

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

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. Rescinded IAB 3/11/09, effective 4/15/09.~~

~~567—64.12(455B) Construction permits to construct.~~

64.12(1) Construction permit requirement.

a. 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 [Iowa Code section 455B.183](#)~~567—Chapter 9~~, nor shall any connection to a sewer extension in violation of any special limitation specified in a construction permit pursuant to [subrule 64.12\(10\)](#) be allowed by any person subject to the conditions of the permit.

b. [Exemptions to the requirement to obtain a construction permit are listed in the Iowa Wastewater Facilities Design Standards, effective Month 2024, located on the department's website; hereafter referred to as the IWDFS.](#)

64.12(2) Construction sites.

a. The site for each new wastewater treatment plant, ~~or plant expansion, or upgrade~~~~upgrading~~ of existing facilities must be inspected and approved by the department prior to submission of plans and specifications. [Site survey applications](#) must be submitted in accordance with [this rule](#)~~567—60.4(455B)~~.

b. ~~64.2(3)~~ Site approval under [this subrule](#)~~64.2(2)~~ shall be based on the criteria contained in:

(1) The IWDFS;

(2) The Recommended Standards for Wastewater Facilities, 2014 Edition, a report of the Great Lakes - Upper Mississippi Board of State and Provincial Public Health and Environmental Managers, available on their website at: www.health.state.mn.us/communities/environment/water/tenstates/standards.html; hereafter referred to as the Ten States Standards, ~~design manuals published by the department.~~

(3) Applicable federal guidelines and standards, and

(4) Other design documents, including standard textbooks, current technical literature and applicable safety standards. ~~To the extent that separation distances of this subrule conflict with the separation distances of Iowa Code section 455B.134(3) "f," the greater distance shall prevail.~~

c. The following separation distances ~~from a treatment works listed in subparagraphs "1" through "6" of this paragraph~~ shall apply [to treatment works](#) unless a separation distance exception is provided in the [IWDFS](#)~~—Iowa Wastewater Facilities Design Standards.~~² The separation distance from lagoons shall be measured from the water surface.

~~(1) 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 [submitted to the department and](#) filed by the county recorder ~~and recorded~~ for abstract of title purposes, ~~and a copy submitted to the department.~~

~~(2) 1000 feet from public shallow wells.~~

~~(3) 400 feet from public deep wells.~~

~~(4) 400 feet from private wells.~~

~~(5) 400 feet from lakes and public impoundments.~~

~~(6) 25 feet from property lines and rights-of-way. A separation distance of at least 300 feet from property lines and rights-of-way is recommended where treatment works may be expanded in the future.~~

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.

(7) In addition to the separation distances required in subparagraphs "1" through "6" of this paragraph, the following separation distances shall apply to all anaerobic lagoons that are used in connection with industrial wastewater treatment or pretreatment. These distances do not apply to controlled discharge or aerated facultative pond systems.

1. Where the average rated flow is 100,000 gpd or less, an anaerobic lagoon shall be at least 1,250 feet from the nearest inhabitable residence, commercial building, or other inhabitable structure not owned by the owner of the lagoon; or from a public use area other than a public road.

Commented [1]: New 64.1, Construction permits - Authorized by 455B.183(1)(a).

Commented [2]: New 64.1(1)"a", No person shall..." - Existing text from old 64.2(1). Subrule is being split into "a" & "b".

Commented [3]: New 64.1(1)"a", "Iowa Code section 455B.183" - Chapter 9 is being rescinded, as the requirements are in 455B.183.

Commented [4]: New 64.1(1)"b", "Exemptions to the..." Exemptions moved to the IWDFS. Replaces the old 64.2(8), Construction permit exemptions.

Commented [5]: New 64.1(1)"b", IWDFS - New text is official citation of the IWDFS. Replaces the chapter listing in old 64.2(9)"b".

Commented [6]: New 64.1(2)"a", "The site for each..." - Existing text; was 64.2(2). Site inspection & approval text in old 64.2(2) & 64.2(3) has been combined into 1 subrule.

Commented [7]: "this rule..." - Construction permit app info has been moved from Chapter 60 to new 64.1(4).

Commented [8]: New 64.1(2)"b", Site approval - Combined old 64.2(2) & old 64.2(3) into one. All site & app approval criteria are listed here (IWDFS are referenced in new 64.1(1)"b").

Commented [9]: New 64.1(2)"b"(1), IWDFS - This replaces the IWDFS citation in old 64.2(9)"a".

Commented [10]: New 64.1(2)"b"(2), Ten States Standards - Existing requirement; new text is official citation. Also replaces citation in old 64.2(9)"a".

Commented [11]: "design manuals..." - Replaced by a reference to the Iowa Wastewater Facilities Design Standards in new 64.1(3)"b"(1) above.

Commented [12]: New 64.1(2)"b"(3), "Applicable federal..." - Existing text; was 64.2(3).

Commented [13]: New 64.1(2)"b"(4), "Other design documents..." - Existing requirement; was in old 64.2(3).

Commented [14]: "To the extent..." - Replaced by new text in new 64.1(3)"c"(7). Iowa Code 455B.134 is in AQ Subchapter of 455B; doesn't need a reference here.

Commented [15]: New 64.1(2)"c", "The following separation distances..." - Existing requirement; was in last portion of old 64.2(3).

Commented [16]: "from the treatment works" - Now "to treatment works"; moved to later in sentence. Current placement implies (1)-(6) lists types of treatment works, not separation distances.

Commented [17]: New 64.1(2)"c"(1) through (6) - Existing text; was old 64.2(3)"a" through "f".

Commented [18]: "and a copy..." - Moved to earlier in sentence.

Commented [19]: Well separation distances are being discussed internally; may be changed later in EO10 stakeholder process.

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

2. Where the average rated flow is greater than 100,000 gpd, an anaerobic lagoon shall be at least 1,875 feet from the nearest inhabitable residence, commercial building, or other inhabitable structure not owned by the owner of the lagoon; or from a public use area other than a public road.

3. A person may build or expand an anaerobic lagoon closer to an inhabitable residence, commercial building, or other inhabitable structure not owned by the owner of the anaerobic lagoon, or to a public use area, if the affected landowners enter into a written agreement with the anaerobic lagoon owner to waive the separation distances under such terms the parties negotiate. Any such agreement shall be submitted to the department and filed with the county recorder for abstract of title purposes.

4. When the separation distances in this subparagraph cannot be maintained for the expansion, upgrade, or replacement of existing anaerobic lagoon facilities, the separation distance may be reduced to 1,000 feet provided all of the following criteria are met:

- The anaerobic lagoon will be completely covered and provided with approved off gas treatment throughout its entire operation life;
- An operation and maintenance manual shall be prepared and submitted to the department in accordance with the IWFDS; and
- No data is available indicating that a problem has existed or will be created.

64.1(3) Construction permit applications - general requirements.

a. General. All applications for a construction permit required under this rule shall be made in accordance with the requirements in the IWFDS and on forms provided by the department. The applicant will be promptly notified if the application is incomplete or improperly filled out, and an application will not be reviewed until it is complete. A wastewater construction permit will be denied when the application does not meet all requirements for permit issuance. For a system with permits conditioned by limitations on additional loads under subrule 64.1(4), paragraphs "a," "b" or "d," construction permit applications must be accompanied by an accounting of connections and additional loading since the time the initial conditioned permit was issued.

b. Submission date. 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 construction start date of start of construction.

c. Site surveys.

(1) For new or expanded wastewater treatment facilities, an application for a site survey must be submitted by the applicant's engineer in advance of a full application for construction permit. An applicant should allow 60 days from the submission date of the site survey application for preliminary approvals.

(2) A site survey application must include the following minimum information:

1. A preliminary engineering report or a cover letter which contains a brief description of the proposed treatment process and assurance that the project is in conformance with the long-range planning of the area.

2. The general information, treatment project site selection, and treatment project design data portions of the construction permit application forms, as provided by the department.

(3) If a site survey application is incomplete, it will be returned to the engineer for completion. When a site survey application is complete, it will be reviewed as follows:

1. If the data submitted indicates on its face that the site would be unsuitable for its intended purpose, a letter of rejection will be sent to the applicant and the engineer. Clarifications and additional data may be requested of the applicant and the engineer.

2. If the data submitted indicates on its face that the site may be suitable, a site survey will be conducted by department staff.

d. Fee. A single construction permit application fee of \$100, as specified in Iowa Code subsection 455B.197(2), is due at the time of construction permit application submission.

e. Director action. 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.

f. Modification after construction permit issuance. Applicants seeking a modification to plans and specifications after having been issued a construction permit shall submit an addendum to plans and specifications, a change order, or revised plans and specifications, along with the reasons for the proposed changes, to the department. A supplemental written permit or approval will be issued when the changes submitted by the applicant meet department requirements. Construction shall not proceed until such changes

Commented [20]: New 64.1(2)"c"(7), anaerobic lagoons - New text accords w/ Iowa Code 455B.134 in Air Quality subchapter of 455B. The text is being added rather than referenced.

Commented [21]: New 64.1(3), Construction permit applications..." - Combining old 64.2(5), 64.2(6), & app info from old 60.4(1) into new subrule for construction permit applications.

Commented [22]: New 64.1(3)"a", General - Moved from Chapter 60; was old 60.4(1)"a", General, last sentences.

Commented [23]: New 64.1(3)"b", Submission date - Existing text from old 64.2(4); adding catchphrase.

Commented [24]: New 64.1(3)"c"(1) & (2), Site Surveys - Existing text. Moved from Chapter 60; was old 60.4(1)"c", Site Surveys.

Commented [25]: New 64.1(3)"c"(2)1, "A preliminary..." - Existing text; moved from old 60.4(1)"c"(1).

Commented [26]: New 64.1(3)"c"(2)2, "The general info..." - Existing requirement from old 60.4(1)"c"2, 3, & 4; reworded & removed form references.

Commented [27]: New 64.1(3)"c"(3)1. & 2. - Existing requirement; moved from final paragraph of old 60.4(1)"c" & split into 2 subsections.

Commented [28]: New 64.1(3)"d", Wastewater construction permit fees - Existing text; moved from old 60.4(1)"e", Fees. Now references Iowa Code.

Commented [29]: New 64.1(3)"e", Director action - Existing text.; adding catchphrase. 1st sentence of old 64.2(5).

Commented [30]: Old 64.2(5), "Notwithstanding the 120 day..." - Moved to after the application info in new 64.1(6), "Notwithstanding the 120 day..."

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

have been approved.

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.
- c. A privately owned pretreatment facility, except an anaerobic lagoon, where a treatment unit or units provide partial reduction of the strength or toxicity of the waste stream prior to additional treatment and disposal by another person, corporation, or municipality. However, the department may require that the design basis and construction drawings be filed for information purposes.

64.1(4) Additional requirements for sanitary sewer extension construction permit applications. Applications for sanitary sewer extension construction permits shall conform to the IWFDs. If a sanitary sewer extension construction permit application does not provide sufficient information on which to make a determination to grant or deny a sewer system construction permit, additional information may be requested and evaluated. Sanitary sewer extension 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 will lead 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 department-approved long-term CSO control plan.
- (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, according to the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Point Precipitation Frequency Estimates.
- (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, according to the NOAA Atlas 14 Point Precipitation Frequency Estimates; or
- (2) The system is under full-scale facility planning 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.

64.12(59) Application & review of applications.

a. Review of applications for construction permit applications shall be based on the criteria listed in paragraph 64.1(2)"b", and on contained in the "Iowa Wastewater Facilities Design Standards," the Ten States Standards, the "Iowa Antidegradation Implementation Procedure," effective August 12, 2016, applicable federal guidelines and standards, standard textbooks, current technical literature and applicable safety standards. In the event of any conflict between the above criteria, the IWFDs "Iowa Wastewater Facilities Design Standards" standards shall prevail.

b. The chapters of the "Iowa Wastewater Facilities Design Standards" that apply to wastewater facilities

Commented [31]: New 64.1(3)"f", "Modification after..." - Existing text; moved from old 60.4(1)"d", Modification.

Commented [32]: Old 64.2(6), "The construction permit..." - Moved to new 64.1(7), "The construction permit..." to be after the Review of Applications subrule.

Commented [33]: Old 64.2(7), "The director may modify or revoke..." - Moved to new 64.2(8), "The director may modify..." to be after the Review of Applications subrule.

Commented [34]: Old 64.2(8). "A construction permit..." - The exemptions are being moved to Chapter 1 of the new IWFDs. Exemptions now discussed in rule in new 64.1(1)"b", "Exemptions to the..."

Commented [35]: New 64.1(4), "Additional requirements for..." - Existing text; moved from old 64.2(10), "Applications for sanitary sewer...". Changes are noted.

Commented [36]: "If a sanitary sewer..." - Existing text; moved from the old 60.4(1)"b", "If Schedule B..." and modified to remove the form reference.

Commented [37]: "according to the..." - This was changed from a reference to Appendix A, which has been removed and replaced with the NOAA Atlas. See https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=ia

Commented [38]: "according to the..." - This was changed from a reference to Appendix A, which has been removed and replaced with the NOAA Atlas.

Commented [39]: "contained in the..." - Review criteria are now in new 64.1(2)"b"; see new 64.1(1)"b" & 64.1(2)"b"(1) & (2).

Commented [40]: "applicable federal..." - Review criteria are now in new 64.1(2)"b"; see new 64.1(2)"b"(3) & (4).

Commented [41]: Old 64.2(9)"b" - All Chapters have been combined into one IWFDs document, so they no longer need to be listed here. See new 64.1(1)"b", "Exemptions to the...", which has the IWFDs citation.

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	-
-	A. Fixed film media treatment	October 21, 1985
-	B. 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.

~~be. IWFDs w/Waivers from the.~~

(1) ~~Waivers from the IWFDs 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. Waiver requests shall be submitted and reviewed in accordance with 567—Chapter 13. ~~The director may issue waivers when circumstances are appropriate.~~

(2) ~~Waivers may be issued or denied at the discretion of the director. Waiver; The denial of a waiver may be~~ appealed to the commission.

(3) ~~When reviewing a~~ the waiver request, the director:

1. ~~Shall use the criteria in 561—Chapter 10, and~~

2. ~~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.

(4) ~~Circumstances that would warrant waiver consideration of a waiver (which provides for substantially equivalent or improved effectiveness)~~ may include the following:

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

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

3. ~~(3) It is reasonably clear that~~ The conditions and circumstances which were considered in the adoption of the ~~design 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 waiver is granted.~~

64.1(6) Notwithstanding the 120-day requirement in subrule 64.1(4), construction of the approved system may commence immediately after the issuance of a construction permit.

64.1(7) The construction permit shall expire if construction thereunder is not commenced within one year

Commented [42]: New 64.1(5)"b", Waivers from the IWFDs - Existing text in old 64.2(9)"c", "d", & "e" is being combined into 1 paragraph. Changes are noted.

Commented [43]: New 64.1(5)"b"(1), "Waivers from..." - replace with correct IWFDs citation .

Commented [44]: Waiver requests shall be submitted & reviewed in accordance w/ 567—Ch 13.

Commented [45]: "The director may issue..." - Reworded & put in (2), "Waivers may be issued..."

Commented [46]: New 64.1(5)"b"(2), "Waivers may be issued..." - Existing requirement; restatement of previous sentence ("The director may...")

Commented [47]: New 64.1(5)"b"(3)1., "Shall use the criteria..." - New text; current practice. Specifies existing waiver criteria.

Commented [48]: "which provides for..." - Already stated in (1); does not need to be restated here.

Commented [49]: "design" - This is for waivers from design standards, not rules.

Commented [50]: "and therefore the..." - Text not needed; intent captured in new 64.1(5)"b"(3)2., & this is for waivers from design standards, not rules.

Commented [51]: New 64.1(6), "Notwithstanding the 120 day..." - Existing text; moved from old 64.2(5).

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

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.

64.1(8) The director may modify or revoke a construction permit for cause, including, but not 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(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.

e. 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.

64.1(210) *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 construction permit holder shall submit a certification by a registered professional engineer that the project was completed in accordance with the approved plans and specifications.

[ARC 7625B, IAB 3/11/09, effective 4/15/09; ARC 2695C, IAB 8/31/16, effective 8/12/16; ARC 6191C, IAB 2/9/22, effective 3/16/22]

567—64.23(455B) Operation Permits to operate.

64.23(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, or *a.* 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, as noted in Iowa Code section 455B.183, 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.

Commented [52]: New 64.1(7), The construction permit..." - Existing text; - Moved from old 64.2(6) to be after the Review of Applications subrule.

Commented [53]: New 64.1(8), "The director may modify..." - Existing text; moved from old 64.2(7) to be after the Review of Applications subrule.

Commented [54]: Old 64.2(10), "Applications for sanitary sewer..." - Entire subrule moved to follow the construction permit applications subrule; is new 64.1(4), Sanitary sewer extension..."

Commented [55]: Old 64.2(10)"d", Potential loads - being struck as requirements for sanitary sewer extension const. permits are already discussed in earlier paragraphs (are being moved to new 64.1(4)), & DNR has no const. permitting authority over service connections.

Commented [56]: New 64.2, Operation Permits - Existing regulations; authorized by 455B.183(1)(c).

Commented [57]: "An operation permit..." - Existing text. Exceptions to requirement for an operation permit are allowed by 455B.183(1)(c).

Commented [58]: Old 64.3(1)"a", "b", & "c" - Text replaced w/ reference to Iowa Code 455B.183, which specifically lists these exemptions.

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

ce. Water well construction and well services related discharge that does not reach a water of the United States (WOTUS) as defined in 40 CFR § Section 122.2.

df. Discharges from the application of biological pesticides and chemical pesticides where the discharge does not reach a WOTUS water of the United States as defined in 40 CFR § Section 122.2. Aquatic pesticides may be applied to any WOTUS in accordance with this chapter and NPDES General Permit No. 7, "Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides."

eg. Agricultural stormwater~~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.

fh. Dewatering discharge from the installation, repair, or maintenance of agricultural drainage systems that does not reach a water of the state. This activity is not considered operation of a wastewater disposal system.

g. A wastewater discharge from a water treatment plant that does not reach a water of the state.

~~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.~~

64.23(24) Applications.

a. Individual permit applications.

(1) Application Forms. Except as provided in paragraph 64.23(24) "b," applications for operation permits required under this paragraph 64.3(1) shall be made on forms provided by the department, ~~as noted in 567-60.3(455B,17A).~~ The application for an operation permit under 64.3(1) shall be filed pursuant to 567 ~~subrule 60.4(2).~~

(2) Application Submission. ~~The application for an operation permit under paragraph 64.3(1) shall be filed pursuant to 567 subrule 60.4(2);~~

1. Application due dates.

- Permit a Applications for an individual permit for a new discharge of stormwater~~storm water~~ associated with construction activity as defined in 40 CFR § 122.26(b)(14)~~567 Chapter 60~~ under "stormwater~~storm water~~ discharge associated with industrial activity" must be submitted at least 60 days before the date on which construction is to commence.
- The due date for a new application is 180 days prior to the date the operation is scheduled to begin, unless a shorter period is approved by the director.
- The due date for a renewal application is 180 days prior to the expiration date of the current permit. For a POTW, permission to submit an application at a later date may be granted by the director.

2. Complete applications. A permit application is complete and approvable when all necessary questions on the application have been completed and the application is signed pursuant to this subrule, and when all applicable portions of the application, including the application fee, treatment agreement forms, and required attachments, have been submitted. The director may require the submission of an antidegradation alternatives analysis or other additional information deemed necessary to evaluate the application.

3. Incomplete applications. Incomplete applications may be returned to the applicant for completion. Authorization to discharge will be suspended if a complete application is not submitted to the department before the expiration date of the current permit. In the case of new applications, no discharge will be allowed until an operation permit is issued. In the case of existing discharges, if a permit application is incomplete or has not been submitted, the department shall notify the applicant of a violation of this rule and may proceed administratively on the violation or may request that the Environmental Protection Commission refer the matter to the attorney general for legal action.

4. Other information. If a permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application, the permittee shall promptly submit such facts or information.

Commented [59]: New 64.2(1)"d", Aquatic pesticides..." - Existing requirement; authorized by 455B.186(2). As Chapter 66 will not be re-adopted, this was moved from 66.1(2) Allowable applications.

Commented [60]: New 64.2(1)"g", "A wastewater discharge..." - New text. DNR occasionally issues construction permits for drinking water treatment plants to hold, evaporate, & infiltrate residual wastewater, rather than discharging to a surface water. Groundwater can benefit from a recharge of water previously pumped out of the ground. These systems have successfully operated for decades. We believe that public water supplies will benefit from maintaining one less DNR permit.

Commented [61]: Old 64.3(3), "the owner of any..." - Obsolete; are no longer any permitted facilities that existed before 1973 that DNR does not already have information on.

Commented [62]: New 64.2(2), Applications - Existing requirements; 40 CFR 124.3.

Commented [63]: "...as noted in..." - No longer needed; text from Chapter 60 has been moved here.

Commented [64]: "The application for..." - No longer needed; text from Chapter 60 has been moved here.

Commented [65]: New 64.2(2)"a"(2)1., App due dates - New subsection w/ existing text from old 64.3(4)"a" & old 60.4(2)"a"(1).

Commented [66]: "stormwater associated with..." - Updating citation; definition in Chapter 60 now references the CFR.

Commented [67]: New 64.2(2)"a"(2)1, "The due date..." - Existing text; moved from old 60.4(2)"a"(1). Dates from 40 CFR 122.21(c) & (d).

Commented [68]: New 64.2(2)"a"(2)2, Complete applications - Existing text; moved from old 60.4(2)"a"(1).

Commented [69]: New 64.2(2)"a"(2)3, Incomplete applications - Existing text; moved from old 60.4(2)"a"(2), Incomplete applications.

Commented [70]: New 64.2(2)"a"(2)4, Other info - Existing text; moved from old 60.4(2)"a"(3), Other info. 40 CFR 122.41(i)(8).

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

(3) Application Receipt. Upon completion of a tentative determination with regard to the permit application, as described in paragraph 64.45(1)"a." the director shall issue operation permits for applications filed pursuant to this subrule 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.

Commented [71]: New 64.2(2)"a"(3), App receipt - Existing text from old 64.3(4)"a".

b. General permit applications. A Notice of Intent (NOI) for coverage under a general permit shall be completed on forms provided by the department ~~as noted in 567—60.3(455B,17A)~~ and in accordance with rule 567—64.56(455B). An NOI must be submitted for any of to the department according to the following:

(1) ~~For existing Stormwater~~ 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.~~

Commented [72]: Old 64.3(4)"b"(2), "For any existing..." - From 40 CFR 122.26(a)(1)(ii). Replaced by adoption of 40 CFR 122.26 in new 64.10(1).

(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.~~

Commented [73]: Old 64.3(4)"b"(2), "For purposes of..." - Replaced by adoption of 40 CFR 122.26 in new 64.10(1).

~~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.~~

(2) ~~3) For any existing s~~Storm-water discharge associated with small construction activity, ~~on or before March 10, 2003.~~

Commented [74]: Old 64.3(4)"b"(4), "For storm water..." - From 40 CFR 122.26(a)(1)(ii). Replaced by adoption of 40 CFR 122.26 in new 64.10(1).

(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).~~

Commented [75]: "that discharge to..." - Existing requirement; in accordance with proposed changes to Chapter 69.

(3) ~~5) For any p~~Private sewage disposal systems that discharge to a Water of the United States installed after July 1, 1998, where ~~subsoil discharge is not possible.~~

Commented [76]: "on or after..." - Date reference no longer needed.

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

Commented [77]: "on or after..." - Date reference no longer needed.

(5) ~~7) For any d~~Discharges from hydrostatic testing, tank ballasting and water lines, if required to be submitted by General Permit No. 8, ~~on or after July 1, 2018.~~

Commented [78]: New 64.2(3)"c" App fees - Moved from 60.4(2)"c"; added Iowa Code reference.

(6) ~~8) For any d~~Discharges from dewatering or residential geothermal systems, if required to be submitted by General Permit No. 9, ~~on or after July 1, 2018.~~

Commented [79]: New 64.2(3)"d", "Signatories" - Replaced signatory text in old 64.3(8) & changed to CFR citation. Includes "NPDES and operation permits" as same signatory requirements apply to both (existing requirement).

c. Application fees. Required fees shall be submitted with all permit applications pursuant to Iowa Code subsection 455B.197(3).

d. Signatories of permit applications. Permit applications for operation and NPDES permits shall be signed in accordance with 40 CFR § 122.22.

~~64.23(35) Indirect discharger r~~Requirements. ~~Indirect dischargers~~ for industries that discharge to another disposal system except storm water point sources:

Commented [80]: New 64.2(3), Requirements regarding indirect dischargers..." - Existing requirements; subrule is being reworded. 40 CFR 122.42(b)(1) & 122.44(j)(1).

a. Information requirement. The director may require an indirect discharger 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.

Commented [81]: "an indirect discharger" - Reworded.

b. Treatment agreement (TA). A POTW intending to accept waste from a SIU Significant industrial users as defined in 40 CFR § 403.3(v) must submit a treatment agreement (TA) which ~~meets the following criteria:~~

Commented [82]: New 64.2(3)"b", "TA" - Existing requirements; text was at end of old 64.3(5)"a"; moved to new "b" & reworded.

(1) ~~Is~~The agreement must be on the TA treatment agreement form, ~~number 542-3221~~, as provided by the department; and

Commented [83]: "number..." - Form # no longer needed.

(2) ~~Identifies~~Must identify and limits the monthly average and the daily maximum flows, and identifies and limits all other pollutants or pollutant parameters necessary to ensure that the discharge will be in accordance with the applicable standards and requirements in 567—Chapter 62; quantity of compatible and incompatible pollutants discharged to the disposal system and the variations in daily flow; and

Commented [84]: New 64.2(3)"b"(2), "Identifies and limits..." - Existing requirements; clarifies & combines old 64.3(5)"a"(2) & (4).

(3) ~~Is~~Be signed and dated by the significant industrial userSIU and the owner of the POTW disposal system accepting the wastewater; and

Commented [85]: Old 64.3(5)"a"(4), "Provide that..." - Moved up to new 64.2(3)"b"(2), "Identifies and limits..."

(4) ~~Provide that the quantities to be discharged to the disposal system must be~~ are in accordance with the applicable standards and requirements in 567—Chapter 62.

Commented [86]: New 64.2(3)"c"(1), (2) & (3), TA submittal timelines - Existing requirements; combines, rewords, & clarifies old 64.3(5)"b" & "c". 40 CFR 122.42(b).

c.b. TA submittal timelines. A POTW receiving waste from an existing or proposed SIU shall submit a complete TA form to the department in accordance with the following timelines:

(1) ~~For an existing SIU with an existing TA,~~ 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

Commented [87]: New 64.2(3)"c"(1)"For an existing..." - Existing requirements; was 64.3(5)"b", 1st sentence.

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

existing ~~TA~~ treatment agreement.

~~(2) For an indirect discharger industry that would become a SIU 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.~~

Commented [88]: New 64.2(3)"c"(2)"For an indirect..." - Existing requirements; was 64.3(5)"b", 2nd sentence.

~~(3) For a new indirect discharger that will qualify as a SIU, A treatment agreement form must be submitted at least 180 days in advance of a proposed discharge, 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.~~

Commented [89]: New 64.2(3)"c"(3)"For a new indirect..." - Existing requirements; was 64.3(5)"c".

Commented [90]: "in advance of..." - Simplifying text.

~~d. Construction and operation permit applications - TA submittal.~~

Commented [91]: "The owner of..." - Unnecessary and confusing; strike.

~~(1) A construction permit application for the construction or modification of a POTW must include current TA treatment agreement forms for each SIU discharging to the POTW, 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 TAs agreements will be used in determining the design basis of the new or upgraded system.~~

Commented [92]: New 64.2(3)"d", "Construction and..." - Existing requirements; combines & rewords old 64.3(5)"d" & "e".

~~e. (2) An operation permit application from a POTW must include information and current TA treatment agreement forms from for each SIU significant industrial users discharging to the POTW, and information on any Non-Significant Categorical Industrial User discharging to the POTW, 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.~~

Commented [93]: New 64.2(3)"d"(1), "A construction..." - Existing requirements; is rewording of old 64.3(5)"d".

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

Commented [94]: New 64.2(3)"d"(2), "An operation..." - Existing requirements; was old 64.3(5)"e". Adds requirement to submit NCSIU info, as required by 40 CFR 122.21(j)(6)(i).

~~64.2(47) NPDES permits may be granted for any period of time not to exceed five years. All other operation permits may be granted for an appropriate period of time as determined by the director, based on the type of wastewater disposal system being permitted. An application for renewal of an NPDES or 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 department rules of the department in effect at the time of the renewal.~~

Commented [95]: New 64.2(4), "NPDES permits may be..." - Existing text; 40 CFR 122.46(a).

Commented [96]: "An application for..." - Already required in the application portion; see new 64.2(2)"a"(2)1.

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

Commented [97]: Old 64.3(8), "Identity of signatories..." - Subrule text matches 40 CFR 122.22; replaced w/ CFR citation at end of new app subrule (64.2(2)"d")1.

~~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~~

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

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.~~

~~64.23(510)~~ Operation permits shall contain such conditions as are deemed necessary by the director to ensure compliance with all applicable department 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.

~~64.23(614)~~ 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, either at the request of any interested person (including the permittee) or upon the director's initiative, according to the provisions of this subrule. ~~Except for general permits, the director may modify in whole or in part any individual operation permit for cause.~~

a. General permit. The director may revoke and reissue or terminate in whole or in part any general permit or coverage under a general permit for cause. A waiver or amendment of modification to the terms and conditions of a general permit shall not be granted. If a waiver or amendment of modification to a general permit is desired, the permittee applicant must apply for an individual permit following the procedures in paragraph 64.23(34) "a."

b. Individual permit. 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 to amend, revoke and reissue, or terminate an individual permit shall be in writing and shall contain facts or reasons supporting the request.

(1) A 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.

(2) Required amendment fees shall be submitted in accordance with subrule 64.13(3).

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

c. Cause. Cause under this subrule includes, but is not limited to, 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 paragraph 64.6(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 Sections 122.62 and 122.64.

e. 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.

i. Individual permit compliance schedule amendments.

Commented [98]: Old 64.3(9), "When necessary to comply..." - Not needed; compliance schedules are not placed in operation permits, & new 64.6(4), "Compliance schedules." discusses NPDES permit schedules.

Commented [99]: Old 64.3(9), "Such schedules shall..." - Moved to new 64.6(4), "Compliance schedules..."

Commented [100]: "When necessary to comply..." - Not needed; compliance schedules are not given to SIUs.

Commented [101]: New 64.2(6), "The director may..." - Existing requirements; 40 CFR 122.41(f) & 122.62. Split into different paragraphs for clarity. Added amendment info from Chapter 60.

Commented [102]: "either at the request..." - Existing text; moved from old 64.3(11)"a", "Permits may be..."

Commented [103]: "Except for general permits..." - Moved & restated below in 1st sentence of new 64.2(6)"a", General permit.

Commented [104]: New 64.2(6)"a", "The director may..." restatement of previous sentence. "Except for general permits..."

Commented [105]: "A waiver or..." - Existing text; Iowa Code 455B.103(1)(e). Was last sentence of intro paragraph in old 64.3(11).

Commented [106]: "Permits may be..." - moved to new 64.2(6), introductory paragraph, "either at the..."

Commented [107]: "All requests..." - Existing text; was last sentence of old 64.3(11)"a".

Commented [108]: New 64.2(6)"b"(1), "A permittee shall..." - Moved from old 64.3(11)"c". 40 CFR 122.41(h).

Commented [109]: New 64.2(6)"b"(2), "Required amendment fees..." - New text; existing requirement. Added for clarification.

Commented [110]: New 64.2(6)"b"(3). "The filing..." - Moved from old 64.3(11)"d".

Commented [111]: (7) "A request for a mod..." - Compliance schedule & monitoring amendments are in new 64.2(6)"d" below. Interim limit change requests are the same as any other amendment request & do not need separate text.

Commented [112]: Old 64.3(11)"c" and "d" - Moved above to new 64.2(6)"b"(1) and (3).

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

(1) A request to amend an interim date in a compliance schedule shall be made at least 30 days prior to the next scheduled date which the permittee contends it is unable to meet. The request shall include proposed changes to the existing compliance schedule and documentation supporting the need for an extension.

(2) A request to amend a final date in a compliance schedule shall be made at least 120 days prior to the final compliance date. An extension of the final date may be granted by the department for cause, including unusually adverse weather conditions, equipment shortages, labor strikes, federal grant regulation requirements, or any other extenuating circumstances beyond the control of the requesting party. Cause does not include economic hardship, profit reduction, or failure to proceed in a timely manner.

e. Reduction of individual permit minimum monitoring requirements. The minimum monitoring requirements in an existing or reissued individual permit, as established in 567—Chapter 63, may be modified or reduced at the director’s discretion or when requested by the permittee.

(1) A request to modify or reduce the minimum monitoring requirements in an existing individual permit is considered a waiver request. A request shall include a written description of the proposed modification or reduction, monitoring results which are frequent enough to reflect variations in wastewater characteristics over a period of time and are consistent in results from sample to sample, and a completed Petition for Waiver form, available on the department’s website.

(3) Any request to modify or reduce minimum monitoring requirements must adequately justify that the modified or reduced monitoring will accurately reflect actual wastewater characteristics and will not adversely impact facility operations.

(4) The department will evaluate a request to modify or reduce the minimum monitoring requirements in an existing permit based upon whether or not less frequent sample results would accurately reflect actual wastewater characteristics and whether operational control could be maintained.

(5) All reductions or modifications of monitoring incorporated into an individual operation or NPDES permit by amendment or upon reissuance are only effective until the expiration date of that permit.

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. Requests to amend, revoke and reissue, or terminate Draft permits.

(1) Individual permit requests.

1. If the director tentatively decides to amend, or revoke and reissue, or terminate an individual permit, a draft permit shall be prepared according to subrule 64.45(1). (2) When an individual permit is amended under this subrule paragraph, only those conditions to be amended/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. If an amendment falls under the definition of “minor amendment”, the individual permit may be amended without a draft permit or public notice.

2. If the director decides to terminate an individual permit, a termination decision shall be prepared and transmitted to the permittee. The permittee will have 60 days to appeal the termination.

(2) General permit requests. If the director tentatively decides to revoke and reissue or terminate a general permit, a draft reissuance or termination will proceed in accordance with Iowa Code sections 455B.103A and 455B.173.

(3) When an individual or general permit is revoked and reissued under this subrule 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.

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

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

64.23(742) Prohibitions on permit issuance. 40 CFR § 122.4 is adopted by reference. 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;

Commented [113]: New 64.2(6)"d", "Individual permit..." - Moved from old 60.4(2)"b"(1), Schedules of compliance. 40 CFR 122.62(a)(4). 120 days is minimum time needed to do a major amendment.

Commented [114]: New 64.2(6)"e", "The minimum monitoring..." - Existing requirements; text moved from old 63.3(5).

Commented [115]: New 64.2(6)"e"(1), "A request to modify..." - Existing text; moved from old 60.4(2)"b"(3), Monitoring requirements, & old 63.3(5), "Requests for modification..."

Commented [116]: New 64.2(6)"e"(3), "...adequately justify..." - Existing text; moved from old 63.3(5), "Adequate justification..."

Commented [117]: New 64.2(6)"e"(4), "The department will..." - Existing text; moved from old 60.4(2)"b"(3), "The department will..."

Commented [118]: New 64.2(6)"e"(5), "All reductions or..." - Existing text; moved from old 63.3(5), "All reductions or..."

Commented [119]: Old 64.3(11)"e", "If the director..." - Moved below to new 64.2(7)"f"(5).

Commented [120]: New 64.2(6)"f", Requests to amend..." - Existing text in old 64.3(11)"e" & "f" is combined & clarified. Individual permits & GPs are separated.

Commented [121]: New 64.2(6)"f"(1)1., "If the director..." - Existing text, was old 64.3(11)"f"(1).

Commented [122]: New 64.2(6)"f"(1)1., "When an individual..." - Existing text, was old 64.3(11)"f"(2).

Commented [123]: New 64.2(6)"f"(1), "If an amendment..." - Existing text; was old 64.3(11)"f"(4), "If the permit..." 40 CFR 124.5(c)(3).

Commented [124]: New 64.2(6)"f"(1)2., "if the director..." - New text clarifies current practice. Separated from 1. as terminations don't need a draft. 60 day appeal is from 561 IAC Ch 7.

Commented [125]: New 64.2(6)"f"(2), General permit - New text; distinguishes GPs from individual permits. Iowa Code 455B.103A requires rulemaking for adoption or mod. of a general stormwater permit.

Commented [126]: Old 64.3(11)"f"(4), "If the permit amendment..." - Moved to last sentence of new 64.2(6)"f"(1) above.

Commented [127]: New 64.2(7)"f"(5), "If the director..." - Existing text; moved from old 64.3(11)"e", "If the director..." 40 CFR 124.5(b).

Commented [128]: New 64.2(7), "Prohibitions..." - Existing prohibitions (in old 64.3(12), "No permit may...") replaced w/ CRF reference.

Commented [129]: Old 64.3(12)"a", "When the applicant..." - From 40 CFR 122.4(b). Replaced w/ CRF reference at beginning of subrule (new 64.2(7)).

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

~~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).~~

64.2(8) Public access to NPDES information. Department records connected with NPDES permits are available for public inspection and copying to the extent provided in 567—Chapter 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; ARC 3786C, IAB 5/9/18, effective 7/1/18; ARC 6191C, IAB 2/9/22, effective 3/16/22]

567—64.3(455B) Issuance of NPDES permits.

64.3(1) Individual permit. An individual NPDES permit is required when there is a discharge of a pollutant from any point source into navigable waters. An NPDES permit is not required for the **discharges listed in 40 CFR § 122.3**, following:

~~a. Reserved.~~

~~b. Discharges of dredged or fill material into navigable waters which are regulated under Section 404 of the Act;~~

~~c. The introduction of sewage, industrial wastes or other pollutants into a POTW by indirect dischargers. (This exclusion from requiring an NPDES 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, indirect discharges shall comply with pretreatment standards promulgated by the administrator pursuant to Section 307(b) of the Act and adopted by reference by the commission);~~

~~d. 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 Contingency Plan) or 33 CFR Section 153.10(e) (Pollution by Oil and Hazardous Substances);~~

~~e. Any introduction of pollutants from nonpoint source agricultural and silvicultural activities, including form storm water runoff from orchards, cultivated crops, pastures, range lands, and forest lands, except that this exclusion shall not apply to the following:~~

~~(1) Discharges from concentrated animal feeding operations as defined in 40 CFR Section 122.23;~~

~~(2) Discharges from concentrated aquatic animal production facilities as defined in 40 CFR Section 122.24;~~

~~(3) Discharges to aquaculture projects as defined in 40 CFR Section 122.25;~~

~~(4) Discharges from silvicultural point sources as defined in 40 CFR Section 122.27;~~

~~f. Return flows from irrigated agriculture; and~~

~~g. Water transfers, which are defined as activities that convey or connect navigable waters without subjecting the transferred water to intervening industrial, municipal, or commercial use.~~

64.3(2) General permit.

a. The director may issue general permits which are consistent with **64.4(2) "b"** and the requirements specified in **this chapter 567—64.6(455B), 567—64.7(455B), subrule 64.8(2), and 567—64.9(455B)** to regulate one or more categories or subcategories of discharges, where the sources within a covered category of discharges are either storm water point sources, point sources other than storm water point sources, or treatment works treating domestic sewage, if the sources within each category or subcategory meet all of the following criteria: **in 40 CFR § 122.28(a)(2).**

~~(1) Involve the same or substantially similar types of operations;~~

~~(2) Discharge the same types of wastes;~~

~~(3) Require the same effluent limitations or operating conditions;~~

~~(4) Require the same or similar monitoring; and~~

Commented [130]: Old 64.3(12)"b", "When the imposition..." - From 40 CFR 122.4(d). Replaced w/ CFR reference at beginning of subrule (new 64.2(7)).

Commented [131]: Old 64.3(12)"c", "To a new source..." - From 40 CFR 122.4(i). Replaced w/ CFR reference at beginning of subrule (new 64.2(7)).

Commented [132]: New 64.2(8), Public access... Existing text; moved from old 64.5(5), because it is for all NPDES info, not just public notice info (old 64.5 is specific to public notices).

Commented [133]: New 64.3, Issuance of NPDES permits - Existing regulations. Iowa Code 455B.177(1) authorizes DNR to implement the federal water pollution control act & pursuant regulations.

Commented [134]: "An individual..." - Existing text; 40 CFR 122.1(b)(1).

Commented [135]: Old 64.4(1)"b", "Discharges of dredged" - Matches 40 CFR 122.3(b); replaced w/ CFR reference at beginning of subrule (new 64.3(1)).

Commented [136]: Old 64.4(1)"c", "the introduction of..." - Matches 40 CFR 122.3(c); replaced w/ CFR reference at beginning of subrule (new 64.3(1)).

Commented [137]: Old 64.4(1)"d", Any discharge..." - Matches 40 CFR 122.3(d); replaced w/ CFR reference at beginning of subrule (new 64.3(1)).

Commented [138]: Old 64.4(1)"e", Any introduction..." - Matches 40 CFR 122.3(e); replaced w/ CFR reference at beginning of subrule (new 64.3(1)).

Commented [139]: Old 64.4(1)"f", "Return flows..." - Matches 40 CFR 122.3(f); replaced w/ CFR reference at beginning of subrule (new 64.3(1)).

Commented [140]: Old 64.4(1)"g", "Water transfers..." - Matches 40 CFR 122.3(i); replaced w/ CFR reference at beginning of subrule (new 64.3(1)).

Commented [141]: New 64.3(2)"a", "The director may..." - Existing text & requirements. Iowa Code 455B.173(1) & 40 CFR 122.28(a).

Commented [142]: "where the sources..." - Unnecessary; includes everything.

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

~~(5) Are more appropriately controlled under a general permit than under individual permits;~~

b. Each general permit issued by the department must ~~be:~~

~~(1) Be adopted as an administrative rule in accordance with Iowa Code chapter 17A, the Administrative Procedure Act. Each proposed permit will;~~

~~(1) Be accompanied by a fact sheet rationale setting forth the principal facts and methodologies considered during permit development,~~

~~(2) Correspond to existing geographic or political boundaries, and~~

~~(3) Be identified in rule 567—64.125(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, ~~as provided in this chapter. 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.”~~

~~64.34(3) Effect of a permit. 40 CFR § 122.5 is adopted by reference.~~

~~a. Except for any toxic effluent standards and prohibitions imposed under Section 307 of the Act and standards for sewage sludge use or disposal under Section 405(d) of the Act, compliance with a permit during its term constitutes compliance, for purposes of enforcement, with Sections 301, 302, 306, 307, 318, 403 and 405(a) (b) of the Act, and equivalent limitations and standards set out in 567— Chapters 61 and 62. However, a permit may be terminated during its term for cause as set forth in 64.3(11). Compliance with a permit condition which implements a particular standard for sewage sludge use or disposal shall be an affirmative defense in any enforcement action brought for a violation of that standard for sewage sludge use or disposal.~~

~~b. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.~~

~~[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 2482C, IAB 4/13/16, effective 5/18/16; ARC 3786C, IAB 5/9/18, effective 7/1/18; ARC 6191C, IAB 2/9/22, effective 3/16/22]~~

567—64.45(455B) Notice and public participation in the individual NPDES permit process.

64.45(1) Formulation of tentative determination. The department shall make a tentative determination to issue or deny an operation or NPDES permit for the discharge described in a permit application in advance of the public notice as described in **subrule 64.45(2)**. ~~If the tentative determination is to:~~

~~a. If the tentative determination is to issue an NPDES permit, the department shall prepare a permit rationale for each draft permit pursuant to subrule 64.45(3) and a draft permit. The draft permit shall include the following:~~

~~(1) Effluent limitations identified pursuant to rule 567—64.6(455B) 64.7(2) and 64.7(3), for those pollutants proposed to be limited;~~

~~(2) If necessary, a proposed compliance schedule, of compliance, including interim dates and requirements, identified pursuant to rule 567—64.6(455B), 64.7(4) and 64.7(5), which includes interim dates and requirements for meeting the effluent limitations and other permit requirements; and-~~

~~(3) Any other special conditions (other than those required in subrule 64.67(7)) which will have a significant impact upon the discharge described in the permit application.~~

~~b. If the tentative determination is to deny an NPDES permit, the department shall prepare a notice of intent to deny the permit application and place it. The notice of intent to deny an application will be placed on public notice as described in subrule 64.45(2).~~

~~c. If the tentative determination is to issue an operation permit (non-NPDES permit), the department shall prepare a final permit and transmit it the final permit to the applicant. The applicant will have 6030 days to appeal the final operation permit.~~

~~d. If the tentative determination is to deny an operation permit (non-NPDES permit), no public notice is required. The department shall send written notice of the denial to the applicant. The applicant will have 6030 days to appeal the denial.~~

64.45(2) Public notice for individual NPDES permits.

a. Prior to the issuance of an NPDES permit, a major NPDES permit amendment, or the denial of a permit application for 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.

(1) The public notice shall be transmitted by the department to the following persons **noted in 40 CFR § 124.10(c)(1)**:

1. The applicant;

Commented [143]: Old 64.4(2)"a"(1) to (5) - Matches 40 CFR 122.28(a)(2); replaced w/CFR reference in this subrule (new 64.3(2)"a").

Commented [144]: "as provided in the chapter..." - Simplifying.

Commented [145]: Old 64.4(3)"a", "Except for any..." - Matches 40 CFR 122.5(a); replaced w/ CFR reference in this subrule (new 64.3(3)).

Commented [146]: Old 64.4(3)"b", "The issuance of..." - Matches 40 CFR 122.5(b); replaced w/ CFR reference in this subrule (new 64.3(3)). Also in 40 CFR 122.41(g).

Commented [147]: "NPDES" - Removing word as this rule also to operation permits (as specified).

Commented [148]: New 64.4(1), "If the tentative determination..." - Existing text; added as header & deleted matching text in the following subrules.

Commented [149]: "60" - Changing from 30 to 60 days as 561 IAC Chapter 7 was changed to allow 60 days to appeal.

Commented [150]: New 64.4(2)"a"(1)1. to 8., "The public notice..." - Matches 40 CFR 124.10(c)(1); replace list with CFR reference.

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

~~2. Any other federal or state agency which has issued or is required to issue an NPDES permit for the same facility or activity, including EPA;~~

~~3. Federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources, state historic preservation officers, and affected states (the term "state" includes Indian tribes treated as states);~~

~~4. Any state agency responsible for the development of an areawide waste treatment management plan or a water quality standards and implementation plan under CWA Section 208(b)(2), 208(b)(4) or 303(e);~~

~~5. The U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service;~~

~~6. Any user identified in the permit application of a privately owned treatment works;~~

~~7. Any unit of local government having jurisdiction over the area where the facility is located; and~~

~~8. Each state agency having any authority under state law with respect to the construction or operation of such facility.~~

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

~~(3) Any person or group may request to receive copies of anyall public notices concerning the tentative determinations with respect to the permit applications within the state or within a certain geographical area. The department shall transmit a copy of all public notices to such persons or groups.~~

(34) The department shall periodically notify the public of the opportunity to receive notices. The director may update the notice distribution list from time to time by requesting written indication of continued interest from those listed. The director may delete from the list the name of any person or group who fails to respond to such a request.

b. The director may publish all notices of activities described in paragraph "a" of this subrule to the department's website. If this option is selected for a draft permit, the director must post the draft permit and permit rationale on the website for the duration of the public comment period.

c. The department shall provide a period of not less than 30 days following the date of the public notice date during which time interested persons may submit their written views on the tentative determinations with respect to the permit application and request a public hearing pursuant to subrule 64.4(46). Written comments may be submitted by paper or electronic means. All pertinent 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 permit application. The period for comment period may be extended at the department's discretion of the department. Pertinent and significant comments received during either the original comment period or an extended comment period shall be responded to in a responsiveness summary pursuant to subrule 64.4(58).

d. The contents of the A public notice of a draft NPDES permit, a major permit amendment, or the denial of a permit application for an NPDES permit shall containinclude at least the following:

(1) The name, email address, and telephone number of the permit writerdepartment.

(2) The name and address of theeach applicant.

(3) A brief description of theeach applicant-s' activities or operations which result in the discharge described in the permit 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.

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

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

(7) The address, telephone number, email address, and website of places at which interested persons may obtain further information and; request copies of, or inspect and copy a copy of the tentative determination, permit rationale, and any associated documents, prepared pursuant to 64.5(1), request a copy of the permit rationale described in 64.5(3), and inspect and copy permit forms and related documents.

e. No public notice is required for a minor permit amendment, including but not limited to an amendment to correct typographical errors, include more frequent monitoring requirements, revise interim compliance schedule dates, change an owner or facility name or address, include a local pretreatment program, or remove a point source outfall that does not result in the discharge of pollutants from other outfalls.

f. No public notice is required when a request for a permit amendment or permit request for a terminationef

Commented [151]: New 64.4(2)"a"(2), "The public notice..." - Existing text; combining old 64.5(2)"a"(2) & (3) for clarity.

Commented [152]: Old 64.5(2)"a"(3), "Any person or..." - Existing text; combined w/ old 64.5(2)"a"(2) for clarity.

Commented [153]: "The dept. shall..." - Text no longer needed, as this subparagraph is being combined w/ the previous one.

Commented [154]: New 64.4(2)"a"(3), "The dept. shall..." - Existing text; 40 CFR 124.10(c)(1)(ix)(c).

Commented [155]: New 64.4(2)"b", "The director may..." - Existing text; 40 CFR 124.10(c)(2)(iv).

Commented [156]: New 64.4(2)"c", "The dept. shall..." - Existing text; 40 CFR 124.10(b).

Commented [157]: New 64.4(2)"d", "The contents of..." - Existing text; 40 CFR 124.10(d)(1).

Commented [158]: "e.g., municipal..." - Examples are not needed.

Commented [159]: "and a short description..." - Being removed to match current practice.

Commented [160]: New 64.4(2)"d"(7), "and request copies..." - Existing requirement is being simplified.

Commented [161]: New 64.4(2)"e", "including..." - Unnecessary; repeats minor amendment definition.

Commented [162]: New 64.4(2)"f", "No public notice..." - Existing text; 40 CFR 124.5(b) & 40 CFR 124.10(a)(2).

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

~~a~~ permit is denied. The department shall send written notice of the denial to the requester and the permittee only. No public notice is required if an applicant withdraws a permit application.

64.45(3) Permit rationales and notices of intent to deny.

~~a~~. When the department has made a determination to issue or deny an NPDES or operation permit as described in subrule 64.4(1), it shall prepare and send the following information, specific to each determination.

(1) NPDES permit issuance. ~~a~~. For when the department has made a determination to issue an NPDES permit as described in 64.5(1), the department shall prepare and, upon request, shall send to any person a permit rationale with respect to the application described in the public notice. The contents of such permit rationales shall include at least the following information:

1. (1) A detailed description of the location of the ~~For each~~ discharge described in the permit application, ~~a~~ detailed description of the discharge location and ~~a~~

(2) A quantitative description of the discharge described in the permit application which includes:

1. The average daily discharge in pounds per day of any pollutants which are subject to limitations or prohibitions under 64.6(2) or Section 301, 302, 306 or 307 of the Act and regulations published thereunder; and

2. For thermal discharges subject to limitation under the Act, the average and maximum summer and winter discharge temperatures in degrees Fahrenheit;

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

2. (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 of the effluent standards and limitations applicable to the proposed discharge.

3. (5) An explanation of the principal facts and the significant factual, legal, methodological, and policy questions considered in the preparation of the draft permit.

4. (6) Any calculations or other necessary explanation of the derivation of effluent limitations.

(2) NPDES permit application denial. ~~b~~. For when the department has made a determination to deny an application for an NPDES permit as described in 64.5(1), the department shall prepare and, upon request, shall send to any person a notice of intent to deny with respect to the application described in the public notice. The contents of such notice of intent to deny shall include at least the following information:

1. (1) A detailed description of the location of the discharge described in the permit application; and

2. (2) A description of the reasons supporting the tentative decision to deny the permit application.

(3) Operation permit issuance. ~~c~~. For when the department has made a determination to issue an operation permit as described in 64.5(1), the department shall prepare and issue a permit. ~~department shall prepare a short description of the waste disposal system and~~ The reasons supporting the decision to issue an operation permit ~~The description shall~~ can be sent to the operation permit applicant upon request.

(4) Operation permit application denial. ~~d~~. For when the department has made a determination to deny an application for an operation permit as described in 64.5(1), the department shall prepare and send written notice of the denial to the applicant only. The written denial shall include a description of the reasons supporting the decision to deny the permit application.

~~b~~e. Upon request, the department shall add the name of any person or group to a distribution list to receive copies of permit rationales and notices of intent to deny and shall ~~make copies~~ send a copy of all permit rationales and notices of intent to deny available to such persons or groups.

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. Notifications may be distributed and written views or recommendations may be submitted by paper or electronic means. Procedures for such notification shall include the procedures of paragraphs "a" to "f"~~

~~a~~. At the time of issuance of public notice pursuant to 64.5(2), the department shall transmit the public notice to any other state whose waters may be affected by the issuance of the NPDES permit. 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 send the public notice for proposed discharges (other than minor discharges) into navigable waters to the appropriate district engineer

Commented [163]: New 64.4(3)"a". "When the dept has made..." - Existing text from the beginning of the old paragraphs a to d has been condensed into one sentence, & a to d have been renumbered as (1) to (4).

Commented [164]: New 64.4(3)"a"(1) - "when the dept..." - Existing text; 40 CFR 124.7 & 124.8. Was old 64.5(3)"a".

Commented [165]: New 64.4(3)"a"(1)(1) - Existing text; combined old (1) & (2) and struck repeated text.

Commented [166]: Old 64.5(3)"a"(2)1. & 2. - The average daily..." - Not in current rationales; also not in 40 CFR 124.8.

Commented [167]: Old 64.5(3)"a"(3) - The tentative..." - Unnecessary; this is a holdover from before this subrule was split into different determinations.

Commented [168]: New 64.4(3)"b"(1), "The location of..." - Simplifying the text.

Commented [169]: "dept shall prepare..." - Current practice. Rationales & public notices are not required for operation permits, but documentation exists & can be sent upon request.

Commented [170]: "make copies..." - Existing text updated to allow for posting on WWPIE.

Commented [171]: Old 64.5(4), Notice to other gov't..." - Text of subrule is already captured in new 64.4(2) or 64.4(3), or is baseless. Notice to other agencies is already required in new 64.4(2)"a"(1).

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

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 public notices 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 2.

e. Upon request, the department shall send the public notice to any other federal, state, or local agency, or any affected county, and provide such agencies an opportunity to respond, comment, or request a public hearing pursuant to 64.45(6).

d. The department shall send the public notice 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 send the public notice 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.

f. Upon request, the department shall provide any of the entities listed in 64.45(4)“a” through “e” with a copy of the permit rationale, permit application, or proposed permit prepared pursuant to 64.5(1).

~~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 2.~~

~~64.45(46) 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 a tentative determination to issue or deny an NPDES permit an NPDES application.~~

~~a. Public hearing requests shall: Any such request shall~~

(1) Clearly state issues and topics to be addressed at the hearing;
~~Any such request or petition for public hearing must b(2) Be filed with the director within the 30-day period prescribed in paragraph 64.45(2)“c”; and shall~~

(3) Indicate the interest of the party filing the such request and the reasons why a hearing is warranted.

b. 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.

c. Any hearing held pursuant to this subrule shall be held in the geographical area of the proposed discharge when possible, or other appropriate area at the director’s discretion of the director. Web-based hearings may also be held at the director’s discretion of the director. In addition, any hearing held pursuant to this subrule may, as appropriate, consider related groups of permit applications.

~~64.5(7) Public notice of public hearings on proposed NPDES permits.~~

d. Public notice of any hearing held pursuant to this subrule 64.5(6) shall be circulated at least as widely as was the notice of the tentative determination with respect to the permit application. Notice pursuant to this paragraph shall be made at least 30 days in advance of the hearing. Notice shall be transmitted to:

(1) Notice shall be transmitted to a All persons and government agencies which received a copy of the notice for the permit application; and

(2) Notice shall be transmitted to a Any person or group upon request.

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

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

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

(3) The name of the water-body to which each discharge is made and a short description of the location of each discharge to the water body;

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

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

(6) The purpose of the hearing;

Commented [172]: Old 64.5(5), Public access..." - Moved to new 64.2(8), because it is for all NPDES info, not just public notice info (this rule is specific to public notices).

Commented [173]: New 64.4(4), Public hearings - Existing text & requirements. Reworded for clarity; separated into new paragraphs. 40 CFR 124.11.

Commented [174]: New 64.4(4)"a", "Public hearing requests..." - Existing requirements; reworded & split into subparagraphs for clarity.

Commented [175]: New 64.4(4)"b", "The director shall..." - Existing text; simplified. 40 CFR 124.12(a)(1).

Commented [176]: Old 64.5(7), Public notice or hearings - Subrule & heading removed & existing text combined with previous subrule (new 64.4(4)).

Commented [177]: New 64.4(4)"e"(1) - Existing requirement; clarified. Public notices no longer contain the address of the department.

Commented [178]: "and a short..." - Current practice; notices do not contain this info.

Commented [179]: New 64.4(4)"e"(4), (5), & (6) - Existing text; 40 CFR 124.10(d)(2).

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

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

(8) The address, telephone number, email address, and website where interested persons may obtain further information and request copies of, or inspect and copy a copy of the draft NPDES permit, prepared pursuant to 64.5(1), request a copy of the permit rationale, and any associated documents prepared pursuant to 64.5(3), and inspect and copy permit forms and related documents;

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

(10) The final date for submission of comments regarding the tentative determinations with respect to the permit application.

Commented [180]: "and request copies..." - Existing requirements; text is simplified.

Commented [181]: "with respect..." - Text is repetitive.

64.45(58) Response to comments. At the time a final NPDES permit is issued, the director shall issue a response to significant and pertinent comments in the form of a responsiveness summary. A copy of the responsiveness summary shall be sent to the permit applicant and made available on the department's website, and the document shall be made available to the public upon request. The responsiveness summary shall:

Commented [182]: New 64.4(5), "and made available" - Existing requirement; restated. 40 CFR 124.17(c).

a. Specify which provisions, if any, of the draft permit have been changed in the final permit decision and the reasons for the changes; and

Commented [183]: New 64.4(5)"a", "Specify which..." - Existing text; 40 CFR 124.17(a)(1).

b. Briefly describe and respond to all significant and pertinent comments on the draft permit raised during the public comment period provided for in the public notice or during any hearing. Comments on a draft permit may be submitted by paper or electronic means or orally at a public hearing.

Commented [184]: New 64.4(5)"b", "Briefly describe..." - Existing text; 40 CFR 124.17(a)(2).

[ARC 7625B, IAB 3/11/09, effective 4/15/09; ARC 0529C, IAB 12/12/12, effective 1/16/13; ARC 2482C, IAB 4/13/16, effective 5/18/16; ARC 6191C, IAB 2/9/22, effective 3/16/22]

567—64.56(455B) Completing a Notice of Intent (NOI) for coverage under a general permit.

Commented [185]: New 64.5, GP NOIs - Existing text & requirements; authorized by Iowa Code 455B.103A.

64.56(1) Contents of a complete Notice of Intent. An applicant proposing to conduct activities covered by a general permit shall file a complete NOI by submitting to the department materials required in paragraphs "a" to "e" of this subrule, as applicable. An NOI is not required for discharges authorized under General Permit No. 6 or No. 7, for certain discharges under General Permit No. 8, or for certain discharges under General Permit No. 9.

a. Notice of Intent (NOI) Form. Electronic NOI forms provided by the department must be completed in full, and may be obtained on the department's website. Paper NOI forms, when provided, must be completed in full.

b. General permit fee. The applicable general permit fee according to the schedule in rule 567—64.136(455B) is payable to the Iowa Department of Natural Resources.

c. Public notification for General Permits No. 1, No. 2, and No. 3. The public notification requirements only apply to General Permits No. 1, No. 2 and No. 3.

Commented [186]: New 64.5(1)"c", "for General Permits..." - restating text in header & sentence.

(1) Applicants for General Permits No. 1, No. 2 and No. 3 must publish demonstrate that a public notice in accordance with Iowa Code section 455B.103A, was published in at least one newspaper with the largest circulation in the area in which the facility is located or the activity will occur.

Commented [187]: "Applicants for GPs..." - Existing requirement; replace w/ Iowa Code citation.

(2) The newspaper notice shall, at the minimum, contain the following information:

(1) A brief description of the applicants' activities or operations which result in the discharge described in the NOI;

(2) 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; and

(3) The address, telephone number, email address, and website of places at which interested persons may obtain further information or inspect and copy the NOI.

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", General Permit No. 2 "Storm Water Discharge Associated with Industrial Activity for Construction Activities" or General Permit No. 3 "Storm Water Discharge Associated with Industrial Activity for Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants, and Construction Sand and Gravel Facilities"). The storm water discharge will be from (description of industrial activity) located in (1/4 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, 502 East 9th Street, Des Moines, Iowa 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.

Commented [188]: New 64.5(1)"c"(1), (2), & (3), public notice info - Existing text is simplified & reworded to contain the notice criteria rather than the actual text of the notice.

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

64.56(2) Authorization to discharge under a general permit.

a. Upon the submittal of an complete NOI in accordance with subrule 64.56(1) and paragraph 64.23(24) "b," an the applicant is authorized to discharge after the department has determined that the contents of the NOI satisfy the requirements of this chapter 567—Chapter 64, evaluated the NOI, and determined that the proposed discharge meets the requirements of and of the general permit. The applicant will receive notification from the department will notify the applicant of coverage under the general permit. If any of the items required for filing an NOI specified in subrule 64.56(1) are missing, the department will consider the NOI application incomplete and will notify the applicant of the incomplete items.

Commented [189]: New 64.5(2), "Authorization to discharge..." - Existing text; has been split into new paragraphs "a", "b", & "c".

Commented [190]: "complete" - Unnecessary; completeness is addressed in new 64.5(1).

Commented [191]: "this chapter..." - Simplified; current text is redundant.

Commented [192]: "applicant will receive..." - Simplified.

b. If the discharge described in the NOI does not meet the requirements of the general permit, an the NOI may be denied. The department will notify applicants of denial within 30 days.

c. Authorization to discharge is automatic only for the general permits that do not require an NOI under paragraph 64.23(24) "b.": provided the discharge is a covered activity and the permittee complies with all applicable permit requirements.

64.56(3) General permit suspension or revocation. In addition to the causes for suspension or revocation which are listed in subrule 64.23(61+), 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 paragraph 64.23(24) "a": The department will notify the affected discharger and establish a deadline, not longer than one year, for submitting an individual permit application. Coverage may be suspended or revoked for the following reasons:

Commented [193]: "issued to a..." - All GPs are issued to a class or class of facilities; redundant.

Commented [194]: "for the following reasons..." - Moved to new sentence, "Coverage may be..." at end of this paragraph (above "a").

Commented [195]: "The dept will..." - Existing text; moved from end of old 64.6(3), "The dept will..." (new 64.5(3)).

Commented [196]: "Coverage may be..." - Existing requirement; restatement of current text ("for the following reasons").

Commented [197]: "The dept will..." - Moved to initial paragraph of this subrule.

Commented [198]: "terminate" - Existing requirement; correcting terminology as the difference between closed & revoked is not specified.

a. The discharge would not comply with Iowa's water quality standards pursuant to 567—Chapter 61, the department finds that the activities associated with an NOI filed with the department do not meet the conditions of the applicable general permit, or

c. The department finds that any discharge covered under a general permit is not managed in a manner consistent with the conditions specified in the applicable general permit.

The department will notify the affected discharger and establish a deadline, not longer than one year, for submitting an individual permit application.

64.56(4) Eligibility for individual NPDES 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 by filing an NOI according to the procedures described in paragraph 64.23(24) "b" and this rule 567—64.56(455B). In addition to these requirements, the permittee must submit a written request, with the NOI, to either terminate close or revoke the individual NPDES permit or to amend the individual NPDES permit to remove the general permit-covered activity.

a. Upon receipt of a complete NOI and request for individual NPDES permit termination closure, revocation or amendment of an individual NPDES permit, the applicant shall be authorized to discharge under the general permit in accordance with subrule 64.56(2). The applicant will receive notification from by the department of coverage under the general permit and of the termination closure, revocation or amendment of the individual permit.

b. Authorization to discharge under a general permit that does not require an NOI will be automatic in accordance with subrule 64.56(2) and shall commence upon completion of individual NPDES permit closure, revocation, termination or amendment.

c. Individual NPDES permit amendments under this subrule shall follow the applicable public notice procedures in rule 567—64.45(455B).

64.56(5) Filing a Notice of Discontinuation (NOD). A notice to discontinue discharge associated with an activity covered by a general permit shall be made electronically or in writing to the department in accordance with the conditions established in each general permit.

The notice of discontinuation (NOD) 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.

Commented [199]: Old 64.6(5), NOD information - Text not needed, the NOD contents are described in the general permits.

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

Commented [200]: Old 64.6(6), Transfer of ownership - Subrule not needed; requirements are described in GP #2.

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

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, 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.~~

~~e. 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. After the transferee has agreed, in writing, to obtain coverage under NPDES General Permit No. 2 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 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.~~

[ARC 8520B, IAB 2/10/10, effective 3/17/10; ARC 9365B, IAB 2/9/11, effective 3/30/11; ARC 1337C, IAB 2/19/14, effective 3/26/14; ARC 2482C, IAB 4/13/16, effective 5/18/16; ARC 3786C, IAB 5/9/18, effective 7/1/18; ARC 6191C, IAB 2/9/22, effective 3/16/22]

567—64.6(455B) Terms and conditions of NPDES permits.

64.6(1) Prohibited discharges. No NPDES permit may authorize any of the discharges prohibited by [rule 567—62.1\(455B\)](#).

64.6(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 or an effluent standard, effluent prohibition, or pretreatment standard promulgated by the administrator under Sections 301, 304, 306, or 307 of the Act and adopted by reference by the commission in 567—Chapter 62(455B) or 567—62.5(455B);~~

d. A water quality based 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 necessary to:~~

~~(1) Necessary to meet or implement any applicable water quality standards, treatment or pretreatment standards, or compliance schedules of compliance established pursuant to any Iowa law or regulation, or to implement the antidegradation policy 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; or~~

(5) Any limitation necessary to comply with the antidegradation policy requirements of 567—subrule 61.2(2) implemented according to procedures hereby incorporated by reference and known as the "Iowa Antidegradation Implementation Procedure," effective August 12, 2016, available. This document may be obtained on the department's website at: www.iowadnr.gov/EnvironmentalProtection/WaterQuality/WaterQualityStandards.

Commented [201]: New 64.6(2)"a", "An effluent limitation..." - Existing text; simplifying & combining old 64.7(2)"a", "b", & "c" into one paragraph.

Commented [202]: New 64.6(2)"b", "A water quality..." - Existing text; 40 CFR 122.44(d)(1).

Commented [203]: New 64.6(2)"d"(1) to (4) - Existing text from old 64.7(2)"f"(1) to (5) has been simplified. "continued planning process" text in old (4) is no longer needed.

Commented [204]: "at..." - URL is not needed (is not included with other website references.)

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

eg. Limitations pursuant to 40 CFR § 122.44(d)(1)(i), (ii), and (iii) must control all pollutants or pollutant parameters which the director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any water quality standard, including narrative criteria, in 567 Chapter 61. When the permitting authority determines that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion of the water quality standard for an individual pollutant, the permit must contain effluent limits for that pollutant.

h. 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," "g," or "h," 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) or "g," 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.

64.6(3) Effluent limitations in issued NPDES permits.

a. In the application of effluent standards, and limitations, water quality standards, and other legally applicable requirements, pursuant to subrule 64.6(2), the director shall, unless impracticable 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 b. The manner in which effluent limitations are expressed will depend upon the nature of the discharge.

(1) 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).

(2) Non-continuous Batch discharges should be more particularly described and limited in accordance with 40 CFR § 122.45(e), 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.]

64.6(4) Schedules of Compliance schedules in issued NPDES permits. The permit may specify a compliance schedule in accordance with 40 CFR § 122.47. Compliance shall be achieved as soon as possible, consistent with the guidelines and requirements of the Act and with the provisions of Iowa Code subsection 455B.17(2)(b) and (3)(b). 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 this chapter and 567—Chapter 7 modify, suspend or terminate the permit or take direct enforcement action. Compliance schedules shall not relieve the permittee of the duty to obtain a construction permit pursuant to this chapter. 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 64.7(4)"a" exceeds one year, a schedule of compliance shall be specified in the permit which shall set forth interim requirements and the dates for their achievement; in no event shall more than one year elapse between interim dates. If the time necessary

Commented [205]: New 64.6(2)"e", "Limitations..." - Matches 40 CFR 122.44(d)(1)(i), (ii) & (iii); replaced w/ CFR reference.

Commented [206]: Old 64.7(2)"h", "Any more stringent..." - Obsolete. Plans pursuant to 208(b) of the CWA were established in the 1970s.

Commented [207]: Old 64.7(2)"h", "In any case..." - Incompatible with current rules and practice. Text doesn't envision that someone cannot meet a WQS but will receive a compliance schedule, and not every discharge requires a WLA.

Commented [208]: New 64.6(3)"a", "unless impracticable..." - Phrase from 40 CFR 122.45(d). Change ensures the accuracy of this paragraph.

Commented [209]: "in terms of weight" - Existing text; 40 CFR 122.45(f).

Commented [210]: "such as average..." - Examples are not needed.

Commented [211]: New 64.6(3)"b" - Split subrule (old 64.7(3)) into paragraphs "a" & "b" & removed the word "comment". "b" is split into continuous & non-continuous discharges.

Commented [212]: New 64.6(3)"b"(2), "Non-continuous discharges - Matches 40 CFR 122.45(e); corrected terminology & replaced w/ CFR reference.

Commented [213]: New 64.6(4), Compliance schedules - Authorized by 40 CFR 122.47 & Iowa Code 455B.172 (moratorium) & 455B.199A (DC). Replacing text w/ references & reorganizing existing text as noted.

Commented [214]: "If a permittee fails..." - Existing text; moved from old 64.7(4)"e".

Commented [215]: "Compliance schedules shall not..." - Existing text; moved from old 64.3(9), "Such schedules shall not..."

Commented [216]: "The director shall..." - Text no longer needed; replaced w/ CFR reference at beginning of subrule.

Commented [217]: Old 64.7(4)"a", "With respect to..." - Text no longer needed; replaced by text in new 64.7(4) & w/ CFR reference at beginning of subrule.

Commented [218]: Old 64.7(4)"b", "In any case..." - Matches 40 CFR 122.47(a)(3); replaced w/ CFR reference at beginning of subrule.

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

for completion of the interim requirements (such as the construction of a treatment facility) is more than one year 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 one year, 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 one year intervals. Long term interim requirements should nonetheless be subdivided into intervals not longer than one year 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 “c” 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.~~

~~64.6(5) Schedules of Compliance schedules in issued NPDES permits for disadvantaged communities. If compliance with applicable federal or state regulations, applicable requirements in 567— Chapters 60, 61, 62, 63, and 64, or an order of the department will result in substantial and widespread economic and social impact (SWESI) to the ratepayers and the affected community, the director may establish in an NPDES permit a compliance schedule of compliance that will result in an improvement of water quality and reasonable progress toward complying with the applicable requirements but does not result in SWESI. Schedules established under this subrule are intended to result in compliance with the applicable federal and state regulations and requirements by the regulated entity and the affected community.~~

~~a. Disadvantaged community status. The director shall find that a regulated entity and the affected community are a disadvantaged community according to Iowa Code subsection 455B.199B(2) by evaluating all of the following:~~

~~— (1) The ability of the regulated entity and the affected community to pay for a project based on the ratio of the total annual project costs per household to median household income (MHI);~~

~~— (2) MHI in the community and the unemployment rate of the county in which the community is located; and~~

~~— (3) The outstanding debt of the system and the bond rating of the community.~~

~~b. Disadvantaged community analysis (DCA). A regulated entity or affected community must submit a DCA to the director to be considered for disadvantaged status.~~

~~(1) When new requirements in a proposed or reissued NPDES permit may result in SWESI, a DCA may be submitted by any of the following:~~

~~1. A wastewater disposal system owned by a municipal corporation or other public body created by or under Iowa law and having jurisdiction over disposal of sewage, industrial wastes or other wastes, or a designated and approved management agency under Section 208 of the Act (a POTW or semipublic facility);~~

~~2. A wastewater disposal system for the treatment or disposal of domestic sewage which is not a semipublic or private sewage disposal system and which is not owned by a city or a sanitary sewer district or a designated and approved management agency under Section 208 of the Act (33 U.S.C. 1288) (a semipublic system); or~~

Commented [219]: "Comment. Certain interim..." - no longer needed; subrule is being replaced w/ CFR reference.

Commented [220]: Old 64.7(4)"c", "Either before or up..." - Matches 40 CFR 122.41(l)(5) & 122.47(a)(4); replaced w/ CFR reference at beginning of subrule.

Commented [221]: Old 64.7(4)"d", "On the last day..." - Federal e-Reporting Rule (40 CFR Part 127) updated noncompliance reporting requirements; states no longer need to send EPA noncompliance info separately from other permitting information.

Commented [222]: Old 64.7(4)"e", "If a permittee..." - Moved to initial paragraph of this subrule (new 64.6(4)).

Commented [223]: New 64.6(5), DC schedules - Existing text; authorized by Iowa Code 455B.199B. Text in subrule is being simplified.

Commented [224]: New 64.6(5), "If compliance with..." - Existing text. Iowa Code 455B.199B uses term "variances"; cannot use that term because WQS variances require EPA approval, so this is a restatement of 455B.199B that does not use the term "variance".

Commented [225]: "Schedules established under..." - Self-evident; unnecessary.

Commented [226]: New 64.6(5)"a", "according to..." - Text in old 64.7(5)"a"(1), (2), & (3) matches Iowa Code 455B.199B(2); replaced text w/ reference.

Commented [227]: New 64.6(5)"b"(1)1., "wastewater disposal system..." - shortened to "POTW or semipublic facility".

Commented [228]: "or a designated and..." - replaced by "semipublic or" earlier in the sentence.

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

3. Any other owner of a wastewater disposal system that is not a private sewage disposal system and does not discharge industrial wastes. ~~“Private sewage disposal system” and “industrial waste” are defined in rule 567—60.2(455B).~~

Commented [229]: "Private sewage disposal system..." - Don't need definition location.

(2) A DCA may be submitted prior to the issuance of an initial NPDES permit if the facility does not discharge industrial wastes and is not a new source or new discharger. ~~“New source” and “new discharger” are defined in rule 567—60.2(455B).~~

Commented [230]: "New source and..." - Don't need definition location.

(3) ~~A DCA may be submitted by the entities noted in subparagraph 64.67(5)“b”(1) above for consideration of a disadvantaged community loan interest rate under the clean water state revolving fund, independent of the requirements in a proposed or reissued NPDES permit.~~

Commented [231]: Old 64.7(5)"b"(3) - This is no longer the procedure used by SRF.

c. ~~Contents of a DCA contents.~~

(1) A DCA must contain all of the following:

1. Proposed ~~TAPC~~total annual project costs as defined in ~~paragraph 64.67(5)“d”~~;

2. The number of households ~~or ratepayers~~ in the affected community ~~or, if the entity is not serving households, the number of ratepayers~~;

Commented [232]: "or, if the entity..." - replaced by "or ratepayers" earlier in the sentence.

3. A description of the bond rating of the affected community over the last year, if available;

4. The user rates, as follows:

• ~~If the DCA is submitted by or for~~ a municipality or other community, the current sewer rate ordinances, including the sewer rates of any industrial users;

• ~~If the DCA is submitted by or for~~ a water treatment facility, the water rate schedules or tables; or

• ~~If the DCA is submitted by or for~~ any other entity ~~other than a municipality, community, or water treatment facility~~, the monthly ratepayer charge for wastewater treatment;

Commented [233]: New 64.6(5)"c":(1)4. bullets, "If the DCA..." - Simplifying the text.

5. An explanation of why the regulated entity or affected community believes that compliance with the proposed requirements will result in SWESI.

Commented [234]: "other than a..." - shortened and replaced by "any other" earlier in the sentence.

(2) If ~~a~~the DCA is submitted by or for an entity other than a municipality, community, or water treatment facility, the DCA must also contain either:

1. For entities with more than ten households or ratepayers, the ~~MHI~~median household or ratepayer income, as determined by an income survey conducted by the regulated entity ~~(the survey must be included in the DCA)~~; or

Commented [235]: "the survey must..." - Unnecessary; this is stated in the DCA.

2. For entities with ten or fewer households or ratepayers, an estimate of ~~MHI~~median household or ratepayer income.

d. *Definition of total annual project costs (TAPC).* “Total annual project costs” means the current costs of wastewater treatment in the community (if any) plus the future costs of proposed wastewater system improvements that will meet or exceed all applicable federal ~~or state~~ regulations, ~~requirements in 567—Chapters 60, 61, 62, 63, and 64~~; or requirements of an order of the department. ~~The TAPC~~Total annual project costs shall include any current and proposed facility operation and maintenance (O&M) costs and any existing ~~(outstanding)~~ and proposed system debt, as expressed in current and proposed sewer rates. The costs ~~of the proposed wastewater treatment shall be amortized for~~assume a 30-year loan period at an interest rate equal to the current state revolving fund interest rate. Awarded grant funding must be subtracted from the ~~TAPC~~total annual project costs.

Commented [236]: "requirements in..." - Redundant.

The ~~TACP~~ formula for the calculation of total annual project costs for a regulated entity and affected community is: ~~TAPC~~total annual project costs = [(Estimated costs to design and build proposed project - Awarded grant funding) amortized over 30 years] + Current annual system budget ~~(if any)~~, including ~~operation and maintenance (O&M) and existing debt service~~ + Future annual O&M costs.

Commented [237]: "of the proposed..." - Simplifying.

e. *Disadvantaged community matrix (DCM).* ~~The department hereby incorporates by reference “Disadvantaged Community Matrix,” DNR Form 542-1246. This document may be obtained on the department’s website.~~ Upon receipt of a complete DCA, the director shall use the ~~Disadvantaged Community Matrix (DCM)~~ to evaluate the disadvantaged status of ~~an~~the entity or community. ~~The DCM shall be used to evaluate DCAs submitted in accordance with 64.7(5)“b.”~~ Compliance with the applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department shall be considered to result in SWESI, and the ~~A~~ regulated entity ~~or~~and affected community shall be considered a disadvantaged community; if the point total derived ~~in~~from the DCM is equal to or greater than 12. The following data sources shall be used to derive the point total in the DCM:

Commented [238]: "The TACP formula..." - sentence has been simplified.

Commented [239]: Old 64.7(5)"e", "The department hereby..." - Undated form references are being removed.

(1) The ~~TAPC~~total annual project costs as stated in the DCA;

Commented [240]: New 64.6(5)"e", "Upon receipt of a complete..." - Existing text; paragraph has been simplified.

(2) ~~T~~he number of households or ratepayers in a community, ~~and~~ as stated in the DCA;

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

~~(3)~~ The bond rating of the community, if available, as stated in the DCA;

~~(2)~~ The MHI of either:

1. The community, as found in the most recent American Community Survey or United States Census or as stated in an income survey that is conducted by the regulated entity or community; or

2. The ratepayer group, as stated in an income survey that is conducted by the regulated entity; and

~~(3)~~ The unemployment rate of the local county where the community is located and of the state as found in the most recent Iowa Workforce Information Network unemployment data.

~~The ratio of the total annual project costs per household or per ratepayer to MHI shall be calculated in the DCM as follows: The total annual project costs shall be divided by the number of households or ratepayers to obtain the costs per household or per ratepayer, and the costs per household or per ratepayer shall be divided by the MHI to obtain the ratio.~~

~~f. Ratio and disadvantaged determination. The ratio of the TAPC per household or per ratepayer to MHI shall be calculated in the DCM as follows: the TAPC shall be divided by the number of households or ratepayers to obtain the costs per household or ratepayer, and the costs per household or ratepayer shall be divided by the MHI to obtain the ratio. If the ratio of compliance costs to MHI is:~~

~~(1) The director shall not consider a regulated entity or affected community a disadvantaged community if the ratio of compliance costs to MHI is less than one percent - the entity or community is not considered disadvantaged.~~

~~(2) The director shall consider a regulated entity or affected community a disadvantaged community if the ratio of compliance costs to MHI is greater than or equal to two percent - the entity or community is considered a disadvantaged community.~~

~~(3) If the ratio of compliance costs to MHI is greater than or equal to one percent and less than two percent - the director shall use the point total in the DCM to determine if the entity or community is disadvantaged. The ratio of compliance costs to MHI shall be the ratio of the total annual project costs per household to MHI as calculated in the DCM.~~

~~g. Disadvantaged community compliance schedule - first part - for a disadvantaged community. A compliance schedule of compliance established in an NPDES permit for a disadvantaged community as a result of SWESI may contain one or two parts, as necessary to comply with the applicable federal regulations and requirements in 567 Chapters 60, 61, 62, 63, and 64.~~

~~(1) The first part of a disadvantaged community compliance schedule of compliance for a disadvantaged community shall encompass one five-year NPDES permit cycle and shall require the permittee/permit holder to submit an alternatives report, an alternatives implementation compliance plan (AICP), and annual progress reports of progress that contain brief updates regarding the completion of the alternatives report and the AICP.~~

~~(1) Alternatives report. An alternatives report shall be submitted no later than two years after permit issuance, and shall: The alternatives report must~~

~~1. Detail the alternative pollution control measures that will be investigated and contain an examination of all other appropriate measures that may achieve compliance with applicable federal or state regulations, requirements in 567 Chapters 60, 61, 62, 63, and 64, or an order of the department without creating SWESI. The alternatives report must~~

~~2. Describe which measures will be evaluated for feasibility and affordability during the next portion of the compliance schedule; and, Alternative pollution control measures may include, but are not limited to, facility upgrades, construction of a new facility, relocation of the discharge point(s), regionalization, or outfall consolidation. Other appropriate measures may include, but are not limited to, mixing zone studies, consideration of seasonal limitations or site specific data, alteration of current facility operations, intermittent discharges, source reduction, effluent recycling or reuse, or renegotiation of treatment agreements. The alternatives report must also~~

~~3. Include a plan for pursuing funding options, including grants and low-interest loans.~~

~~An alternatives report shall be submitted no later than two years after permit issuance.~~

~~(2) Alternatives implementation compliance plan (AICP). An AICP shall be submitted no later than 4 1/2 years after permit issuance, and The AICP shall include:~~

~~1. The results of the investigation detailed in the alternatives report,~~

~~2. A description of any feasible and affordable alternative(s) that will be implemented,~~

~~3. A schedule of the time necessary to implement the alternative(s), and~~

~~4. An updated DCA. The AICP shall be submitted no later than 4 1/2 years after permit issuance.~~

Commented [241]: Old 64.7(5)"e"(1), (2), & (3), TAPC - simplified & combined into new 64.6(5)"e"(1).

Commented [242]: Old 64.7(5)"e", "The ratio of the..." - Moved to new 64.6(5)"f" below.

Commented [243]: New 64.6(5)"f", Ratio & disadvantaged determ... - Existing requirements; text is being simplified.

Commented [244]: New 64.6(5)"f", "The ratio of the..." - Existing text; moved from old 64.7(5)"e".

Commented [245]: New 64.6(5)"f", "If the ratio..." & new (1), (2), & (3) - Existing text has been simplified.

Commented [246]: Old 64.7(6)"f", "The ratio of..." - replaced by text in new 64.6(5)"f" above.

Commented [247]: New 64.6(5)"g", DC schedule 1st part - Existing schedule requirements are being clarified; is now a 1st part (new "g") & a 2nd part (new "h").

Commented [248]: "as necessary to comply..." - Self-evident; unnecessary.

Commented [249]: "progress reports" - Existing requirement; simplified.

Commented [250]: New 64.6(5)"g"(1), Alternatives report - Existing text; was 64.7(5)"g"(1)1. Creating new subparagraph for report & rearranging text.

Commented [251]: "requirements in..." - Redundant.

Commented [252]: Old 64.6(6)"g"(1), "Alternative pollution..." - Text is guidance; it can be removed.

Commented [253]: New 64.6(5)"g"(2), AICP - Existing text; was 64.7(5)"g"(1)2. Creating new subparagraph for AICP & rearranging text.

Commented [254]: "The AICP shall..." - Moved to the beginning of the section (new 64.6(5)"g"(2)).

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

h.(2) Disadvantaged community compliance schedule - second part. If the entity or community continues to qualify as disadvantaged according to the DCM evaluation ~~of~~ based on the DCA submitted with the AICP, the entity or community may receive a second ~~schedule of compliance~~ schedule as specified in this subrule. ~~The second schedule of compliance for a disadvantaged community may contain either the implementation schedule from the AICP or a schedule for submittal of a future compliance plan (FCP).~~

Commented [255]: New 64.6(5)"h", DC schedule 2nd part - Existing text; was 64.7(5)"g"(2). Creating new paragraph for 2nd part of schedule & rearranging text.

(1) AICP implementation schedule. If the AICP proposes an implementation schedule, for implementation of one or more feasible alternatives, the proposed schedule shall be included in the community's reissued NPDES permit for the disadvantaged community.

Commented [256]: Old 64.7(5)"g"(2), "The second schedule..." - Unnecessary; is restating what's now in new 64.6(5)"h"(1) & (2) below.

(2) Future compliance plan (FCP). The submittal of an FCP will be necessary only if the AICP concludes that the disadvantaged community cannot feasibly implement any alternatives and if the community is still disadvantaged according to the DCM evaluation ~~of~~ updated information in the DCA submitted with the AICP. An FCP shall be submitted no later than three years after permit issuance. A compliance schedule requiring an FCP shall also require annual progress reports, including an updated DCA. If a DCM evaluation determines that an entity or community is no longer disadvantaged based on the most recent DCA, the NPDES permit may be amended to change the compliance schedule. The An FCP shall:

Commented [257]: New 64.6(5)"h"(2), FCP - Existing text; was 64.6(5)"g"(2)2. Text is being simplified.

1. Detail how the disadvantaged community will meet the applicable federal or state regulations, requirements in 567 Chapters 60, 61, 62, 63, and 64, or an order of the department and the period necessary to do so, and. An FCP shall

Commented [258]: New 64.6(5)"h"(2), "An FCP shall..." - Existing text; moved from end of subparagraph. Was old 64.6(5)"g"(2)2., "The FCP shall..."

2. Review the types of technology capable of treating the pollutant of concern and, as well as the costs of installing and operating each type of technology. All technically feasible alternatives shall be explored. ~~The FCP shall be submitted no later than three years after permit issuance. A schedule of compliance requiring the submittal of an FCP shall also require the submittal of annual reports of progress that contain updated financial information, an updated DCA, and a brief update regarding the completion or implementation of the FCP. If the DCM evaluation determines that an entity or community is no longer disadvantaged based on the most recent DCA, the NPDES permit may be amended to change the schedule of compliance.~~

Commented [259]: "requirements in..." - Redundant.

(3) Schedule extension. The second part of a disadvantaged community compliance ~~schedule of compliance~~ schedule for a disadvantaged community may be extended at the director's discretion ~~of the director~~.

Commented [260]: old 64.6(5)"g"(2)2., "The FCP shall..." - moved to earlier in this subparagraph (new 64.6(5)"h"(2), "An FCP shall...").

i.(3) Schedules of Compliance schedules issued in accordance with this subrule shall comply with subrule paragraphs 64.6(4), "b" through "e."

64.6(6) Disadvantaged unsewered communities. If compliance with applicable federal or state regulations, requirements in 567 Chapters 60, 61, 62, 63, and 64, or an order of the department will result in substantial and widespread economic and social impact (SWESI) to the ratepayers of an unsewered community, the director may negotiate a compliance agreement that will result in an improvement of water quality and reasonable progress toward complying with the applicable regulations requirements but does not result in SWESI.

Commented [261]: New 64.6(5)"i", "Compliance schedules..." - Existing text; was 64.7(5)"g"(3). Correcting reference.

a. Disadvantaged unsewered community status. The director shall find that an unsewered community is a disadvantaged unsewered community according to Iowa Code subsection 455B.199B(3), by evaluating all of the following:

Commented [262]: New 64.6(6), Unsewered DC - Existing requirements & text; authorized by Iowa Code 455B.199B. Subrule is being simplified & clarified.

(1) The ability of the unsewered community to pay for a project based on the ratio of the total annual project costs per household to MHI;

(2) The unemployment rate in the county where the unsewered community is located, and

(3) The MHI of the unsewered community.

Commented [263]: New 64.6(6)"a"(1), (2), & (3) - Matches Iowa Code 455B.199B(3); replaced with reference.

b. Disadvantaged unsewered community analysis (DUCA).

(1) An unsewered community must submit a DUCA to the director to be considered for disadvantaged unsewered community status. Only unsewered communities may submit a DUCA under this subrule. For the purposes of this subrule, an unsewered community is defined as a grouping of ten or more residential houses with a density of one house or more per acre and with either no wastewater treatment or inadequate wastewater treatment. An entity defined in ~~rule 567—subrule 60.2(2)(455B)~~ as a private sewage disposal system may not submit a DUCA or qualify for a disadvantaged unsewered community compliance agreement under this subrule, paragraph 64.7(6)"g."

Commented [264]: "567 IAC..." - correcting reference.

(2) An unsewered community may submit a DUCA to the director prior to the issuance of or amendment to an administrative order with requirements that could result in SWESI and that are based on applicable federal or state regulations, requirements in 567 Chapters 60, 61, 62, 63, and 64, or an order of the department.

Commented [265]: "requirements in..." - Redundant.

(2) A DUCA may also be submitted for consideration of a disadvantaged community loan interest rate under the clean water state revolving fund, independent of an administrative order.

Commented [266]: Old 64.7(6)"b"(2) - This is no longer the procedure used by SRF.

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

c. Contents of a DUCA contents. A DUCA must contain all of the following:

- (1) Proposed ~~TAPC~~total annual project costs as defined in ~~paragraph 64.6(6)"d"~~;
- (2) The number of households in the unsewered community and source of household information;
- (3) Total amount of any awarded grant funding; ~~and~~
- (4) MHI or ratepayer income information. If no MHI information is available for the unsewered community, the community should conduct a rate survey to determine the MHI; and

(5) An explanation of why the unsewered community believes that compliance with the proposed requirements will result in SWESI.

~~If no MHI information is available for the unsewered community, the community should conduct a rate survey to determine the MHI. The survey must be attached to the DUCA.~~

d. Definition of total annual project costs (TAPC). "Total annual project costs" means the future costs of proposed wastewater system installation or improvements that will meet or exceed all applicable federal or state regulations, ~~requirements in 567— Chapters 60, 61, 62, 63, and 64,~~ or requirements of an order of the department. ~~The TAPC~~total annual project costs shall include the proposed facility operation and maintenance (O&M) costs and the proposed debt of the system as expressed in the proposed sewer rates. The costs ~~of the proposed wastewater treatment shall be amortized over~~assume a 30-year loan period at an interest rate equal to the current state revolving fund interest rate. Awarded grant funding must be subtracted from the ~~TAPC~~total annual project costs.

The ~~TACP~~ formula for ~~the calculation of total annual project costs for~~ an unsewered community is: ~~TAPC~~total annual project costs = [(Estimated costs to design and build proposed project - Awarded grant funding) amortized over 30 years] + Future annual O&M costs.

e. Disadvantaged unsewered community matrix (DUCM). ~~The department hereby incorporates by reference "Disadvantaged Unsewered Community Matrix," DNR Form 542-1247. This document may be obtained on the department's website. Upon receipt of a complete DUCA, the director shall use the Disadvantaged Unsewered Community Matrix (DUCM) to evaluate the disadvantaged status of an~~the unsewered community. ~~The DUCM shall be used to evaluate DUCAs submitted in accordance with 64.67(6)"b." Compliance with applicable federal regulations, requirements in 567— Chapters 60, 61, 62, 63, and 64, or an order of the department shall be considered to result in SWESI, and the An~~unsewered community shall be considered a disadvantaged unsewered community; if the point total derived from the DUCM is equal to or greater than 10. The following data sources shall be used to derive the point total in the DUCM:

(1) The ~~TAPC and~~total annual project costs as stated in the DUCA; (2) The number of households in the unsewered community, as stated in the DUCA;

(2) The MHI of the unsewered community as found in the most recent American Community Survey or United States Census or as stated in an income survey ~~that is~~ conducted by the unsewered community; and

(3) The unemployment rate of the local county ~~where the unsewered community is located~~ and of the state as found in the most recent Iowa Workforce Information Network unemployment data.

~~The ratio of the total annual project costs per household to MHI shall be calculated in the DUCM as follows: the total annual project costs shall be divided by the number of households in the unsewered community to obtain the costs per household, and the costs per household shall be divided by the MHI to obtain the ratio.~~

f. Ratio and disadvantaged determination. ~~other considerations.~~ The director shall not require installation of a wastewater treatment system by an unsewered community if the director determines that such installation would create SWESI, in accordance with Iowa Code section 455B.199B.

(1) The ratio of TACP per household to MHI shall be calculated in the DUCM as follows: the TAPC shall be divided by the number of households to obtain the costs per household, and the costs per household shall be divided by the MHI to obtain the ratio.

(2) If the ratio of compliance costs to MHI is: ~~The director shall not consider an unsewered community a disadvantaged unsewered community if the ratio of compliance costs to MHI is below~~

1. Less than one+ percent - the unsewered community is not considered disadvantaged. ~~The director shall consider an unsewered community a disadvantaged unsewered community if the~~

2. ratio of compliance costs to MHI is gGreater than or equal to two+ percent - the unsewered community is considered a disadvantaged unsewered community.

3. If the ratio of compliance costs to MHI is gGreater than or equal to one+ percent; and less than 2two percent, the director shall use the point total in the DUCM to determine if the unsewered community is disadvantaged. ~~The ratio of compliance costs to MHI shall be the ratio of the total annual project costs per~~

Commented [267]: New 64.6(6)"c"(4), "MHI or ratepayer..." - Existing text; moved from last sentence of this subrule (old 64.7(6)"c", "If no MHI...").

Commented [268]: "If no MHI..." - Moved up to new 64.6(6)"c"(4), "MHI or ratepayer..."

Commented [269]: "requirements in..." - Redundant.

Commented [270]: "of the proposed..." - Simplifying.

Commented [271]: "The department hereby..." - Undated form references are being removed.

Commented [272]: "Upon receipt of a complete..." - Existing text; paragraph has been simplified.

Commented [273]: New 64.6(6)"e"(1), "The TACP..." - Existing text; combined old 64.7(6)"e"(1) & (2) because they both concern the DUCA contents.

Commented [274]: Old 64.7(6)"e"(4), "The ratio of..." - moved to new 64.6(6)"f"(1) below.

Commented [275]: New 64.6(6)"f", "The director shall..." - Existing text; added Iowa code reference. Moved from the end of old 64.7(6)"f", "The director shall..."

Commented [276]: New 64.6(6)"f"(1), "The ratio of..." - Existing text; moved from old 64.7(6)"e"(4), "The ratio of..."

Commented [277]: New 64.6(6)"f"(2), "If the ratio of..." & new 1., 2., & 3., - Existing text has been simplified.

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

household to MHI as calculated in the DUCM. ~~The director shall not require installation of a wastewater treatment system by an unsewered community if the director determines that such installation would create SWESI.~~

g. *Compliance agreement for a disadvantaged unsewered community.* A compliance agreement negotiated with a disadvantaged unsewered community as a result of SWESI shall require the unsewered community to submit an alternatives report and an alternatives implementation compliance plan (AICP).

(1) *Alternatives report.* ~~An alternatives report shall be submitted no later than two years after an unsewered community disadvantaged determination, and shall:~~

~~The alternatives report must:~~ 1. Detail the alternative pollution control measures that will be investigated and contain an examination of all other appropriate measures that may achieve compliance with the water quality standards without creating SWESI; ~~The alternatives report must~~

2. ~~Describe which measures will be evaluated for feasibility and affordability after the report submittal; and Alternative pollution control measures may include, but are not limited to, upgrades of existing infrastructure, construction of a new facility, relocation of the discharge point(s), regionalization, or outfall consolidation. Other appropriate measures may include, but are not limited to, mixing zone studies, consideration of seasonal limitations or site specific data, alteration of current facility operations, intermittent discharges, source reduction, effluent recycling or reuse, or renegotiation of treatment agreements. The alternatives report shall also~~

3. ~~Include a plan for pursuing funding options, including grants and low-interest loans. The alternatives report shall be submitted no later than two years after an unsewered community has been determined to be a disadvantaged unsewered community.~~

(2) *Alternatives implementation compliance plan (AICP).* ~~An AICP shall be submitted no later than 4½ years after an unsewered community disadvantaged determination. The~~ An AICP shall include:

1. ~~The results of the investigation detailed in the alternatives report,~~

2. ~~A description of any feasible and affordable alternative(s) that will be implemented,~~

3. ~~A schedule of the time necessary to implement the alternative(s), and~~

4. ~~An updated DUCA. The AICP shall be submitted no later than 4½ years after an unsewered community has been determined to be a disadvantaged unsewered community.~~

(3) *AICP implementation schedule.* If the AICP proposes an implementation schedule ~~for implementation~~ of one or more feasible alternatives, the proposed schedule shall be included in an administrative order between the department and the unsewered community. If the feasible alternative that will be implemented requires a construction, ~~permit, an~~ operation, ~~permit, or an~~ NPDES permit, the unsewered community shall comply with the rules regarding those permits in this chapter.

(4) *Future compliance plan (FCP).* The submittal of an FCP will be necessary only if the AICP concludes that the unsewered community cannot feasibly implement any alternatives and if the community is still disadvantaged according to the ~~DUCM evaluation of updated information in~~ the DUCA submitted with the AICP. ~~An FCP shall be submitted no later than seven years after an unsewered community disadvantaged determination. An administrative order requiring an FCP shall also require the submittal of biennial progress reports containing an updated DUCA. If the DUCM evaluation determines that an unsewered community is no longer disadvantaged based on the most recent DUCA, the order may be amended at the director's discretion.~~ An FCP shall:

1. ~~Detail how the unsewered community will meet the water quality standards and the period necessary to do so, and~~

2. ~~An FCP shall~~ Review the types of technology capable of treating the pollutant of concern ~~and, as well as~~ the costs of installing and operating each type of technology. All technically feasible alternatives shall be explored. ~~The FCP shall be submitted no later than seven years after an unsewered community has been determined to be a disadvantaged unsewered community. An administrative order requiring the submittal of an FCP shall also require the submittal of biennial progress reports that contain an updated DUCA. If the DUCM evaluation determines that an unsewered community is no longer disadvantaged based on the most recent DUCA, the order may be amended at the discretion of the director.~~

~~64.6(7)~~ *Other terms and conditions of issued NPDES permits.* Each issued NPDES permit shall provide for and ensure ~~all of~~ the following:

a. That all discharges authorized by the NPDES permit shall be consistent with the terms and conditions of the permit;

Commented [278]: Old 64.7(6)"f", "The ratio of..." - replaced by text in new 64.6(6)"f"(1) & (2) above.

Commented [279]: Old 64.7(6)"f", "The director shall.." - Moved to the beginning of new 64.6(6)"f".

Commented [280]: New 64.6(6)"g"(1), Alternatives report - Existing text; rearranging and simplifying.

Commented [281]: "An alternatives report..." - Existing text; moved up from end of paragraph, old 64.7(6)"g"(1), "The alternatives report..."

Commented [282]: Old 64.7(6)"g"(1), "Alternative pollution..." - Text is guidance; it can be removed.

Commented [283]: "The alternatives report..." - Moved up to beginning of subparagraph (new 64.6(6)"g"(1), "An alternatives report...").

Commented [284]: New 64.6(6)"g"(2), "An ACIP shall..." - Existing text; moved up from end of this subparagraph (old 64.7(6)"g"(2), "The AICP shall..")

Commented [285]: New 64.6(6)"g"(2)1. to 4. - Existing text; current sentence ("An AICP shall..") is being split into numbered list.

Commented [286]: The AICP shall.."- Moved to beginning of this subparagraph, new 64.6(6)"g"(2), "An ACIP shall..."

Commented [287]: New 64.6(6)"g"(4), "An FCP shall..." - Existing text; moved from end of this subparagraph, old 64.7(6)"g"(4), "The FCP shall.."

Commented [288]: The FCP shall.."- Moved to beginning of this subparagraph, new 64.6(6)"g"(4), "An FCP shall..."

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

b. 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 permit 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.

Commented [289]: New 64.6(7)"b", "That facility expansions..." - Existing text; split old 64.7(7)"a" into "a" to "d". This was the 2nd part of old 64.7(7)"a".

c. 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.

Commented [290]: New 64.6(7)"c", "That the discharge..." - Existing text; split old 64.7(7)"a" into "a" to "d". This was the 3rd part of old 64.7(7)"a".

d. 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.

Commented [291]: New 64.6(7)"d", "That if the terms..." - Existing text; split old 64.7(7)"a" into "a" to "d". This was the 4th part of old 64.7(7)"a".

e. That the permit may be amended, revoked and reissued, or terminated in whole or in part for the causes provided in paragraph 64.2(6) "c".

f. That the permittee allows for facility inspection and entry. 40 CFR § 122.41(i) is adopted by reference. 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;

Commented [292]: New 64.6(7)"f", Inspection & entry - Matches 40 CFR 122.41(i); text replaced w/ CFR reference. Authorized by Iowa Code 455B.174(2).

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

Commented [293]: New 64.6(7)"g", "That, if the permit..." - Existing text; by 40 CFR 122.42(b).

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

Commented [294]: Old 64.7(7)"d"(2), "Except as specified..." - Text no longer needed; condensed into new 64.2(3)"c"(3), indirect discharger requirements, as noted in new 64.6(7)"g"(3) below.

(4) To sample any discharge of pollutants.

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

(1) 180 One hundred eighty days in advance of any new introduction of pollutants into the POTW such treatment works from a new source as defined in 567 Chapter 60 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 25,000 gallons of process wastewater per day at the average discharge, or contributes less than 5 percent of the organic or hydraulic loading of the treatment facility, or is not subject to a federal pretreatment standard adopted by reference in 567 Chapter 62, or does not contribute pollutants that may cause interference or pass through; and

Commented [295]: New 64.6(7)"g"(2), "60 days..." - Existing text; 40 CFR 122.42(b)(2) & 403.12(j). No 60 day timeline in CFR. Was old 64.7(7)"d"(3).

(3) 60 Sixty days in advance of any substantial change in the volume or character of pollutants being introduced into the POTW such treatment works by a source introducing pollutants into the POTW such works at the time of permit issuance of the permit, and:

Commented [296]: New 64.6(7)"g"(3) - Removing old 64.7(7)"g"(2), "Except as specified..." & referencing subrule on indirect discharger requirements (new 64.2(3)"c").

(3) Pursuant to paragraph 64.2(3) "c".

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

Commented [297]: New 64.6(7)"g", "Such notice shall..." - Existing text; 40 CFR 122.42(b)(3).

h. That, if the permit is for a discharge from a POTW 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.

Commented [298]: New 64.6(7)"h", "As a means..." - Text no longer needed as 40 Part 403 is adopted by reference in Chapter 62.

i. That the facility is properly operated and maintained. 40 CFR § 122.41(e) is adopted by reference. That the permittee at all times shall maintain in good working order and operate as efficiently as possible any facilities or systems of treatment and control which have been installed or are used by the permittee to achieve compliance with the terms and conditions of the permit. Proper operation and maintenance also include adequate laboratory control and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which have been installed by the permittee only when such operation is necessary to achieve compliance with the conditions of the permit.

Commented [299]: New 64.6(7)"i", Proper operation & maintenance - Matches 40 CFR 122.41(e); replace w/ CFR reference.

j. That the permit will be modified upon the establishment of a toxic effluent standard or prohibition. 40 CFR § 122.44(b)(1) is adopted by reference. (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.

Commented [300]: New 64.6(7)"j", Toxic effluent standard or prohibition - Matches 40 CFR 122.44(b)(1); replace w/ CFR reference.

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

~~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.)~~

Commented [301]: Old 64.7(7)"h", "If an applicant..." - Rule 62.9 is being removed; see Chapter 62.

~~k. 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.~~

~~l. It shall not be a defense for a permittee in an enforcement action that it would have been necessary. That the need to halt or reduce the permitted activity is not a defense in an enforcement action. 40 CFR § 122.41(c) is adopted by reference, in order to maintain compliance with the terms of this permit.~~

Commented [302]: New 64.6(7)"i", "Need to halt..." - Matches 40 CFR 122.41(c); replace w/ CFR reference. Was old 64.7(7)"j".

~~64.7(8) POTW compliance - plan of action required. The owner of a publicly owned treatment works (POTW) must prepare and implement a plan of action (POA) to achieve and maintain compliance with final effluent limitations in its NPDES permit, as specified below:~~

~~a. The director shall notify the POTW owner of a POTW of the POA 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 the POA plan of action to the appropriate regional DNR field Office of the department 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. A POA must identify the deficiencies and needs of the system, describe the causes of such deficiencies or needs, propose specific measures and a schedule (including an implementation schedule) that will be taken to correct the deficiencies or meet the needs, and discuss the method of financing the proposed improvements proposed in the plan of action. A POA plan may include the submittal of a disadvantaged community analysis in accordance with subrule 64.6(5), or at the discretion of the POTW. 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 from the department's regional field offices.~~

Commented [303]: New 64.6(7)"b", "The plan of action..." - Language is unnecessary.

~~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.~~

Commented [304]: "where financing is such..." - Text is an unnecessary example, & the referenced guidance document is outdated & incomplete.

~~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.~~

Commented [305]: Old 64.7(7)"c", Upon submission of..." - Unnecessary.

This rule is intended to implement Iowa Code chapter 455B, division III, part 1 (455B.171 to 455B.187). [ARC 7625B, IAB 3/11/09, effective 4/15/09; ARC 0529C, IAB 12/12/12, effective 1/16/13; ARC 2482C, IAB 4/13/16, effective 5/18/16; ARC 2695C, IAB 8/31/16, effective 8/12/16; ARC 6191C, IAB 2/9/22, effective 3/16/22]

Commented [306]: Old 64.7(7)"d", The NPDES permit..." - Schedules must be based on meeting effluent limits, & proposed schedules in POAs are not, and cannot be, binding.

567—64.7(455B) Reissuance of operation and NPDES permits.

~~64.7(1) Individual operation and NPDES permits reissuance. Individual operation and NPDES permits will be reissued according to the procedures identified in 64.8(1)"a" to "e."~~

Commented [307]: Old 64.8(1), "Individual operation and..." - Don't need an "a" or a heading sentence as "b" & "c" are being removed.

~~a. Any operation or NPDES permittee who wishes to continue to discharge after the expiration date of the permit shall file an application for reissuance pursuant to subrule 64.2(2), of the permit at least 180 days prior to the expiration of the permit pursuant to 567—60.4(455B). For a POTW, permission to submit an application at a later date may be granted by the director. In addition, the applicant must submit up to date information on the permittee's production levels, the permittee's waste treatment practices, or the nature, contents, and frequency of the permittee's discharge, as required by the permit application.~~

Commented [308]: Old 64.8(1)"a", "of the permit..." - Moved to new 64.2(2)"a"(2)(1) w/ other app info.

~~b. The director shall follow the notice and public participation procedures specified in 567—64.5(455B) in connection with each request for reissuance of an NPDES permit.~~

Commented [309]: Old 64.8(1)"a", "In addition..." - Not needed; describes current app requirements.

~~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.~~

Commented [310]: Old 64.8(1)"b", "The director shall..." - Redundant; already required in new 64.4. Also, the notice & public procedures rule is not specific to new or reissued permits.

Commented [311]: Old 64.8(1)"c", "Notwithstanding..." - Matches Iowa Code 455B.173(2)(b) & (3)(b), doesn't need to be restated here.

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

64.78(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" and "b."

a. If a permittee intends to continue an activity covered by a general permit for which an NOI is required beyond the expiration date of the general permit, the permittee must reapply and submit a complete NOI in accordance with the requirements specified in the applicable general permit.

b. A permittee authorized to discharge under a general permit is subject to the permit terms of the permit until coverage is obtained under an individual permit or the permitted discharge has ceased, and if required, either the permit expires, the authorization under the permit expires, or a Notice of Discontinuation is submitted in accordance with the general permit 64.6(5).

a.(1) If a permittee the person holding a general permit continues the activity beyond the expiration date of the general permit and the permit will be reissued, the conditions of the expired general permit will remain in effect until the effective date of the reissued permit provided the permittee submits a complete NOI for coverage as required by the applicable general permit.

b. (2) If a permittee the person holding a general permit continues the activity beyond the expiration date of a general permit and the general permit will not be reissued or renewed, the discharge must be permitted with an individual NPDES permit according to the procedures in paragraph 64.23(34) "a."

64.78(3) Continuation of expiring operation and NPDES permits.

a. The conditions of an expiring operation or NPDES permit will continue in force until the effective date of a new permit if:

(1) The permittee has submitted a timely and complete application under subrule 64.2(3) 567 subrule 60.4(2); and

(2) The department, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit.

b. Operation and NPDES permits continued under this subrule remain fully effective and enforceable.

c. If a permittee is not in compliance with the conditions of the expiring or continued permit, the department may choose to do any of the following:

- (1) Initiate enforcement action on a permit which has been continued or reissued;
- (2) Issue a notice of intent to deny a permit under paragraph 64.45(1) "b";
- (3) Reissue a permit with appropriate conditions in accordance with this subrule; or
- (4) Take other actions authorized by this chapter rule.

[ARC 7625B, IAB 3/11/09, effective 4/15/09; ARC 9365B, IAB 2/9/11, effective 3/30/11; ARC 2482C, IAB 4/13/16, effective 5/18/16; ARC 6191C, IAB 2/9/22, effective 3/16/22]

567—64.89(455B) Monitoring, record keeping and reporting by operation permit holders. Operation permit holders are subject to any applicable requirements and provisions specified in the operation permit issued by the department and to the applicable requirements and provisions specified in 567—Chapter 63.

[ARC 7625B, IAB 3/11/09, effective 4/15/09; ARC 2482C, IAB 4/13/16, effective 5/18/16]

567—64.910(455B) Silvicultural activities. The following is adopted by reference: 40 CFR Section 122.27.

[ARC 7625B, IAB 3/11/09, effective 4/15/09; ARC 6191C, IAB 2/9/22, effective 3/16/22]

567—64.11 and 64.12 Reserved.

567—64.103(455B) Storm-water discharges.

64.103(1) The following are adopted by reference: 40 CFR §Section 122.26, 122.32, 122.33, 122.34, and 122.35.

64.103(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. The following municipal separate storm sewer systems (MS4s) that are not qualified as medium or large MS4s, in accordance with 40 CFR § 122.26, are considered regulated small MS4s:

(1) All MS4s located in urban areas with a population of at least 50,000 people urbanized areas as defined by the latest decennial census, and

(2) All MS4s located outside urbanized areas 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

Commented [312]: Old 64.8(2), "Coverage under..." - Restated in revised text of this subrule (new 64.7(2)).

Commented [313]: Old 64.8(2)"a", "If a permittee..." - Does not match language in current general permits. Intent is restated in revised text below (new 64.7(2)).

Commented [314]: New 64.7(2), "A permittee authorized..." - Existing requirements in old 64.8(2)"a" & "b" have been clarified to match the requirements in the current GPs.

Commented [315]: Old 64.8(2)"b"(1), "provided the permittee..." - Does not match current GP requirements. NOI submission is specified in each GP.

Commented [316]: New 64.7(3)"a", "The conditions of..." - Existing text; 40 CFR 122.6(a).

Commented [317]: "through no fault..." - Text is unnecessary.

Commented [318]: New 64.7(3)"b", "Operation and..." - Existing text; 40 CFR 122.6(b).

Commented [319]: New 64.7(3)"c", "If a permittee..." - Existing text; 40 CFR 122.6(c).

Commented [320]: Old 64.13 (2)"a", "For any discharge" - Small MS4 app text has moved to new 64.10(2)"b" below.

Commented [321]: New 64.10(2)"a", "The following municipal..." - Existing requirements; new text clarifies which facilities qualify as regulated small MS4s.

Commented [322]: New 64.10(2)"a"(1), "All MS4s..." - Existing requirement; new text matches 40 CFR 122.28(a)(1)(vi) as revised on June 12, 2023.

Commented [323]: "located outside..." - Existing small MS4 text changed to match across entire subrule (new 64.10(2)).

Commented [324]: "are regulated small MS4s" - Moved 1st sentence of new 64.10(2)"a", "The following..."

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

unless waiver criteria established by the department are met and a waiver has been granted by the department.

b. NPDES permit applications for small MS4s. An NPDES permit application shall be submitted for any discharge from a regulated small MS4 designated under this subrule. The first permit application submitted by a small MS4 shall demonstrate how the applicant will develop, implement, and enforce a stormwater management program designed to reduce the discharge of pollutants from the small MS4 to the maximum extent practicable, in order to protect water quality and to comply with the Clean Water Act. Renewal applications shall demonstrate how the existing stormwater management program is being implemented and enforced. An application shall:

(1) Discuss the manner in which the permittee will or has addressed:

- public education and outreach on stormwater impacts.
- public involvement and participation.
- illicit discharge detection and elimination.
- construction site stormwater runoff control.
- post construction stormwater management in new development and redevelopment, and
- pollution prevention for municipal operations.

(2) Include measurable goals which the applicant intends to meet and dates by which the goals will be accomplished.

c. Permit coverage waivers for small MS4s.

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

1. (1) Where the small MS4 discharges any pollutants of concern that have been identified as a cause of an impairment of any waterbody to which the MS4 discharges; 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 stormwater controls are not needed based on a wasteload allocations that is a part of an EPA approved or established total maximum daily load (TMDL) that addresses the pollutants of concern.

2. or, if Where the small MS4 discharges any pollutants of concern to an unimpaired waterbody or to a waterbody for which a TMDL has not been developed or approved; the department has determined that stormwater controls are not needed based on an equivalent analysis equivalent to a TMDL that determines sources and allocations for the pollutants of concern. The pollutants of concern are include biochemical oxygen demand, sediment, or a parameter that addresses sediment, (total suspended solids, turbidity or siltation), pathogens, or 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.

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

d. (2) Permit coverage requirements for small MS4s located in urbanized areas which 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.

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

2. The system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated under this rule.

(3) e- Permit coverage requirements for small MS4s located outside of urbanized areas which serve and serving 10,000 people or more people where the average population density is 1,000 people/square mile or more may be waived if the following criterion is met: The the MS4 is not discharging pollutants which are the cause of an the impairment of to any a water-body to which the MS4 discharges designated by the department as impaired.

(4) f- Should conditions under which a 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

Commented [325]: "unless waiver criteria..." - Moved; small MS4 waivers are in new 64.10(2)"c".

Commented [326]: New 64.10(2)"b" - New subrule combining existing small MS4 app text from old 64.13(2).

Commented [327]: New 64.10(2)"b", "An NPDES permit app..." - Existing requirement; moved from old 64.13(2)"a" & reworded.

Commented [328]: New 64.10(2)"b", "The first permit app..." - Existing text; Moved from old 64.13(2)"g". Adjusted & added new sentence to distinguish between 1st app from an MS4 & a renewal app.

Commented [329]: New 64.10(2)"b"(1) & bullets, "Discuss the manner..." - Existing text; moved from old 64.13(2)"g", "The manner in which..."

Commented [330]: New 64.10(2)"b"(2), "Include measurable..." - Existing text; moved from last sentence of old 64.13(2)"g", "Measurable goals..."

Commented [331]: New 64.10(2)"c", "Permit coverage waivers..." - Combined small MS4 waiver text in old 64.13(2)"c", "d", "e" & "f" into 1 paragraph.

Commented [332]: New 64.10(2)"c"(1), "Permit coverage..." - was old 64.13(2)"c".

Commented [333]: "located in..." - Existing small MS4 text changed to match across entire subrule.

Commented [334]: New 64.10(2)"c"(1)1., "Where the small..." - Split existing text in old 64.13(2)"c"(1) into 1. & 2. for clarity. New 1. - impaired waters w/ TMDLs. New 2. - impaired waters w/o TMDLs & unimpaired waters. Is still an evaluation of all WOTUS receiving small MS4 discharges.

Commented [335]: "of designated uses" - Redundant.

Commented [336]: "including habitat..." - Redundant.

Commented [337]: New 64.10(2)"c"(2), "Permit coverage..." - Existing text; was old 64.13(2)"d".

Commented [338]: "located in..." - Existing small MS4 text changed to match across entire subrule.

Commented [339]: Old 64.13(2)"d"(1), "The system is..." - Moved down to new 64.10(2)"c"(2)2., "The system is..."

Commented [340]: New 64.10(2)"c"(2)1., "Where the small..." - Existing text; was old 64.13(2)"d"(2).

Commented [341]: New 64.10(2)"c"(2)2., "The system is..." - Existing text; moved from old 64.13(2)"d"(1), "The system is..."

Commented [342]: New 64.10(2)"c"(3), "Permit coverage..." - was old 64.13(2)"e".

Commented [343]: "located outside..." - Existing small MS4 text changed to match across entire subrule.

Commented [344]: "an impairment of..." - Existing text; reworded to match text in new "c"(2)1. above.

Commented [345]: New 64.10(2)"c"(4), Should conditions..." - was old 64.13(2)"f".

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

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;
- post construction 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. Stormwater 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.

[ARC 7625B, IAB 3/11/09, effective 4/15/09; ARC 6191C, IAB 2/9/22, effective 3/16/22]

567—64.114(455B) Transfer of title and owner or operator address change.

64.11(1) If title to any disposal system or part thereof for which a permit has been issued under this chapter rule 567—64.2(455B), 567—64.3(455B), or 567—64.6(455B) is transferred, the new owner or owners shall be subject to all terms and conditions of the permit. Whenever title to a disposal system or part thereof is changed, the department shall be notified in writing of such change within 30 days of the occurrence. When a discharge is covered by a general permit, the operator of record shall be subject to all terms and conditions of the permit. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notification of the department of the transfer of title.

64.11(2) Whenever the address of the owner is changed, the department shall be notified in writing within 30 days of the address change.

[ARC 7625B, IAB 3/11/09, effective 4/15/09; ARC 9553B, IAB 6/15/11, effective 7/20/11; ARC 2482C, IAB 4/13/16, effective 5/18/16; ARC 6191C, IAB 2/9/22, effective 3/16/22]

Rules 567—64.23(455B) to 567—64.114(455B) are intended to implement Iowa Code section 455B.173.

567—64.125(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.

64.125(1) Storm Water Discharge Associated with Industrial Activity, NPDES General Permit No. 1, effective March 1, 2023, to February 29, 2028. 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.

64.125(2) Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES General Permit No. 2, effective March 1, 2023, to February 29, 2028.

64.125(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 March 1, 2023, to February 29, 2028. General Permit No. 3 authorizes storm water discharges from facilities primarily engaged in manufacturing asphalt paving mixtures and which are classified under Standard

Commented [346]: Old 64.13(2)"g", "the applicant will..." - Moved to new 64.10(2)"b", "NPDES permit apps..."

Commented [347]: Old 64.13(2)"g" & bullets, "The manner in which..." - Moved to new 64.10(2)"b"(1), "Discuss the manner..."

Commented [348]: Old 64.13(2)"g", "Measurable goals..." - Moved to new 64.10(2)"b"(2), "Include measurable..."

Commented [349]: Old 64.13(3), "Waivers for..." - Small MS4 waivers are in new 64.10(2)"c". Info is also in definition for SW discharge assoc. w/ small construction activity in 40 CFR 122.26 (adopted in new 64.10(1)).

Commented [350]: New 64.11, "Transfer of title..." - Existing text; split into 2 subrules; (1) for title transfers & (2) for address changes. 40 CFR 122.41(i)(3).

Commented [351]: "When a discharge..." - Unnecessary; covered by the first sentence of subrule.

Commented [352]: New 64.12, "General permits..." - Existing requirements; authorized by Iowa Code 455B.173(11).

Commented [353]: "Facilities assigned..." - Explained in the GP; not needed here.

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

~~Industrial Classification 2951, primarily engaged in manufacturing Portland cement concrete and which are classified under Standard Industrial Classification 2273, 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.~~

~~64.125(4) "Discharge from Private Sewage Disposal Systems," NPDES General Permit No. 4, effective March 1, 2023, to February 29, 2028.~~

~~64.125(5) "Discharge from Mining and Processing Facilities," NPDES General Permit No. 5, effective July 1, 2023, to June 30, 2028.~~

~~64.125(6) "Discharge Associated with Well Construction Activities," NPDES General Permit No. 6, effective July 1, 2023, to June 30, 2028.~~

~~64.125(7) "Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States from the Application of Pesticides," NPDES General Permit No. 7, effective July 1, 2023, to June 30, 2028.~~

~~64.125(8) "Discharge from Hydrostatic Testing, Tank Ballasting and Water Lines," NPDES General Permit No. 8, effective July 1, 2023, to June 30, 2028.~~

~~64.125(9) "Discharge from Dewatering and Residential Geothermal Systems," NPDES General Permit No. 9, effective July 1, 2023, to June 30, 2028.~~

~~[ARC 7569B, IAB 2/11/09, effective 3/18/09; ARC 8520B, IAB 2/10/10, effective 3/17/10; ARC 9365B, IAB 2/9/11, effective 3/30/11; ARC 9553B, IAB 6/15/11, effective 7/20/11; ARC 0261C, IAB 8/8/12, effective 10/1/12; ARC 1337C, IAB 2/19/14, effective 3/26/14; ARC 1912C, IAB 3/18/15, effective 3/1/15; ARC 2054C, IAB 7/8/15, effective 8/12/15; ARC 2572C, IAB 6/8/16, effective 5/18/16; ARC 2571C, IAB 6/8/16, effective 7/20/16; ARC 3584C, IAB 1/17/18, effective 3/1/18; ARC 3585C, IAB 1/17/18, effective 3/1/18; ARC 3786C, IAB 5/9/18, effective 7/1/18; ARC 4609C, IAB 8/14/19, effective 3/1/20; ARC 5283C, IAB 11/18/20, effective 7/20/21; ARC 5284C, IAB 11/18/20, effective 5/18/21; ARC 6493C, IAB 9/7/22, effective 7/1/23; ARC 6734C, IAB 12/14/22, effective 3/1/23]~~

567—64.136(455B) Fees.

~~64.136(1) Fee Types.~~

~~a. Application and NOI fees.~~

~~(1) For individual non-storm water NPDES and operation permits, an application fee must be submitted with the application, as specified in this rule. A person who applies for an individual permit to operate a disposal system shall submit along with the application an application fee as specified in 64.16(3) "b." Certain individual facilities shall also be required to submit annual fees as specified in 64.13(3) "b." For a wastewater construction permit, an application fee must be submitted with the application as specified in 64.16(3) "c."~~

~~(2) For authorization under General Permits Nos. 1, 2, 3 and 5, anthe applicant has the option of paying an annual permit fee or a multiyear permit fee whenat the time the NOI for coverage is submitted, as specified in this rule.64.16(3) "a."~~

~~(3) For municipal separate storm sewer system (MS4) permits and individual stormwaterstorm water permits, as defined in 567 60.2(455B)a one-time, multiyear permit fee must be submitted at the time of application, as specified in this rule.~~For all other individual non-storm water NPDES and operation permits, as defined in 567 60.2(455B), the applicant must submit an application fee at the time of application and the appropriate annual fee on a yearly basis, except for municipal water treatment facilities.~~~~

~~(4) If a facility needs coverage under more than one NPDES or operation permit, fees for each permit must be submitted appropriately.~~

~~b. Annual fees. Certain individual non-storm water facilities covered by NPDES and operation permits are required to submit annual fees on a yearly basis, as specified in this rule.~~

~~c. Fees are nontransferable. Failure to submit the appropriate fee at the time of application renders the application incomplete, and the department shall suspend applicationprocessing of the application until the fee is received. Failure to submit the appropriate annual fee may result in permitrevocation or suspension of the permit as noted in subrule 64.23(844).~~

~~64.136(2) Fee payment. Payment of fees. Fees shall be paid by check, credit card, electronic payment, or money order made payable to the "Iowa Department of Natural Resources." For facilities needing coverage under more than one permit (e.g., general, individual stormwaterstorm water, individual non-storm-water), separate payments shall be made according to the fee schedule in this rule.64.16(3).~~

~~64.136(3) Fee schedule. The following fees have been adopted:~~

~~a. General permit fees. No fees shall be assessed for coverage under general permits not listed in this paragraph. The following fees are applicable to the described general permits:~~

Commented [354]: "General Permit No. 3..." - Explained in the GP; not needed here.

Commented [355]: New 64.13(1), Fee types - Split existing text in old 64.16(1) into new paragraphs "a", "b", & "c" for app & NOI fees, annual fees, & failure to submit, respectively.

Commented [356]: New 64.13(1)"a", "Application and NOI fees" - Existing requirement; split text in old 64.16(1) about app & NOI fees into 4 new subparagraphs for individual, general, MS4, & multi app/NOI fees.

Commented [357]: New 64.13(1)"a"(1), "For individual..." - Existing requirement; moved from later in the paragraph.

Commented [358]: "A person who..." - Text has been reworded in 1st sentence of this subparagraph (64.13(1)"a"(1)).

Commented [359]: "Certain individual..." - Text has been moved to new 64.13(1)"b" & reworded.

Commented [360]: "For a wastewater..." - Moved to const. permit apps section in new 64.1(3)"d".

Commented [361]: "as defined in..." - No need to cite definition.

Commented [362]: "For all other..." - Moved to new 64.13"a"(1) & new 64.13"b".

Commented [363]: New 64.13(1)"b", Annual fees - Existing text; put annual fees in their own paragraph. Moved from 2nd sentence of old 64.16(1), "Certain individual..."

Commented [364]: New 64.13(1)"c", Fees are nontransferable - Existing text; was last paragraph of old 64.16(1).

Commented [365]: New 64.13(3), Fee schedule - Existing text & requirements; authorized by Iowa Code 455B.197.

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

(1) Storm Water Discharges Associated with Industrial Activity, NPDES General Permit No. 1; Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES General Permit No. 2; and Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, and Rock Crushing Plants, NPDES General Permit No. 3.

Annual Permit Fee	\$175 (per year)
or	
Five-year Permit Fee	\$700
Four-year Permit Fee	\$525
Three-year Permit Fee	\$350

Commented [366]: "Storm Water Discharge" - Existing requirement; combined GPs 2 & 3 w/ GP 1, as fees are the same for all 3 stormwater GPs.

All fees are to be submitted with the NOI for coverage under the general permit.

Commented [367]: "for coverage..." - Unnecessary.

~~(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.~~

Commented [368]: Old 64.16(3)"a"(2) & (3) - Moved into new 64.13(3)"a"(1).

~~(2) Discharge from Mining and Processing Facilities, NPDES General Permit No. 5.~~

Commented [369]: New 64.13(3)"a"(2), GP 5 fees - Existing text; specified in Iowa Code 455B.197(1), but keeping here for now.

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

New facilities seeking General Permit No. 5 coverage shall submit fees with the NOI for coverage. Maximum coverage is for five years. Coverage may also be obtained for four years, three years, or one year, as shown in the fee schedule above. Existing facilities shall submit annual fees by August 30 of every year, unless a multiyear fee payment was received in an earlier year. In the event a facility is no longer eligible to be covered under General Permit No. 5, the remainder of the fees previously paid by the facility shall be applied toward its individual permit fees.

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

(1) For individual ~~stormwater~~ ~~storm-water~~ permits, the following fees are due at the time of application:

1. Where the discharge will not reach an Outstanding Iowa Water identified in the Iowa Antidegradation Implementation Procedure, a five-year permit fee of \$1,250 must accompany the application.

2. Where the discharge will reach an Outstanding Iowa Water identified in the Iowa Antidegradation Implementation Procedure, a two-year permit fee of \$500.

Commented [370]: New 64.13(3)"b"(1) 1. & 2. - New text. Clarifies the circumstances for submittal of the existing \$1,250 (not a new fee). Pro-rates the existing fee to \$500 (from \$1,250) for individual stormwater permits that are issued for 2 years, which is a burden reduction.

(2) For permits that authorize the discharge of only storm-water from ~~municipal separate storm sewer systems (MS4s)~~ and any allowable non-storm-water, a five-year permit fee of \$1,250 must accompany the application.

(3) For individual non-storm-water NPDES and operation permits, a single application fee of \$85 as established in Iowa Code section 455B.197 is due at the time of a new application, renewal application, or amendment application.

Commented [371]: New 64.13(3)"b"(3), "a new application..." - Existing text; was moved from 1. below for clarity.

1. The \$1,250 fee in subparagraphs (1) and (2) is not required for individual non-storm-water permits that authorize storm-water discharges along with other wastewater discharges. ~~The \$85 application fee is to be submitted with the application forms (as required by 567 Chapter 60) at the time of a new application, renewal application, or amendment application.~~

Commented [372]: "The \$85 application fee..." - Combined this with existing text in new 64.13(3)"b"(3) for clarity.

2. Before an approved amendment request submitted by a facility holding a non-storm-water NPDES or

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

operation permit can be processed by the department, the \$85 fee must be submitted, except when an amendment is initiated by the director, when the requested amendment will correct an error in the permit, when the amendment is for a disadvantaged community compliance schedule or nutrient reduction strategy, or when there is a transfer of title or change in the address of the owner as noted in [rule 567—64.14\(455B\)](#).

(4) For individual non-storm-water NPDES and operation permits, the following annual fees, as established in Iowa Code [subsection 455B.197\(3\)](#), are due by August 30 of each year:

1. Major municipal facility: \$1,275.
2. Minor municipal facility: \$210. For a city with a population of 250 or less, the maximum fee shall be \$210 regardless of how many individual non-storm water NPDES permits the city holds.
3. Semipublic facility: \$340.
4. Major industrial facility: \$3,400.
5. Minor industrial facility: \$300.
6. Facilities that hold an operation permit: \$170.
7. Animal feeding operations covered by a non-storm water NPDES permit: \$340.

(5) For a municipal water treatment facility with an individual non-storm-water NPDES permit, no fees shall be assessed.

(6) For a new facility covered by an individual non-storm-water NPDES or operating permit, a prorated annual fee, calculated by taking the annual fee amount multiplied by the number of months remaining before the next annual fee due date divided by 12, is due 30 days after the new permit is issued.

~~c. Wastewater construction permit fees. A single construction permit fee as established in Iowa Code section 455B.197 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.~~

64.13(45) *Fee refunds.*

a. Individual and general permit application, permit, and annual fees may be refunded, completely or in part, at the ~~director's~~ discretion ~~of the director~~. Permittees who wish to receive fee refunds should notify the department [electronically or](#) in writing. Fees may be refunded under various circumstances, including, but not limited to:

(1) A duplicate fee was submitted, ~~(for example, two annual fees for the same permit are paid in the same fiscal year).~~

(2) A fee was overpaid.

(3) A fee was submitted but is not required, ~~as part of the permit application or renewal (for example, an individual annual permit fee was submitted for a discontinued permit, a general permit NOI fee was submitted for an individual permit, or an amendment fee was submitted for a permit that cannot be amended).~~

(4) An application is returned to the applicant by the department without decision.

b. Fees shall not be refunded under any of the following conditions:

(1) If the permit or permit coverage is suspended, revoked, or modified, or if the activity is discontinued or ceased.

(2) If a permit is amended.

(3) If a permit application is withdrawn by the applicant or denied by the department pursuant to [paragraph](#)

[64.45\(1\)"d"](#)

[Rule 567—64.13\(455B\)](#) is intended to implement [Iowa Code section 455B.197](#).

[Editorial change: IAC Supplement 2/11/09; **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 9553B**, IAB 6/15/11, effective 7/20/11; **ARC 2482C**, IAB 4/13/16, effective 5/18/16; **ARC 3786C**, IAB 5/9/18, effective 7/1/18; **ARC 6191C**, IAB 2/9/22, effective 3/16/22]

567—64.147(455B) Nutrient reduction exchange. The department shall maintain a registry of nonpoint source nutrient reduction practices installed by permittees. Practices listed in the registry may be eligible for future regulatory incentives.

[**ARC 6191C**, IAB 2/9/22, effective 3/16/22]

567—64.158(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.

[**ARC 6191C**, IAB 2/9/22, effective 3/16/22]

Commented [373]: New 64.13(3)"b"(4)1. to 7., Individual permit fees - Existing text. Specified in Iowa Code 455B.197(3), but are keeping as the fees were just added here in 2022.

Commented [374]: Old 64.16(3)"c", WW Construction permit fees - Moved to the construction permit application section; see new 64.1(3)"d".

Commented [375]: Old 64.16(4), "Fee refunds for..." - Rescinded; can be struck.

Commented [376]: "for example..." - Example text is not necessary.

Commented [377]: "for example..." - Example text is not necessary.

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

567—64.169(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 **567—Chapter 65**. However, the provisions of this chapter concerning NPDES permits which relate to notice and public participation, ~~permit to the~~ terms and conditions ~~of the permit,~~ ~~permit to the~~ reissuance, ~~of the permit~~ and ~~to~~ monitoring, reporting and record-keeping activities shall apply to animal feeding operations which are required to apply for and obtain an NPDES permit to the extent that such requirements are not inconsistent with **567—Chapter 65**.

[ARC 1627C, IAB 9/17/14, effective 10/22/14; ARC 6191C, IAB 2/9/22, effective 3/16/22]

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

[Filed August 21, 1973]

[Filed 6/28/76, Notice 5/3/76—published 7/12/76, effective 8/16/76]

[Filed 7/1/77, Notice 3/23/77—published 7/27/77, effective 8/31/77]

[Filed emergency 7/28/77—published 8/24/77, effective 8/31/77]

[Filed emergency 2/3/78—published 2/22/78, effective 3/1/78]

[Filed 10/13/78, Notice 5/3/78—published 11/1/78, effective 12/6/78]

[Filed 3/30/79, Notice 2/7/79—published 4/18/79, effective 5/23/79]

[Filed 5/11/79, Notice 2/7/79—published 5/30/79, effective 7/5/79]

[Filed 8/3/79, Notice 5/2/79—published 8/22/79, effective 9/26/79]

[Filed 8/31/79, Notice 4/4/79—published 9/19/79, effective 10/24/79]

[Filed 4/10/80, Notice 12/26/79—published 4/30/80, effective 6/4/80]

[Filed 11/3/80, Notices 6/25/80, 8/20/80—published 11/26/80, effective 12/31/80, 7/1/81]

[Filed 10/23/81, Notice 5/13/81—published 11/11/81, effective 12/16/81]

[Filed 9/24/82, Notice 7/21/82—published 10/13/82, effective 11/17/82]

[Filed 2/24/83, Notice 11/10/82—published 3/16/83, effective 4/20/83]

[Filed emergency 6/3/83—published 6/22/83, effective 7/1/83]

[Filed 9/23/83, Notice 7/20/83—published 10/12/83, effective 11/16/83]

[Filed 12/2/83, Notice 6/22/83—published 12/21/83, effective 1/25/84]

[Filed 5/31/84, Notice 1/4/84—published 6/20/84, effective 7/25/84]

[Filed 12/28/84, Notice 11/7/84—published 1/16/85, effective 2/20/85]

[Filed 3/22/85, Notice 1/16/85—published 4/10/85, effective 5/15/85]

[Filed 11/1/85, Notice 6/19/85—published 11/20/85, effective 12/25/85]

[Filed 2/21/86, Notices 9/11/85, 11/20/85—published 3/12/86, effective 4/16/86]

[Filed 5/30/86, Notice 11/20/85—published 6/18/86, effective 7/23/86]

[Filed 5/30/86, Notice 3/12/86—published 6/18/86, effective 7/23/86]

[Filed emergency 11/14/86—published 12/3/86, effective 12/3/86]

[Filed 11/14/86, Notice 5/21/86—published 12/3/86, effective 1/7/87]

[Filed 5/29/87, Notice 3/11/87—published 6/17/87, effective 7/22/87]

[Filed 6/19/92, Notice 12/11/91—published 7/8/92, effective 8/12/92]

[Filed 10/24/97, Notice 7/16/97—published 11/19/97, effective 12/24/97]

[Filed 3/19/98, Notice 11/19/97—published 4/8/98, effective 5/13/98]

[Filed 10/28/99, Notice 5/19/99—published 11/17/99, effective 12/22/99]

[Filed emergency 7/21/00—published 8/9/00, effective 7/21/00]

[Filed 3/2/01, Notice 8/9/00—published 3/21/01, effective 4/25/01]

[Filed 5/25/01, Notice 3/21/01—published 6/13/01, effective 7/18/01]

[Filed 7/25/02, Notice 5/15/02—published 8/21/02, effective 10/1/02]

[Filed 9/25/02, Notice 7/10/02—published 10/16/02, effective 11/20/02]

[Filed emergency 12/17/02—published 1/8/03, effective 12/17/02]

[Filed 11/19/03, Notice 6/11/03—published 12/10/03, effective 1/14/04]

[Filed emergency 4/21/06—published 5/10/06, effective 4/21/06]

[Filed 6/28/06, Notice 11/9/05—published 7/19/06, effective 8/23/06]

[Filed emergency 7/28/06—published 8/16/06, effective 8/23/06]

[Filed 3/8/07, Notice 1/3/07—published 3/28/07, effective 5/2/07]

[Filed 6/14/07, Notice 2/28/07—published 7/4/07, effective 10/1/07]

CHAPTER 64 EO10 DRAFT - V.2, 11/16/2023

- [Filed 6/12/08, Notice 1/2/08—published 7/2/08, effective 8/6/08]
- [Filed ARC 7569B (Notice ARC 7308B, IAB 11/5/08), IAB 2/11/09, effective 3/18/09]
- [Filed ARC 7625B (Notice ARC 7152B, IAB 9/10/08), IAB 3/11/09, effective 4/15/09]
- [Filed ARC 8520B (Notice ARC 7945B, IAB 7/15/09), IAB 2/10/10, effective 3/17/10]
- [Filed ARC 9365B (Notice ARC 9056B, IAB 9/8/10), IAB 2/9/11, effective 3/30/11]
- [Filed ARC 9553B (Notice ARC 9364B, IAB 2/9/11), IAB 6/15/11, effective 7/20/11]
- [Filed ARC 0261C (Notice ARC 0118C, IAB 5/16/12), IAB 8/8/12, effective 10/1/12]
- [Filed ARC 0529C (Notice ARC 0270C, IAB 8/8/12), IAB 12/12/12, effective 1/16/13]
- [Filed ARC 1337C (Notice ARC 1176C, IAB 11/13/13), IAB 2/19/14, effective 3/26/14]
- [Filed ARC 1627C (Notice ARC 1421C, IAB 4/16/14), IAB 9/17/14, effective 10/22/14]
- [Filed Emergency After Notice ARC 1912C (Notice ARC 1757C, IAB 12/10/14), IAB 3/18/15, effective 3/1/15]
- [Filed ARC 2054C (Notice ARC 1873C, IAB 2/18/15), IAB 7/8/15, effective 8/12/15]
- [Filed ARC 2482C (Notice ARC 2353C, IAB 1/6/16), IAB 4/13/16, effective 5/18/16]
- [Filed Emergency After Notice ARC 2572C (Notice ARC 2441C, IAB 3/16/16), IAB 6/8/16, effective 5/18/16]
- [Filed ARC 2571C (Notice ARC 2442C, IAB 3/16/16), IAB 6/8/16, effective 7/20/16]
- [Filed Emergency After Notice ARC 2695C (Notice ARC 2579C, IAB 6/8/16), IAB 8/31/16, effective 8/12/16]
- [Filed ARC 3584C (Notice ARC 3309C, IAB 9/13/17), IAB 1/17/18, effective 3/1/18]
- [Filed ARC 3585C (Notice ARC 3310C, IAB 9/13/17), IAB 1/17/18, effective 3/1/18]
- [Filed ARC 3786C (Notice ARC 3625C, IAB 2/14/18), IAB 5/9/18, effective 7/1/18]
- [Filed ARC 4609C (Notice ARC 4421C, IAB 5/8/19), IAB 8/14/19, effective 3/1/20]
- [Filed ARC 5283C (Notice ARC 5135C, IAB 8/12/20), IAB 11/18/20, effective 7/20/21]
- [Filed ARC 5284C (Notice ARC 5136C, IAB 8/12/20), IAB 11/18/20, effective 5/18/21]
- [Filed ARC 6191C (Notice ARC 6041C, IAB 11/17/21), IAB 2/9/22, effective 3/16/22]
- [Filed ARC 6493C (Notice ARC 6358C, IAB 6/15/22), IAB 9/7/22, effective 7/1/23]
- [Filed ARC 6734C (Notice ARC 6501C, IAB 9/7/22), IAB 12/14/22, effective 3/1/23]

¹ 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.

APPENDIX A

Rainfall Intensity—Duration—Frequency Curve
(5 and 2-year Return Intervals)

[ARC 7625B, IAB 3/11/09, effective 4/15/09]

Commented [378]: Appendix A - Replaced by NOAA Atlas 14 Point Precipitation Frequency Estimates; see new 64.1(4)"b" & "c".