

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF: Royal Flush Truck Wash, Inc. Jones County, Iowa	ADMINISTRATIVE CONSENT ORDER NO. 2024-WW-15
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TO: Michael Beck President and RA
7432 244th Street
Cascade, IA 52033

I. SUMMARY

This administrative consent order (Order) is entered into between Royal Flush Truck Wash, Inc. (Royal Flush) and the Iowa Department of Natural Resources (Department) for the purpose of addressing discharges of wastewater to a publicly owned treatment works in volumes or quantities in excess of its treatment agreement.

Any questions regarding this Order should be directed to:

<u>Relating to technical requirements:</u>	<u>Relating to legal requirements:</u>
Brett Meyers	Carrie Schoenebaum, Attorney for the DNR
<u>Environmental Specialist</u>	Iowa Department of Natural Resources
Iowa Department Natural Resourced	502 E. 9 th Street
<u>Field Office 1</u>	Des Moines, Iowa 50319
1001 Commercial Ct. Suite 10 Manchester, Iowa 52057 Phone (563) 927-2640 ext 311	Phone: 515-444-8165

<u>Payment of Penalty to:</u>
Iowa Department of Natural Resources
502 E. 9 th Street
Des Moines, Iowa 50319
Phone: 515-444-8165

II. JURISDICTION

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ISSUED TO: Royal Flush, Inc.

This Order is issued pursuant to the provisions of Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code Chapter 455B, Division III, Part 1 (wastewater) and the rules adopted or permits issued pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) Chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. Royal Flush operates a truck wash at the location of: (Section 33, Lovel Township T86N R03W) 16157 190th Street, Monticello, Jones County, Iowa.

Royal Flush is a significant industrial user (SIU) and discharges interior semi-trailer wash wastewater to the City of Monticello wastewater treatment facility (WWTF) pursuant to a Treatment Agreement (TA) since June 14, 2019. The most recent TA became effective on July 11, 2022. Pursuant to this TA, Royal Flush has limits for the following pollutants: biological oxygen demand five day (BOD5), total suspended solids (TSS), total kjeldahl nitrogen (TKN), and Ammonia Nitrogen (NH3-N).

2. Between October 1, 2020 and August 8, 2024, Royal Flush violated the limits in its TA 51 times. These violations were documented in the Discharge Monitoring Reports (DMRs) maintained by the City of Monticello. All of these violations are listed in the below table:

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Treatment Agreement - Limit Violations 10/1/2020 - 8/4/2024

Monticello EPA #IA0026034		AVERAGE - #100 ML		AVERAGE - LBS/DAY		DAILY MAXIMUM -		7DAY - MG/L		AVERAGE - MG/L		DAILY MAXIMUM -		AVERAGE - MGD		DAILY MINIMUM -		Parameter
ROYAL FLUSH, INC.		Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	Monthly Total
Outfall: 001																		
10/2020	TKN			50	76.25679	75	105.84294											2
11/2020	TKN			50	63.40068	75	77.0616											2
12/2020	BOD5			400	487.5564	600	869.028											2
	TKN			50	115.486065	75	204.22158											2
1/2021	TKN			50	52.431495													1
2/2021	TKN			50	59.98128													1
3/2021	BOD5			400	426.36165	600	728.916											2
	TKN			50	78.756705	75	131.20488											2
5/2021	BOD5			400	499.4548	600	899.3856											2
	TKN			50	78.25422	75	143.33958											2
	TSS			400	824.43958	650	1846.55106											2
6/2021	BOD5			400	529.0062	600	1141.329											2
	TKN			50	91.896375	75	215.22204											2
	TSS			400	2361.185355	650	7793.6466											2
7/2021	TKN					75	81.83208											1
	TSS			400	453.174194	650	1186.56516											2
3/2023	BOD5											1000	1010					1
	TSS											1000	1080					1
4/2023	NH3-N											91	109					1
	BOD5											1000	1340					1
	TKN									100	106.1375	150	169					2
	TSS											1000	1160					1
5/2023	NH3-N									60	73.7	91	167					2
	BOD5									800	1013	1000	1470					2
	TKN									100	151.275	150	270					2
	TSS									800	849.75	1000	1360					2
6/2023	NH3-N											91	92.6					1
	BOD5											1000	1730					1
	TKN									100	105.425	150	251					2
	TSS											1000	2510					1
7/2023	BOD5											1000	1040					1
12/2023	BOD5											1000	1020					1
Total Violations																		51

3. On September 28, 2021, August 2, 2023, and April 5, 2024, the Department sent Notice of Violations (NOVs) for the above cited violations. Included in each NOV was a summary of the relevant law, the violations, and recommended corrective actions.

4. On May 10, 2022, the Department sent a NOV regarding storage and land application of wastewater at the location of: 1804 Amber Road X44, Monticello, Iowa 52310 T85N R03W section 3, Jones County. In this letter the Department stated that correspondence from Royal Flush indicated that sold material is scrapped from the trailers and then land applied. The Department also discussed the land application with the applicator.

IV. CONCLUSIONS OF LAW

The Department and Royal Flush agree that the following conclusions of law are applicable in this case:

1. Iowa Code section 455B.173 provides that the Environmental Protection Commission (Commission) shall adopt rules related to water quality standards, pretreatment standards, and effluent standards. The Commission has adopted such rules at 567 IAC chapters 61 through 64.

2. 567 IAC 62.1(6) prohibits “the discharge of wastewater into a publicly owned treatment works or a semipublic sewage disposal system in volumes or quantities in excess of those to which a significant industrial user is committed in the treatment agreement described in 567—

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subrule 64.3(5)[.]” The above stated facts demonstrate noncompliance with this provision of law.

3. 567 IAC 64.3(1) states that 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.

V. ORDER

By the execution of this Order, the Department orders and the Royal Flush agree to do the following:

1. Comply with the TA that became effective on July 11, 2022;
2. Cease all land application of wastewater without authorization from the Department;
and
3. Pay a penalty in the amount of \$8,000.00 within 30 days of the date the Director signs this Order.

VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter.

2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties at 567 IAC Chapter 10. Pursuant to this chapter, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative order with an administrative penalty. The administrative penalty is determined as follows:

a. Economic Benefit. 567 IAC chapter 10 requires that the Department consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.30(1) states that “where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, the department shall take enforcement action which includes penalties which at least offset the economic benefit.” 567 IAC 10.30(1) further states, “reasonable estimates of economic benefit should be made where clear data are not available.” An economic benefit was obtained by Royal Flush by continuing to operate in noncompliance with its TA. Royal was able to accept a significant amount of additional business because of its noncompliance. Therefore, \$3,000.00 is assessed for this factor.

b. Gravity of the Violation. One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for the type of violation. As indicated above, substantial civil penalties are authorized by statute. Failure to comply with a TA can degrade water quality. Degradation of Iowa’s waterways is a serious

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problem. Degraded water quality harms aquatic life, prevents the attainment of state water quality goals, and causes a decline in the quality of life generally. Further, noncompliance with a TA thwarts the integrity of the NPDES permit and water quality program. Therefore, the amount of \$3,000.00 is assessed for this factor.


c. Culpability. Royal Flush operates a truck wash. This is a highly regulated activity and therefore it has an obligation to be aware of the applicable regulations and comply with those regulations. The Department communicated the need to comply with the TA on multiple occasions. Nevertheless, the TA was not complied with and illegal discharges have occurred. Therefore, the amount of \$2,000.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

This Order is entered into knowingly by and with the consent of the Royal Flush. For that reason, it waives its right to appeal this Order or any part thereof.

III. NONCOMPLIANCE

Compliance with Section V of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order. Failure to comply with this Order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.



On behalf of Royal Flush, Inc.

Dated this 30th day of
September, 2024

Kayla Lyon, DIRECTOR
Iowa Department of Natural Resources

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Field Office #1; Carrie Schoenebaum; EPA; Water Quality Bureau; I.B.2.c.C