

IOWA DEPARTMENT OF NATURAL RESOURCES
National Pollutant Discharge Elimination System (NPDES) Permit

OWNER NAME & ADDRESS

CITY OF CEDAR RAPIDS
1201 6TH STREET SW
CEDAR RAPIDS, IA 52404

FACILITY NAME & ADDRESS

CEDAR LAKE DEWATERING
CEDAR LAKE
CEDAR RAPIDS, IA 52404

Section 16, T83N, R07W
Linn County

IOWA NPDES PERMIT NUMBER: 5715007
DATE OF ISSUANCE:
DATE OF EXPIRATION:

**YOU ARE REQUIRED TO FILE FOR RENEWAL
OF THIS PERMIT BY:**
EPA NUMBER: IA0053447

This permit is issued pursuant to the authority of section 402(b) of the Clean Water Act (33 U.S.C. 1342(b)), Iowa Code section 455B.174, and rule 567-64.3, Iowa Administrative Code. You are authorized to operate the disposal system and to discharge the pollutants specified in this permit in accordance with the effluent limitations, monitoring requirements and other terms set forth in this permit.

Pursuant to rule 561-7.4, Iowa Administrative Code, you may appeal any condition of this permit by filing a written notice of appeal and request for administrative hearing with the director of the department within 60 days of permit issuance.

Any existing, unexpired Iowa operation permit or Iowa NPDES permit previously issued by the department for the facility identified above is revoked by the issuance of this permit. This provision does not apply to any authorization to discharge under the terms and conditions of a general permit issued by the department or to any permit issued exclusively for the discharge of stormwater.

FOR THE DEPARTMENT OF NATURAL RESOURCES

By _____

Melinda McCoy
NPDES Section, Environmental Services Division

Facility Name: CEDAR LAKE DEWATERING

Permit Number: 5715007

Outfall No.: 001 DISCHARGE OF GROUNDWATER FROM THIRTY (30) DEWATERING WELLS AS PART OF THE CEDAR LAKE
LEVEE CONSTRUCTION PROJECT

Receiving Stream: CEDAR RIVER

Route of Flow: CEDAR RIVER

Class A1 waters are primary contact recreational use waters in which recreational or other uses may result in prolonged and direct contact with the water, involving considerable risks of ingesting water in quantities sufficient to pose a health hazard. Such activities would include, but not be limited to, swimming, diving, water skiing, and water contact recreational canoeing.

Waters designated Class B(WW1) are those in which temperature, flow and other habitat characteristics are suitable to maintain warm water game fish populations along with a resident aquatic community that includes a variety of native nongame fish and invertebrates species. These waters generally include border rivers, large interior rivers, and the lower segments of medium-size tributary streams.

Waters designated Class HH are those in which fish are routinely harvested for human consumption or waters both designated as a drinking water supply and in which fish are routinely harvested for human consumption.

Bypasses from any portion of a treatment facility or from a sanitary sewer collection system designed to carry only sewage are prohibited.

Facility Name: CEDAR LAKE DEWATERING

Permit Number: 5715007

Effluent Limitations:

You are prohibited from discharging pollutants except in compliance with the following effluent limitations:

The following dates are approximate while Permit is in Draft

001 DISCHARGE OF GROUNDWATER FROM THIRTY (30) DEWATERING WELLS AS PART OF THE CEDAR LAKE LEVEE CONSTRUCTION PROJECT

<i>Outfall: 001 Effective Dates: Permit Issue Date to Permit Expire Date</i>			
<u>Parameter</u>	<u>Season</u>	<u>Limit Type</u>	<u>Limits</u>
AMMONIA NITROGEN (N)			
	JAN	30 Day Average	8.4 MG/L 1743.5 LBS/DAY
	JAN	Daily Maximum	8.4 MG/L 1743.5 LBS/DAY
	FEB	30 Day Average	10.6 MG/L 2217.3 LBS/DAY
	FEB	Daily Maximum	10.6 MG/L 2217.3 LBS/DAY
	MAR	30 Day Average	9.7 MG/L 2025.3 LBS/DAY
	MAR	Daily Maximum	9.7 MG/L 2025.3 LBS/DAY
	APR	30 Day Average	8.9 MG/L 1850.2 LBS/DAY
	APR	Daily Maximum	8.9 MG/L 1850.2 LBS/DAY
	MAY	30 Day Average	12.4 MG/L 2585.6 LBS/DAY
	MAY	Daily Maximum	12.4 MG/L 2585.6 LBS/DAY
	JUN	30 Day Average	12.9 MG/L 2700.1 LBS/DAY
	JUN	Daily Maximum	12.9 MG/L 2700.1 LBS/DAY
	JUL	30 Day Average	10.2 MG/L 2123.4 LBS/DAY
	JUL	Daily Maximum	10.2 MG/L 2123.4 LBS/DAY
	AUG	30 Day Average	7.9 MG/L 1650.1 LBS/DAY
	AUG	Daily Maximum	8.9 MG/L 1851.5 LBS/DAY
	SEP	30 Day Average	6.7 MG/L 1403.6 LBS/DAY
	SEP	Daily Maximum	6.8 MG/L 1415.3 LBS/DAY
	OCT	30 Day Average	6.6 MG/L 1375.0 LBS/DAY
	OCT	Daily Maximum	6.6 MG/L 1375.0 LBS/DAY
	NOV	30 Day Average	6.6 MG/L 1379.5 LBS/DAY
	NOV	Daily Maximum	6.6 MG/L 1379.5 LBS/DAY
	DEC	30 Day Average	5.6 MG/L 1170.4 LBS/DAY
	DEC	Daily Maximum	5.6 MG/L 1170.4 LBS/DAY

Facility Name: CEDAR LAKE DEWATERING

Permit Number: 5715007

Outfall: 001 Effective Dates: Permit Issue Date to Permit Expire Date				
Parameter	Season	Limit Type	Limits	
IRON, TOTAL (AS FE)				
	Yearly	30 Day Average	10.0 MG/L	2085 LBS/DAY
	Yearly	Daily Maximum	10.0 MG/L	2085 LBS/DAY
IRON, DISSOLVED				
	JAN	30 Day Average	1.20 MG/L	251 LBS/DAY
	JAN	Daily Maximum	1.20 MG/L	251 LBS/DAY
	FEB	30 Day Average	1.27 MG/L	264 LBS/DAY
	FEB	Daily Maximum	1.27 MG/L	264 LBS/DAY
	MAR	30 Day Average	1.40 MG/L	293 LBS/DAY
	MAR	Daily Maximum	1.40 MG/L	293 LBS/DAY
	APR	30 Day Average	1.89 MG/L	394 LBS/DAY
	APR	Daily Maximum	1.89 MG/L	394 LBS/DAY
	MAY	30 Day Average	2.17 MG/L	453 LBS/DAY
	MAY	Daily Maximum	2.17 MG/L	453 LBS/DAY
	JUN	30 Day Average	2.27 MG/L	472 LBS/DAY
	JUN	Daily Maximum	2.27 MG/L	472 LBS/DAY
	JUL	30 Day Average	1.78 MG/L	371 LBS/DAY
	JUL	Daily Maximum	1.78 MG/L	371 LBS/DAY
	AUG	30 Day Average	1.55 MG/L	324 LBS/DAY
	AUG	Daily Maximum	1.55 MG/L	324 LBS/DAY
	SEP	30 Day Average	1.44 MG/L	301 LBS/DAY
	SEP	Daily Maximum	1.44 MG/L	301 LBS/DAY
	OCT	30 Day Average	1.40 MG/L	292 LBS/DAY
	OCT	Daily Maximum	1.40 MG/L	292 LBS/DAY
	NOV	30 Day Average	1.40 MG/L	293 LBS/DAY
	NOV	Daily Maximum	1.40 MG/L	293 LBS/DAY
	DEC	30 Day Average	1.19 MG/L	249 LBS/DAY
	DEC	Daily Maximum	1.19 MG/L	249 LBS/DAY

Facility Name: CEDAR LAKE DEWATERING

Permit Number: 5715007

Monitoring and Reporting Requirements

(a) Samples and measurements taken shall be representative of the volume and nature of the monitored wastewater.

(b) Analytical and sampling methods specified in 40 CFR Part 136 or other methods approved in writing by the department shall be utilized. All effluent samples for which a limit applies must be analyzed using sufficiently sensitive methods (i.e. testing procedures) approved under 567 IAC Chapter 63 and 40 CFR Part 136 for the analysis of pollutants or pollutant parameters or as required under 40 CFR chapter I, subchapter N or O.

For the purposes of this paragraph, an approved method is sufficiently sensitive when:

- (1) the method minimum level (ML) is at or below the level of the effluent limit established in the permit for the measured pollutant or pollutant parameter; or
- (2) the method has the lowest ML of the approved analytical methods for the measured pollutant or pollutant parameter.

Samples collected for operational testing need not be analyzed by approved analytical methods; however, commonly accepted test methods should be used.

(c) You are required to report all data including calculated results needed to determine compliance with the limitations contained in this permit. The results of any monitoring not specified in this permit performed at the compliance monitoring point and analyzed according to 40 CFR Part 136 shall be included in the calculation and reporting of any data submitted in accordance with this permit. This includes daily maximums and minimums, 30-day averages and 7-day averages for all parameters that have concentration (mg/l) and mass (lbs/day) limits. In addition, flow data shall be reported in million gallons per day (MGD).

(d) Records of monitoring activities and results shall include for all samples: the date, exact place and time of the sampling; the dates the analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses.

(e) Results of all monitoring shall be recorded on forms provided by, or approved by, the department, and shall be submitted to the appropriate regional field office of the department by the fifteenth day following the close of the reporting period. Your reporting period is on a MONTHLY basis, ending on the last day of each reporting period.

(f) Operational performance monitoring for treatment unit process control shall be conducted to ensure that the facility is properly operated in accordance with its design. The results of any operational performance monitoring need not be reported to the department, but shall be maintained in accordance with rule 567 IAC 63.2 (455B). The results of any operational performance monitoring specified in this permit shall be submitted to the department in accordance with these reporting requirements.

(g) Chapter 63 of the rules provides you with further explanation of your monitoring requirements.

All dates are approximate while Permit is in Draft

Facility Name: CEDAR LAKE DEWATERING

Permit Number: 5715007

Outfall	Wastewater Parameter	Sample Frequency	Sample Type	Monitoring Location
The following monitoring requirements shall be in effect from Permit Issue Date to Permit Expire Date				
001	AMMONIA NITROGEN (N)	1 TIME PER WEEK	GRAB	FINAL EFFLUENT
001	FLOW	1 TIME PER WEEK	24 HOUR TOTAL	FINAL EFFLUENT
001	IRON, DISSOLVED	1 TIME PER WEEK	GRAB	FINAL EFFLUENT
001	IRON, TOTAL (AS FE)	1 TIME PER WEEK	GRAB	FINAL EFFLUENT

Facility Name: CEDAR LAKE DEWATERING

Permit Number: 5715007

Additional Requirements

In addition to the requirements specified elsewhere in this permit, you shall comply with the following operational, monitoring, reporting, and records requirements.

Operational Requirements

1. Discharge shall be performed in a manner to prevent or minimize erosion of soil or other materials into the Cedar River. Practices to prevent erosion can include, but are not limited to, splash pads, straw bales, silt fences, and vegetated buffer strips.
2. Best Management Practices (BMPs) shall be used to prevent contamination of the discharge with fuel, lubricants, solids, or other pollutants.
3. The discharge shall be free from
 - a. substances that will settle to form sludge deposits;
 - b. floating debris, oil, grease, scum, and other floating materials in amounts sufficient to create a nuisance;
 - c. materials producing objectionable color, odor, or other aesthetically objectionable conditions;
 - d. substances in concentrations or combinations which are acutely toxic to human, animal, or plant life; and
 - e. substances in quantities that would produce undesirable or nuisance aquatic life.

Monitoring

The physical appearance of the discharge must be observed at least three (3) times per week. Visual observations of color, odor, turbidity, petroleum sheen, and any other observations regarding the general appearance of the discharge shall be documented in writing using Appendix 2 or an equivalent document. If any observation finds that the discharge does not comply with one or more of the operating requirements above, the discharge shall cease immediately and shall not resume until corrective action is taken. Guidance on performing visual observations can be found in Appendix 1.

Recordkeeping

Records of the following must be kept:

1. The dates of the first and last discharge from outfall 001; and,
2. Results of visual monitoring activities using Appendix 2 or an equivalent document.

Reporting

The dates of the first and last discharge from outfall 001 and the visual monitoring records should only be submitted to the department upon request. All records of visual monitoring shall be retained for a minimum of three (3) years after the discharge ends in a location that conforms to customary business practices. This period is automatically extended during the course of any litigation related to the discharge for the duration of the litigation.

Facility Name: CEDAR LAKE DEWATERING

Permit Number: 5715007

Appendix 1

Guidance for Conducting and Documenting Visual Observations of the Discharge

A visual examination of the discharge must be conducted at least three (3) times per week. However, conducting examinations more frequently is encouraged in order to detect and correct any problems as soon as possible. Examinations should take place when there is sufficient light available for properly observing the discharge.

Each visual examination must document observations of color, odor, turbidity (also referred to as clarity), petroleum sheen, and any other observations regarding the general appearance of the discharge (e.g., floating or settled materials, foam, erosion, and any other obvious indications of water pollution).

It is recommended that the same person or persons perform and document the visual examinations so that they are done in a consistent manner. The examination should be conducted after the groundwater from the thirty (30) dewatering wells have combined but prior to the point where the discharge enters the Cedar River.

The results must be documented in writing with the date and time of the examination and the name of the person performing the examination. The documentation must be retained for at least three (3) years after discharge from outfall 001 has ceased. Documentation is not required to be submitted to the department but must be made available upon request.

If the discharge does not comply with the applicable permit requirements, the discharge must be stopped until corrective action is taken.

If the discharge constitutes a hazardous condition, the department must be notified as soon as possible, but not later than six (6) hours after the onset or discovery of the hazardous condition in accordance with Rule 567 IAC 131.2. The department's 24-hour line for spill reporting is (515) 725-8694.

Facility Name: CEDAR LAKE DEWATERING

Permit Number: 5715007

Appendix 2
Visual Monitoring Log Sheet

Permittee: _____

Activity Description: _____

Location (address, lat/long, or twndsp, range, section, 1/4): _____

Start Date: _____ End Date: _____

Date	Visual Monitoring of Discharge				other observations
	color	odor	sheen	turbidity†	

†Cloudiness

STANDARD CONDITIONS

- 1. ADMINISTRATIVE RULES** - Rules of the Iowa Department of Natural Resources (department) that govern the operation of a facility in connection with this permit are published in Part 567 of the Iowa Administrative Code (IAC) in Chapters 60-65, 67, and 121. Reference to the term “rule” in this permit means the designated provision of Part 567 of the IAC. Reference to the term “CFR” means the Code of Federal Regulations.
- 2. LIMIT DEFINITIONS** -
 - (a) 7 day average means the arithmetic mean (average) of pollutant parameter values for samples collected in a period of seven consecutive days. The first 7-day period shall begin with the first day of the month. *{567 IAC 60.2}*
 - (b) 30 day average means the arithmetic mean of pollutant parameter values for samples collected in a period of 30 consecutive days. *{567 IAC 60.2}*
 - (c) Daily maximum means the total discharge by mass, volume, or concentration during a twenty-four hour period. *{567 IAC 60.2}*
- 3. MONITORING AND RECORDS OF OPERATION** -
 - (a) Electronic reporting. Records of operation required by this permit shall be electronically submitted to the department within 15 days following the close of the monthly reporting period, in accordance with the monitoring requirements incorporated in this permit, unless an approval for paper submittal of records of operation has been obtained in accordance with 567 IAC 63.7(2).
 - (b) Maintenance of records. You shall retain for a minimum of three years all paper and electronic records of monitoring activities and results including all original strip chart recordings for continuous monitoring instrumentation and calibration and maintenance records. *{567 IAC 63.2(3)}*
 - (c) Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than two years, or both. *{40 CFR 122.41(j)(5)}*
- 4. USE OF CERTIFIED LABORATORIES** - Analyses of wastewater, groundwater or sewage sludge that are required to be submitted as a result of this permit must be performed by a laboratory certified by the State of Iowa. Routine, on-site monitoring for pH, temperature, dissolved oxygen, total residual chlorine and other pollutants that must be analyzed immediately upon sample collection, physical measurements, and operational performance monitoring specified in 567 IAC 63.3(4) are excluded from this requirement. *{567 IAC 63.1}*
- 5. DUTY TO PROVIDE INFORMATION** - You must furnish to the director, within a reasonable time, any information the director may request to determine compliance with this permit or determine whether cause exists for amending, revoking and reissuing, or terminating this permit, in accordance with 567 IAC 64.3(11)“c”. You must also furnish to the director, upon request, copies of any records required to be kept by this permit. If you become aware that you failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application, you must promptly submit such facts or information. If you become aware that you failed to submit any relevant facts in any report to the director, including records of operation, you shall promptly submit such facts or information. *{567 IAC 60.4(2)“a”, 567 IAC 63.7(6), 40 CFR 122.41(h)}*
- 6. DUTY TO REAPPLY AND PERMIT CONTINUATION** - If you wish to continue to discharge after the expiration date of this permit, you must file a complete application for reissuance at least 180 days prior to the expiration date of this permit. If a timely and sufficient application is submitted, this permit will remain in effect until the department makes a final determination on the permit application. *{567 IAC 64.8(1), Iowa Code 17A.18}*
- 7. DUTY TO COMPLY** - You must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Iowa Code and the Clean Water Act and is grounds for enforcement action; permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. Issuance of this permit does not relieve you of the responsibility to comply with all local, state and federal laws, ordinances, regulations or other legal requirements applying to the operation of your facility. *{567 IAC 64.7(4)“E”, 40 CFR 122.41(a)}*
- 8. DUTY TO MITIGATE** - You shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. *{567 IAC 64.7(7)“i”, 40 CFR 122.41(d)}*
- 9. PROPER OPERATION AND MAINTENANCE** - All facilities and control systems shall be operated as efficiently as possible and maintained in good working order. A sufficient number of staff, adequately trained and knowledgeable in the operation of your facility, shall be retained at all times. Adequate laboratory controls and appropriate quality assurance procedures shall be provided to maintain compliance with the conditions of this permit. *{567 IAC 64.7(7)“f”, 40 CFR 122.41(e)}*
- 10. SIGNATORY REQUIREMENTS** - Applications, discharge monitoring reports, or other information submitted to the department in connection with this permit must be signed and certified in accordance with 567 IAC 64.3(8).
- 11. TRANSFER OF TITLE OR OWNER ADDRESS CHANGE** - If title to your facility, or any part of it, is transferred, the new owner shall be subject to this permit. You are required to notify the new owner of the requirements of this permit in writing prior to any transfer of title. The department shall be notified in writing within 30 days of the occurrence. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notifying the department of the transfer of title. Whenever the address of the owner is changed, the department shall be notified in writing within 30 days of the address change. *{567 IAC 64.14}*

STANDARD CONDITIONS

- 12. PERMIT MODIFICATION, SUSPENSION OR REVOCATION** - This permit may be amended, revoked and reissued, or terminated in whole or in part for cause including, but not limited to, those specified in 567 IAC 64.3(11)“b”. This permit may be modified due to conditions or information on which this permit is based, including any new standard the department may adopt that would change the required effluent limits. If a toxic pollutant is present in your discharge and more stringent standards for toxic pollutants are established under Section 307(a) of the Clean Water Act, this permit will be modified in accordance with the new standards. The filing of a request for a permit amendment, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. *{567 IAC 64.3(11)“d”, 64.7(7)“b” and “g”, 40 CFR 122.62(a)(6)}*
- 13. TWENTY-FOUR HOUR REPORTING** - You shall report any noncompliance that may endanger human health or the environment, including, but not limited to, violations of maximum daily limits for any toxic pollutant (listed as toxic in Section 307(a)(1) of the Clean Water Act) or hazardous substance (as designated in 40 CFR Part 116 pursuant to 311 of the Act). Information shall be provided orally to the appropriate regional field office of the department within 24 hours from the time you become aware of the circumstances. A written submission that includes a description of noncompliance and its cause; the period of noncompliance including exact dates and times; whether the noncompliance has been corrected or the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent a reoccurrence of the noncompliance must be provided to the appropriate field office within 5 days of the occurrence. *{567 IAC 63.12, 40 CFR 122.41(l)(6)}*
- 14. OTHER NONCOMPLIANCE** - You shall report all instances of noncompliance not reported under Condition #13 at the time discharge monitoring reports are submitted. The report shall contain the information listed in Condition #13. You shall give advance notice to the appropriate regional field office of the department of any planned activity which may result in noncompliance with permit requirements. Notice is required only when previous notice has not been given to any other section of the department. *{567 IAC 63.7(5), 63.14 and 63.15, 40 CFR 122.41(l)(7)}*
- 15. INSPECTION OF PREMISES, RECORDS, EQUIPMENT, METHODS AND DISCHARGES** - You are required to permit authorized personnel to:
- (a) Enter upon the premises where a regulated facility or activity is located or conducted or where records are kept under conditions of this permit;
 - (b) Provide access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
 - (c) Inspect, at reasonable times, any facilities, equipment, practices or operations regulated or required under this permit; and
 - (d) Sample or monitor, at reasonable times, to assure compliance or as otherwise authorized by the Clean Water Act.
- {567 IAC 64.7(7)“c”, 40 CFR 122.41(i)}*
- 16. NOTICE OF CHANGED CONDITIONS** - You are required to notify the director of any changes in existing conditions or information on which this permit is based, including, but not limited to, the following:
- (a) If your facility is a publicly owned treatment works (POTW) or otherwise accepts waste for treatment from an indirect discharger or industrial contributor, you must notify the director if there is any substantial change in the volume or character of pollutants being introduced to the POTW by an indirect discharger or industrial contributor. See 567 IAC 64.3(5) and 64.7(7)“d” for further requirements. *{40 CFR 122.42(b)}*
 - (b) If your facility has a manufacturing, commercial, mining, or silviculture discharge, you must notify the director as soon as you know or have reason to believe that any activity has occurred or will occur which would result in the discharge of any toxic pollutant which is not limited in this permit. *{40 CFR 122.42(a)}*
 - (c) You must notify the director if you have begun or will begin to use or manufacture, as an intermediate or final product or byproduct, any toxic pollutant which was not reported in the permit application. *{40 CFR 122.21(g)(9)}*
- 17. PLANNED CHANGES** - You shall give notice to the appropriate regional field office of the department 30 days prior to any planned physical alterations or additions to the permitted facility. 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. If any modification of, addition to, or construction of a disposal system is to be made, you must first obtain a written construction permit from this department. In addition, no construction activity that will result in disturbance of one acre or more shall be initiated without first obtaining coverage under NPDES General Permit No. 2.
- Notice is required only when:
- (a) Notice has not been given to any other section of the department;
 - (b) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as defined in 567 IAC 60.2;
 - (c) The alteration or addition results in a significant change in sludge use or disposal practices; or
 - (d) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in the permit.
- {567 IAC 63.13, 567 IAC 64.2 and 64.7(7)“a”}*
- 18. FAILURE TO SUBMIT FEES** - This permit may be revoked, in whole or in part, if the appropriate permit fees are not submitted within thirty (30) days of the date of notification that such fees are due. *{567 IAC 64.16(1)}*

STANDARD CONDITIONS

- 19. BYPASSES** - “Bypass” means the diversion of waste streams from any portion of a treatment facility or collection system. A bypass does not include internal operational waste stream diversions that are part of the design of the treatment facility, maintenance diversions where redundancy is provided, diversions of wastewater from one point in a collection system to another point in a collection system, or wastewater backups into buildings that are caused in the building lateral or private sewer line. *{567 IAC 60.2}*
- (a) Prohibition. Bypasses from any portion of a treatment facility or from a sanitary sewer collection system designed to carry only sewage are prohibited, in accordance with 567 IAC 63.6(1). The department may not assess a civil penalty against a permittee for a bypass if the permittee has complied with all of the following:
 - i. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - iii. The permittee submitted notices as required by 567 IAC 63.6.
 - (b) Anticipated bypass. Except for bypasses that occur as a result of mechanical failure or acts beyond the control of the owner or operator of a waste disposal system (unanticipated bypasses), the owner or operator shall obtain written permission from the department prior to any discharge of sewage or wastes from a waste disposal system not authorized by this permit. The Director may approve an anticipated bypass after considering its adverse effects if the Director determines that it will meet the three conditions listed above and a request for bypass has been submitted to the appropriate regional field office of the department at least ten days prior to the expected event, in accordance with the requirements listed in 567 IAC 63.6(2).
 - (c) Unanticipated bypass. In the event that a bypass or upset occurs without prior notice having been provided pursuant to 567 IAC 63.6(2) or as a result of mechanical failure or acts beyond the control of the owner or operator, the owner or operator of the treatment facility or collection system shall notify the department by telephone as soon as possible but not later than 24 hours after the onset or discovery in accordance with the requirements in 567 IAC 63.6(3). A written submission describing the bypass shall also be provided within five days of the time the permittee becomes aware of the bypass, in accordance with the requirements in 567 IAC 63.6(3)“d”.
 - (d) Reporting. Bypasses shall be reported in accordance with 567 IAC 63.6.
{567 IAC 63.6}
- 20. UPSETS** - “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (a) Effect of an upset. An upset constitutes an affirmative defense to the assessment of a civil penalty for noncompliance with technology-based permit effluent limitations if the requirements of paragraph (b) of this condition are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
 - (b) Conditions necessary for demonstration of an upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed operating logs or other relevant evidence, that:
 - i. An upset occurred and that the permittee can identify the cause(s) of the upset;
 - ii. The permitted facility was at the time being properly operated;
 - iii. The permittee submitted notice of the upset to the department in accordance with 567 IAC 63.6(3); and
 - iv. The permittee complied with any remedial measures required by the department in accordance with 567 IAC 63.6(6)“b”(4).
 - (c) Burden of Proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.
{567 IAC 63.6}
- 21. NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE** - It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. *{567 IAC 64.7(7)“j”, 40 CFR 122.41(c)}*
- 22. PROPERTY RIGHTS** - This permit does not convey any property rights of any sort or any exclusive privilege. *{567 IAC 64.4(3)“b”, 40 CFR 122.41(g)}*
- 23. EFFECT OF A PERMIT** - 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 Clean Water Act, and equivalent limitations and standards set out in 567 IAC Chapters 61 and 62. *{567 IAC 64.4(3)“a”}*
- 24. SEVERABILITY** - The provisions of this permit are severable. If any provision or application of any provision to any circumstance is found to be invalid by this department or a court of law, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected by such finding.