

**567—64.3 (455B) Permit to operate.**

**64.3(1)** Except as otherwise provided in this subrule, in 567—Chapter 65, and in 567—Chapter 69, 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. An operation permit is not required for the following:

- a.* A private sewage disposal system which does not discharge into, or have the potential to reach, a designated water of the state or subsurface drainage tile (NOTE: private sewage disposal systems under this exemption are regulated under 567—Chapter 69).
- 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.* A pretreatment system, the effluent of which is to be discharged directly to another disposal system for final treatment and disposal.
- d.* A discharge from a geothermal heat pump which does not reach a navigable water.
- e.* Water well construction and well services related discharge that does not reach a water of the United States as defined in 40 CFR Part 122.2.
- f.* Discharges from the application of biological pesticides and chemical pesticides where the discharge does not reach a water of the United States as defined in 40 CFR Part 122.2.
- g.* Agricultural storm water discharges. This exclusion applies only to the operation permit requirement set forth in this rule and does not alter other requirements of law, including but not limited to any applicable requirements of Iowa Code chapters 459 and 459A.

**64.3(2)** Rescinded, effective 2/20/85.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. If the director determines that the disposal system does not conform to the rules of the department, the director may require the owner to make such modifications as are necessary to achieve compliance. A construction permit shall be required, pursuant to 64.2(1), prior to any such modification of the disposal system.

**64.3(4)** Applications.

*a. Individual permit.* Except as provided in 64.3(4)“*b*,” applications for operation permits required under 64.3(1) shall be made on forms provided by the department, as noted in 567—subrule 60.3(2). The application for an operation permit under 64.3(1) shall be filed pursuant to 567—subrule 60.4(2). 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. Upon completion of a tentative determination with regard to the permit application as described in 64.5(1)“*a*,” 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.

*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.

**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.

Significant industrial users as defined in 567—Chapter 60 must submit a treatment agreement which meets the following criteria:

(1) The agreement must be on the treatment agreement form, number 542-3221, as 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 and dated by the significant industrial user 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 significant industrial user must 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 significant industrial user as a result of a proposed expansion, production increase or process modification shall 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 significant industrial user 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 10 days prior to making any commitment to accept waste from a proposed new significant industrial user. However, the department may notify the owner that verification of the data in the treatment agreement may take longer than 10 days and advise that the owner should not enter into a commitment until the data is verified.

*d.* A treatment agreement form for each significant industrial user 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 significant industrial users shall be required as a part of the application for a permit to operate the wastewater disposal system receiving the wastes from the significant industrial user.

**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 permit applications. The person who signs the application for a permit shall be:

*a. Corporations.* In the case of corporations, a responsible corporate officer. A responsible corporate officer means:

(1) A president, secretary, treasurer, or vice president in charge of a principal business function, or any other person who performs similar policy- or decision-making functions; or

(2) The manager of manufacturing, production, or operating facilities, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

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

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

*d. Municipal, state, federal, or other public agency.* In the case of a municipal, state, or other public facility, either the principal executive officer or the ranking elected official. A principal executive officer of a public agency includes:

(1) The chief executive officer of the agency; or

(2) A senior executive officer having responsibility for the overall operations of a unit of the agency.

*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.

*f. Certification.* Any person signing a document under paragraph “a” to “d” of this subrule shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for known violations.

The person who signs NPDES reports shall be a person described in this subrule, 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 a duly authorized representative of the person described in this subrule. A person is a duly authorized representative if the authorization is made in writing by a person described in this subrule and the authorization specifies an individual or position having responsibility for the overall operation of the regulated facility, such as plant manager, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the corporation.

**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 in accordance with 64.7(4) and 64.7(5). Such schedules shall not relieve the permittee of the duty to obtain a construction permit pursuant to 567—64.2(455B). When necessary to comply with a pretreatment standard or requirement which must be met at a future date, a significant industrial user 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 amend, revoke and reissue, or terminate 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."

*a.* Permits may be amended, revoked and reissued, or terminated for cause either at the request of any interested person (including the permittee) or upon the director's initiative. All requests shall be in writing and shall contain facts or reasons supporting the request.

*b.* Cause under this subrule includes the following:

(1) Violation of any term or condition of the permit.

(2) Obtaining a permit by misrepresentation of fact or failure to disclose fully all material facts.

(3) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(4) Failure to submit such records and information as the director shall require both generally and as a condition of the permit in order to ensure compliance with the discharge conditions specified in the permit.

(5) Failure or refusal of an NPDES permittee to carry out the requirements of 64.7(7) "c."

(6) Failure to provide all the required application materials or appropriate fees.

(7) A request for a modification of a schedule of compliance, an interim effluent limitation, or the minimum monitoring requirements pursuant to 567—paragraph 60.4(2) "b."

(8) Causes listed in 40 CFR 122.62 and 122.64.

*c.* The permittee shall furnish to the director, within a reasonable time, any information that the director may request to determine whether cause exists for amending, revoking and reissuing, or terminating a permit, including a new permit application.

*d.* The filing of a request by an interested person for an amendment, revocation and reissuance, or termination does not stay any permit condition.

*e.* If the director decides the request is not justified, the director shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, hearings, or appeals.

*f.* Draft permits.

(1) If the director tentatively decides to amend, revoke and reissue, or terminate a permit, a draft permit shall be prepared according to 64.5(1).

(2) When a permit is amended under this paragraph, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the permit.

(3) When a permit is revoked and reissued under this paragraph, the entire permit is reopened just as if the permit had expired and was being reissued.

(4) If the permit amendment falls under the definition of "minor amendment" in 567—60.2(455B), the permit may be amended without a draft permit or public notice.

(5) During any amendment, revocation and reissuance, or termination proceeding, the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

**64.3(12)** No permit may be issued:

*a.* When the applicant is required to obtain certification under Section 401 of the Clean Water Act and that certification has not been obtained or waived;

*b.* When the imposition of conditions cannot ensure compliance with the applicable water quality requirements of all affected states; or

*c.* To a new source or new discharger if the discharge from its construction or operation will cause or contribute to a violation of water quality standards. The owner or operator of a new source or new discharger proposing to discharge to a water segment which does not meet applicable water quality standards must demonstrate, before the close of the public comment period for a draft NPDES permit, that:

- (1) There is sufficient remaining load in the water segment to allow for the discharge; and
- (2) The existing dischargers to the segment are subject to compliance schedules designed to bring the segment into compliance with water quality standards.

The director may waive the demonstration if the director already has adequate information to demonstrate (1) and (2).

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09; **ARC 8520B**, IAB 2/10/10, effective 3/17/10; **ARC 9365B**, IAB 2/9/11, effective 3/30/11; **ARC 0529C**, IAB 12/12/12, effective 1/16/13; **ARC 2482C**, IAB 4/13/16, effective 5/18/16; **ARC 2572C**, IAB 6/8/16, effective 5/18/16]