permit No. 3 “Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants and Construction Sand and Gravel Facilities,” Form 542-1415.

(4) General Permit No. 4 “Discharge from On-Site Wastewater Treatment and Disposal Systems,” Form 542-1541.

(5) General Permit No. 5 “Discharge from Mining and Processing Facilities,” Form 542-4006.

*b. General permit fee.* The general permit fee according to the schedule in 64.16(455B) payable to the Department of Natural Resources.

*c. Public notification.* The following public notification requirements must be completed for the corresponding general permit.

(1) General Permits No. 1, No. 2 and No. 3. A demonstration that a public notice was published in at least two newspapers 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 shall, at the minimum, contain the following information:

#### PUBLIC NOTICE OF STORM WATER DISCHARGE

The (applicant name) plans to submit a Notice of Intent to the Iowa Department of Natural Resources to be covered under NPDES General Permit (select the appropriate general permit—No. 1 “Storm Water Discharge Associated with Industrial Activity” or General Permit No. 2 “Storm Water Discharge Associated with Industrial Activity for Construction Activities”). The storm water discharge will be from (description of industrial activity) located in (¼ section, township, range, county). Storm water will be discharged from (number) point source(s) and will be discharged to the following streams: (stream name(s)).

Comments may be submitted to the Storm Water Discharge Coordinator, IOWA DEPARTMENT OF NATURAL RESOURCES, Environmental Protection Division, 900 E. Grand Avenue, Des Moines, IA 50319-0034. The public may review the Notice of Intent from 8 a.m. to 4:30 p.m., Monday through Friday, at the above address after it has been received by the department.

(2) General Permit No. 4. There are no public notification requirements for this permit.

(3) General Permit No. 5. There are no public notification requirements for this permit.

**64.6(2) Authorization to discharge under a general permit.** Upon the submittal of a complete Notice of Intent in accordance with 64.6(1) and 64.3(4) “*b*,” the applicant is authorized to discharge after evaluation of the Notice of Intent by the department is complete and the determination has been made that the contents of the Notice of Intent satisfy the requirements of 567—Chapter 64. The discharge authorization date for all storm water discharges associated with industrial activity that are in existence on or before October 1, 1992, shall be October 1, 1992. The applicant will receive notification by the department of coverage under the general permit. If any of the items required for filing a Notice of Intent specified in 64.6(1) are missing, the department will consider the application incomplete and will notify the applicant of the incomplete items.

**64.6(3) General permit suspension or revocation.** In addition to the causes for suspension or revocation which are listed in 64.3(11), the director may suspend or revoke coverage under a general permit issued to a facility or a class of facilities for the following reasons and require the applicant to apply for an individual NPDES permit in accordance with 64.3(4) “*a*”:

*a.* The discharge would not comply with Iowa’s water quality standards pursuant to 567—Chapter 61, or

*b.* The department finds that the activities associated with a Notice of Intent filed with the department do not meet the conditions of the general permit. The department will notify the affected discharger and establish a deadline, not longer than one year, for submitting an individual permit application.

**64.6(4) *Eligibility for individual permit holders.*** A person holding an individual NPDES permit for an activity covered by a general permit may apply for coverage under a general permit upon expiration of the individual permit and by filing a Notice of Intent according to procedures described in 64.3(4) "b."

**64.6(5) *Filing a Notice of Discontinuation.*** A notice to discontinue the activity covered by the NPDES general permit shall be made in writing to the department 30 days prior to or after discontinuance of the discharge. For storm water discharge associated with industrial activity for construction activities, the discharge will be considered as discontinued when "final stabilization" has been reached. Final stabilization means that all soil-disturbing activities at the site have been completed and that a uniform perennial vegetative cover with a density of 70 percent for the area has been established or equivalent stabilization measures have been employed.

The notice of discontinuation shall contain the following:

- a. The name of the facility to which the permit was issued,
- b. The general permit number and permit authorization number,
- c. The date the permitted activity was, or will be, discontinued, and
- d. A signed certification in accordance with the requirements in the general permit.

**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.

**567—64.7(455B) Terms and conditions of NPDES permits.**

**64.7(1) *Prohibited discharges.*** No NPDES permit may authorize any of the discharges prohibited by 567—62.1(455B).

**64.7(2) *Application of effluent, pretreatment and water quality standards and other requirements.*** Each NPDES permit shall include any of the following that is applicable:

a. An effluent limitation guideline promulgated by the administrator under Sections 301 and 304 of the Act and adopted by reference by the commission in 567—62.4(455B).

b. A standard of performance for a new source promulgated by the administrator under Section 306 of the Act and adopted by reference by the commission in 567—62.4(455B).

c. An effluent standard, effluent prohibition or pretreatment standard promulgated by the administrator under Section 307 of the Act and adopted by reference by the commission in 567—62.4(455B) or 567—62.5(455B).

d. A water quality related effluent limitation established by the administrator pursuant to Section 302 of the Act.

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

f. Any other limitation, including those:

(1) Necessary to meet water quality standards, treatment or pretreatment standards, or schedules of compliance established pursuant to any Iowa law or regulation, or to implement the policy of nondegradation in 567—subrule 61.2(2); or

(2) Necessary to meet any other federal law or regulation; or

(3) Required to implement any applicable water quality standards; or

(4) Any legally applicable requirement necessary to implement total maximum daily loads established pursuant to Section 303(d) of the Act and incorporated in the continuing planning process approved under Section 303(e) of the Act and any regulations and guidelines issued pursuant thereto.

g. Any more stringent legally applicable requirements necessary to comply with a plan approved pursuant to Section 208(b) of the Act.

In any case where an NPDES permit applies to effluent standards and limitations described in paragraph “a,” “b,” “c,” “d,” “e,” “f,” or “g,” the director must state that the discharge authorized by the permit will not violate applicable water quality standards and must have prepared some verification of that statement. In any case where an NPDES permit applies any more stringent effluent limitation, described in 64.7(2) “f”(1), based upon applicable water quality standards, a waste load allocation must be prepared to ensure that the discharge authorized by the permit is consistent with applicable water quality standards.

**64.7(3) Effluent limitations in issued NPDES permits.** In the application of effluent standards, and limitations, water quality standards, and other legally applicable requirements, pursuant to 64.7(2), the director shall, for each issued NPDES permit, 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 such as average or maximum concentration limits, for the level of pollutants authorized in the discharge.

[COMMENT. The manner in which effluent limitations are expressed will depend upon the nature of the discharge. 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). Batch discharges should be more particularly described and limited in terms of (i) frequency (e.g., to occur not more than once every three weeks), (ii) total weight (e.g., not to exceed 300 pounds per batch discharge), (iii) maximum rate of discharge of pollutants during the batch discharge (e.g., not to exceed 2 pounds per minute), and (iv) prohibition or limitation by weight, concentration, or other appropriate measure of specified pollutants (e.g., shall not contain at any time more than 0.1 ppm zinc or more than ¼ pound of zinc in any batch discharge). Other intermittent discharges, such as recirculation blowdown, should be particularly limited to comply with any applicable water quality standards and effluent standards and limitations.]

**64.7(4) Schedules of compliance in issued NPDES permits.** The director shall follow the following procedure in setting schedules in NPDES permit conditions to achieve compliance with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements.

*a.* With respect to any discharge which is not in compliance with applicable effluent standards and limitations, applicable water quality standards, or other legally applicable requirements listed in 64.7(2)“*f*” and 64.7(2)“*g*,” the permittee shall be required to take specific steps to achieve compliance with: applicable effluent standards and limitations; if more stringent, water quality standards; or if more stringent, legally applicable requirements listed in 64.7(2)“*f*” and 64.7(2)“*g*.” In the absence of any legally applicable schedule of compliance, such steps shall be achieved in the shortest, reasonable period of time, such period to be consistent with the guidelines and requirements of the Act.

*b.* In any case where the period of time for compliance specified in paragraph “*a*” of this subrule exceeds nine months, a schedule of compliance shall be specified in the permit which will set forth interim requirements and the dates for their achievement; in no event shall more than nine months elapse between interim dates. If the time necessary for completion of the interim requirements (such as the construction of a treatment facility) is more than nine months and is not readily divided into stages for completion, interim dates shall be specified for the submission of reports of progress toward completion of the interim requirement.

[COMMENT. Certain interim requirements such as the submission of preliminary or final plans often require less than nine months and thus a shorter interval should be specified. Other requirements such as the construction of treatment facilities may require several years for completion and may not readily subdivide into nine-month intervals. Long-term interim requirements should nonetheless be subdivided into intervals not longer than nine months at which the permittee is required to report progress to the director pursuant to 64.7(4)“*c*.”]

*c.* Either before or up to 14 days following each interim date and the final date of compliance the permittee shall provide the department with written notice of the permittee’s compliance or noncompliance with the interim or final requirement.

*d.* On the last day of the months of February, May, August, and November the director shall transmit to the regional administrator a list of all instances, as of 30 days prior to the date of such report, of failure or refusal of a permittee to comply with an interim or final requirement or to notify the department of compliance or noncompliance with each interim or final requirement (as required pursuant to paragraph “*b*” of this subrule). Such list shall be available to the public for inspection and copying and shall contain at least the following information with respect to each instance of noncompliance:

- (1) Name and address of each noncomplying permittee.
- (2) A short description of each instance of noncompliance (e.g., failure to submit preliminary plans, two-week delay in commencement of construction of treatment facility; failure to notify of compliance with interim requirement to complete construction by June 30).
- (3) A short description of any actions or proposed actions by the permittee to comply or by the director to enforce compliance with the interim or final requirement.
- (4) Any details which tend to explain or mitigate an instance of noncompliance with an interim or final requirement (e.g., construction delayed due to materials shortage, plan approval delayed by objections).

*e.* 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 567—Chapters 7 and 60, modify, suspend or revoke the permit or take direct enforcement action.

**64.7(5) *Other terms and conditions of issued NPDES permits.*** Each issued NPDES permit shall provide for and ensure the following:

*a.* That all discharges authorized by the NPDES permit shall be consistent with the terms and conditions of the permit; that facility expansions, production increases, or process modifications which result in new or increased discharges of pollutants must be reported by submission of a new NPDES 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; 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; that if the terms and conditions of a general permit are no longer applicable to a discharge, the applicant shall apply for an individual NPDES permit;

*b.* That the permit may be modified, suspended or revoked in whole or in part for the causes provided in 64.3(11).

*c.* That the permittee shall permit the director or the director's authorized representative upon the presentation of credentials:

(1) To enter upon permittee's premises in which an effluent source is located or in which any records are required to be kept under terms and conditions of the permit;

(2) To have access to and copy any records required to be kept under terms and conditions of the permit;

(3) To inspect any monitoring equipment or method required in the permit; or

(4) To sample any discharge of pollutants.

*d.* That, if the permit is for a discharge from a publicly owned treatment works, the permittee shall provide notice to the director of the following:

(1) One hundred eighty days in advance of any new introduction of pollutants into such treatment works from a source which would be a new source as defined in Section 306 of the Act if such source were discharging pollutants;

(2) Except as specified below, 180 days in advance of any new introduction of pollutants into such treatment works from a source which would be subject to Section 301 of the Act if such source were discharging pollutants. However, the connection of such a source need not be reported if the source contributes less than 50,000 gallons of wastewater per day at the maximum discharge, or less than 5 percent of the organic or hydraulic loading of the treatment facility, or does not contribute toxic materials that may adversely affect the treatment process or any waste that may have an adverse or deleterious impact on the treatment process; and

(3) Sixty days in advance of any substantial change in volume or character of pollutants being introduced into such treatment works by a source introducing pollutants into such works at the time of issuance of the permit.

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

*e.* That, if the permit is for a discharge from a publicly owned treatment works, the permittee shall require any industrial user of such treatment works to comply with the requirements of Sections 204(b), 307, and 308 of the Act. As a means of ensuring such compliance, the permittee shall require that each industrial user subject to the requirements of Section 307 of the Act give to the permittee periodic notice (over intervals not to exceed six months) of progress toward full compliance with Section 307 requirements. The permittee shall forward a copy of the notice to the director.

*f.* That the permittee at all times shall maintain in good working order and operate as efficiently as possible any facilities or systems of control to achieve compliance with the terms and conditions of the permit.

*g.* That if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Act for a toxic pollutant which is present in the permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in the NPDES permit, the director shall revise or modify the permit in accordance with the toxic effluent standard or prohibition and so notify the permittee.

*h.* If an applicant for an NPDES permit proposes to dispose of pollutants into wells as part of a program to meet the proposed terms and conditions of an NPDES permit, the director shall specify additional terms and conditions of the issued NPDES permit which shall prohibit the proposed disposal or control the proposed disposal in order to prevent pollution of ground and surface water resources and to protect the public health and welfare. (See rule 567—62.9(455B) which prohibits the disposal of pollutants, other than heat, into wells within Iowa.)

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

*j.* It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the terms of this permit.

**64.7(6) POTW compliance—plan of action required.** The owner of a publicly owned treatment works (POTW) must prepare and implement a plan of action to achieve and maintain compliance with final effluent limitations in its NPDES permit, as specified below:

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

*b.* The plan of action will vary in length and complexity depending on the compliance history and physical status of the particular POTW. It must identify the deficiencies and needs of the system, describe the causes of such deficiencies or needs, propose specific measures (including an implementation schedule) that will be taken to correct the deficiencies or meet the needs, and discuss the method of financing the improvements proposed in the plan of action.

The plan may provide for a phased construction approach to meet interim and final limitations, where financing is such that a long-term project is necessary to meet final limitations, and shorter term projects may provide incremental benefits to water quality in the interim.

Information on the purpose and preparation of the plan can be found in the departmental document entitled “Guidance on Preparing a Plan of Action,” available through the records center of the department.

*c.* Upon submission of a complete plan of action to the department, the plan should be reviewed and approved or disapproved within 60 days unless a longer time is required and the POTW owner is so notified.

*d.* The NPDES permit for the facility shall be amended to include the implementation schedule or other actions developed through the plan to achieve and maintain compliance.

This rule is intended to implement Iowa Code chapter 455B, division III, part 1 (455B.171 to 455B.187).

#### **567—64.8(455B) Reissuance of NPDES permits.**

**64.8(1) Individual NPDES permits.** Individual NPDES permits will be reissued according to the procedures identified in 64.8(1) “a” to “c.”

*a.* Any state NPDES permittee who wishes to continue to discharge after the expiration date of the permit shall file an application for reissuance of the permit at least 180 days prior to the expiration of the permit. The application may be a simple written request. However, the applicant for reissuance must submit or have submitted information to show:

(1) That the permittee is in compliance or has substantially complied with all the terms, conditions, requirements and schedules of compliance of the expiring NPDES permit.

(2) Up-to-date information on the permittee’s production levels, permittee’s waste treatment practices, nature, contents, and frequency of permittee’s discharge.

(3) That the discharge is consistent with applicable effluent standards and limitations, water quality standards and other legally applicable requirements listed in 64.7(2), including any additions to, or revision or modifications of, such effluent standards and limitations, water quality standards, or other legally applicable requirements during the term of the permit.

*b.* The director shall follow the notice and public participation procedures specified in 64.5(455B) in connection with each request for reissuance of an NPDES permit.

*c.* Notwithstanding any other provision in these rules, any new point source the construction of which is commenced after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 (October 18, 1972) and which is so constructed as to meet all applicable standards of performance for new sources shall not be subject to any more stringent standard of performance during a ten-year period beginning on the date of completion of such construction or during the period of depreciation or amortization of such facility for the purposes of Section 167 or 169 (or both) of the Internal Revenue Code, as amended through December 31, 1976, whichever period ends first.



**64.8(2) *Renewal of coverage under a general permit.*** Coverage under a general permit will be renewed subject to the terms and conditions in paragraphs “a” to “d.”

*a.* If a permittee intends to continue an activity covered by a general permit beyond the expiration date of the general permit, the permittee must reapply and submit a complete Notice of Intent as follows:

(1) For storm water discharge associated with industrial activity, complete Notice of Intent requirements are listed in 64.6(1).

(2) Reserved.

*b.* A complete Notice of Intent for coverage under a reissued or renewed general permit must be submitted to the department within 180 days after the expiration date of a general permit.

*c.* A person holding a general permit is subject to the terms of the permit until it expires or a Notice of Discontinuation is submitted in accordance with 64.6(5). If the person holding a general permit continues the activity beyond the expiration date, the conditions of the expired general permit will remain in effect provided the permittee submits a complete Notice of Intent for coverage under a renewed or reissued general permit 180 days after the expiration date of the expired general permit. If the person continues an activity for which the general permit has expired and the general permit has not been reissued or renewed the discharge must be permitted with an individual NPDES permit according to the procedures in 64.3(4)“a.”

*d.* The Notice of Intent requirements shall not include a public notification when a general permit has been reissued or renewed provided the permittee has already submitted a complete Notice of Intent including the public notification requirements of 64.6(1). Another public notice is required when any information, including facility location, in the original public notice is changed.

**567—64.9(455B) Monitoring, record keeping and reporting by operation permit holders.** Operation permit holders are subject to any applicable requirements specified in 567—Chapter 63.

**567—64.10(455B) Silvicultural activities.** The following is adopted by reference: 40 CFR 122.27 as promulgated April 1, 1983 (48 FR 14153).

**567—64.11 and 64.12** Reserved.

**567—64.13(455B) Storm water discharges.**

**64.13(1)** The following is adopted by reference: 40 CFR 122.26 as promulgated November 16, 1990 (55 FR 47990), and amended March 21, 1991 (56 FR 12098), April 2, 1992 (57 FR 11394), and December 8, 1999 (64 FR 68838).

**64.13(2)** Small municipal separate storm sewer systems.

*a.* For any discharge from a regulated small municipal separate storm sewer system (MS4), the permit application must be submitted no later than March 10, 2003, if designated under this subrule.

*b.* All MS4s located in urbanized areas as defined by the latest decennial census and all MS4s which serve 10,000 people or more located outside urbanized areas and where the average population density is 1,000 people/square mile or more are regulated small MS4s unless waiver criteria established by the department are met and a waiver has been granted by the department.

*c.* Permit coverage requirements for MS4s located in urbanized areas and serving 1,000 or more people and fewer than 10,000 people may be waived if the following requirements are met:

(1) The department has evaluated all waters of the United States that receive a discharge from the MS4, and for all such waters, the department has determined that storm water controls are not needed based on wasteload allocations that are part of an EPA approved or established total maximum daily load (TMDL) that addresses the pollutants of concern or, if a TMDL has not been developed or approved, an equivalent analysis that determines sources and allocations for the pollutants of concern. The pollutants of concern include biochemical oxygen demand, sediment or a parameter that addresses sediment (total suspended solids, turbidity or siltation), pathogens, oil and grease, and any pollutant that

has been identified as a cause of impairment of any water body that will receive a discharge from the MS4.

(2) The department has determined that future discharges from the MS4 do not have the potential to result in exceedances of water quality standards, including impairment of designated uses or other significant water quality impacts including habitat and biological impacts.

*d.* Permit coverage requirements for MS4s located in urbanized areas and serving fewer than 1,000 people may be waived if the following requirements are met:

(1) The system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the NPDES storm water program.

(2) The MS4 discharges any pollutants that have been identified as a cause of impairment of any water body to which the MS4 discharges and the department has determined that storm water controls are not needed based upon wasteload allocations that are a part of an EPA approved or established TMDL that addresses the pollutants of concern.

*e.* Permit coverage requirements for MS4s located outside of urbanized areas and serving 10,000 or more people may be waived if the following criterion is met:

The MS4 is not discharging pollutants which are the cause of the impairment to a water body designated by the department as impaired.

*f.* Should conditions under which the initial waiver was granted change, the waiver may be rescinded by the department and permit coverage may be required.

*g.* MS4 applications shall, at a minimum, demonstrate in what manner the applicant will develop, implement and enforce a storm water management program designed to reduce the discharge of pollutants from the MS4 to the maximum extent practicable, to protect water quality and to satisfy the appropriate water quality requirements of the Clean Water Act. The manner in which the permittee will address the following items must be addressed in the application: public education and outreach on storm water impacts, public involvement and participation, illicit discharge detection and elimination, construction site storm water runoff control, postconstruction storm water management in new development and redevelopment, and pollution prevention for municipal operations. Measurable goals which the applicant intends to meet and dates by which the goals will be accomplished shall be included with the application.

**64.13(3)** Waivers for storm water discharge associated with small construction activity. The director may waive the otherwise applicable requirements in a general permit for storm water discharge from small construction activities as defined in 567—Chapter 60 when:

*a.* The value of the rainfall erosivity factor (“R” in the Revised Universal Soil Loss Equation) is less than 5 during the period of construction activity. The rainfall erosivity factor is determined in accordance with Chapter 2 of Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE), pages 21-64, dated January 1997; or

*b.* Storm water controls are not needed based on a TMDL approved or established by the EPA that addresses the pollutant(s) of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutant(s) of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. The pollutant(s) of concern includes sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity.

**567—64.14(455B) Transfer of title.** If title to any disposal system or part thereof for which a permit has been issued under 64.2(455B), 64.3(455B) or 64.6(455B) is transferred, the new owners shall be subject to all terms and conditions of said permit. Whenever title to a disposal system or part thereof is changed, the department shall be notified of such change within 30 days.

Rules 567—64.3(455B) to 64.14(455B) are intended to implement Iowa Code section 455B.173.

**567—64.15(455B) General permits issued by the department.** The following is a list of general permits adopted by the department through the Administrative Procedure Act, Iowa Code chapter 17A, and the term of each permit.

**64.15(1)** Storm Water Discharge Associated with Industrial Activity, NPDES General Permit No. 1, effective October 1, 2007, to October 1, 2012. 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, 2007, to October 1, 2012.

*a.* Part I, provision B, section 1, paragraph A of General Permit No. 2 is amended to read as follows:

Except for discharges identified under Parts I.B.2. and I.B.3., this permit may authorize the discharge of storm water associated with industrial activity from construction sites, (those sites or common plans of development or sale that will result in the disturbance of one or more acres of total land area),

*b.* Part VIII, under the definition: Storm water discharge associated with industrial activity, paragraph (x) of General Permit No. 2 is amended to read as follows:

Construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than one acre of total land area which is not part of a larger common plan of development or sale.

**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, 2007, to October 1, 2012. 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.

**64.15(4)** “Discharge from Private Sewage Disposal Systems,” NPDES General Permit No. 4, effective March 18, 2009, to March 17, 2011.

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

[ARC 7569B, IAB 2/11/09, effective 3/18/09]

**567—64.16(455B) Fees.**

**64.16(1)** A person who applies for an individual permit or coverage under a general permit to construct, install, modify or operate a disposal system shall submit along with the application an application fee or a permit fee or both as specified in 64.16(3). Certain individual facilities shall also be required to submit annual fees as specified in 64.16(3) “*b.*” Fees shall be assessed based on the type of permit coverage the applicant requests, either as general permit coverage or as an individual permit. For a construction permit, an application fee must be submitted with the application. For General Permits Nos. 1, 2, 3 and 5, the applicant has the option of paying an annual permit fee or a multiyear permit fee at the time the Notice of Intent for coverage is submitted.

For individual storm water only permits, a one-time, multiyear permit fee must be submitted at the time of application. A storm water only permit is defined as an NPDES permit that authorizes the discharge of only storm water and any allowable non-storm water as defined in the permit. For all other non-storm water NPDES permits and operation permits, the applicant must submit an application fee at the time of application and the appropriate annual fee on a yearly basis. A non-storm water NPDES permit is defined as any individual NPDES permit or operation permit issued to a municipality, industry, semipublic entity, or animal feeding operation that is not an individual storm water only permit. If a

facility needs coverage under more than one NPDES permit, fees for each permit must be submitted appropriately.

Fees are nontransferable. If the application is returned to the applicant by the department, the permit fee will be returned. No fees will be returned if the permit or permit coverage is suspended, revoked, or modified, or if the activity is discontinued. Failure to submit the appropriate fee at the time of application renders the application incomplete, and the department shall suspend processing of the application until the fee is received. Failure to submit the appropriate annual fee may result in revocation or suspension of the permit as noted in 64.3(11)“f.”

**64.16(2)** Payment of fees. Fees shall be paid by check or money order made payable to the “Iowa Department of Natural Resources.”

For facilities needing coverage under both a storm water only permit and a non-storm water NPDES permit, separate payments shall be made according to the fee schedule in 64.16(3).

**64.16(3)** Fee schedule. The following fees have been adopted:

a. For coverage under the NPDES general permits, the following fees apply:

- (1) Storm Water Discharges Associated with Industrial Activity, NPDES General Permit No. 1.

Annual Permit Fee . . . . .	\$175(per year)
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or

Five-year Permit Fee . . . . .	\$700
Four-year Permit Fee . . . . .	\$525
Three-year Permit Fee . . . . .	\$350

All fees are to be submitted with the Notice of Intent for coverage under the general permit.

(2) Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES General Permit No. 2. The fees are the same as those specified for General Permit No. 1 in subparagraph (1) of this paragraph.

(3) Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, and Rock Crushing Plants, NPDES General Permit No. 3. The fees are the same as those specified for General Permit No. 1 in subparagraph (1) of this paragraph.

(4) Discharge from Private Sewage Disposal Systems, NPDES Permit No. 4. No fees shall be assessed.

(5) Discharge from Mining and Processing Facilities, NPDES General Permit No. 5. Fees as established in 2006 Iowa Acts, House File 2540, section 25, 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 in any month but August shall submit fees with the Notice of Intent for coverage. Coverage provided by the five-year, four-year, or three-year permit fees expires no later than the expiration date of the general permit. Maximum coverage is five years, four years, and three years, 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.

b. Individual NPDES and operation permit fees. The following fees are applicable for the described individual NPDES permit:

(1) For permits that authorize the discharge of only storm water associated with industrial activity and any allowable non-storm water, a five-year permit fee of \$1,250 must accompany the application.

(2) For permits that authorize the discharge of only storm water from municipal separate storm sewer systems and any allowable non-storm water, a five-year permit fee of \$1,250 must accompany the application.

(3) For permits not subject to subparagraphs (1) and (2), a single application fee of \$85 as established in 2006 Iowa Acts, House File 2540, section 25, is due at the time of application. The application fee is to be submitted with the application form (Form 30 for municipal and semipublic facilities; Form 1, 2, 2F, 3, or 4 for industrial facilities) at the time of a new application, renewal

application, or amendment application. Before an approved amendment request submitted by a facility holding a non-storm water NPDES permit can be processed by the department, the application fee must be submitted. Application fees will not be charged to facilities holding non-storm water NPDES permits when an amendment request is submitted by DNR staff, or when the requested amendment is to correct an error in the permit.

(4) For every major and minor municipal facility, every semipublic facility, every major and minor industrial facility, every facility that holds an operation permit (no wastewater discharge into surface waters), and every open feedlot animal feeding operation required to hold a non-storm water NPDES permit, an annual fee as established in 2006 Iowa Acts, House File 2540, section 25, is due by August 30 of each year.

(5) For every municipal water treatment facility with a non-storm water NPDES permit, no fee is charged (as established in 2006 Iowa Acts, House File 2540, section 25).

(6) For a new facility, an annual fee as established in 2006 Iowa Acts, House File 2540, section 25, is due 30 days after the new permit is issued.

c. Wastewater construction permit fees. A single construction permit fee as established in 2006 Iowa Acts, House File 2540, section 25, is due at the time of construction permit application submission.

**64.16(4)** Fee refunds for storm water general permit coverage—pilot project. Rescinded IAB 10/16/02, effective 11/20/02.

[Editorial change: IAC Supplement 2/11/09]

**567—64.17(455B) Validity of rules.** If any section, paragraph, sentence, clause, phrase or word of these rules, or any part thereof, be declared unconstitutional or invalid for any reason, the remainder of said rules shall not be affected thereby and shall remain in full force and effect.

**567—64.18(455B) Applicability.** This chapter shall apply to all waste disposal systems treating or intending to treat sewage, industrial waste, or other waste except waste resulting from livestock or poultry operations. All livestock and poultry operations constituting animal feeding operations as defined in 567—Chapter 65 shall be governed by the requirements contained in Chapter 65. However, if an animal feeding operation is required to apply for and obtain an NPDES permit, the provisions of this chapter relating to notice and public participation, to the terms and conditions of the permit, to the reissuance of the permit and to monitoring, reporting and record-keeping activities shall apply.

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

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<sup>1</sup> Effective date of 64.2(9)“c” delayed 70 days by the Administrative Rules Review Committee. The 70-day delay of effective date of 64.2(9)“c” was lifted by the Administrative Rules Review Committee on 7/31/86.

### RAINFALL INTENSITY - DURATION - FREQUENCY CURVES Appendix A

