



STATE OF IOWA

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DEPARTMENT OF NATURAL RESOURCES
CHUCK GIPP, DIRECTOR

**IOWA DEPARTMENT OF NATURAL RESOURCES
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
(NPDES)**

GENERAL PERMIT NO. 5

**EFFECTIVE DATES
JULY 20, 2016 THROUGH JULY 19, 2021**

FOR

MINING AND PROCESSING FACILITIES

PART I. COVERAGE UNDER THIS PERMIT

A. DISCHARGES COVERED UNDER THIS PERMIT.

This permit authorizes discharge of the following to waters of the United States within the State of Iowa:

- materials wash water,
- materials transport water,
- scrubber water used for air pollution control,
- water used for dust suppression,
- mine or quarry dewatering, and
- non-contact cooling water used for cooling of crusher bearings, drills, saws, dryers, pumps and air compressors

from facilities primarily engaged in mining or quarrying the following materials:

- Dimension Stone (SIC 1411);
- Crushed and Broken Limestone (SIC 1422);
- Construction Sand and Gravel (SIC 1442); or
- Clay, Ceramic, and Refractory Minerals, NEC (SIC 1459), except bentonite and magnesite.

Storm water associated with industrial activity that is discharged into an active mine or quarry, and is mixed with one or more sources of wastewater identified in the preceding paragraph, may be discharged under this permit. Separate storm water discharges, that is, storm water that is not discharged into an active mine or quarry before being discharged to a water of the United States, must be permitted under General Permits #2 or #3.

B. LIMITATIONS ON COVERAGE.

The following discharges are not authorized by this permit:

- domestic sewage whether treated or untreated.
- non-storm water discharges unless specifically identified in Part I.A. of this permit.
- discharges from open dumps as defined under RCRA.
- the discharge of hazardous substances or oil resulting from an on-site spill.
- water used in air pollution control devices by asphalt and concrete manufacturing facilities.
- any wastewater not generated at the site of the mine or quarry.
- storm water discharges associated with industrial activity defined in Part VI of this permit except those identified in Part I.A. of this permit.
- any new or expanded discharge to Outstanding Iowa Waters (OIW), or any new or expanded discharge to Outstanding National Resource Waters (ONRW).

- any discharge to a state-owned natural or artificial lake.
- any discharge with a sulfate concentration higher than 1,514 mg/L.
- any discharge that the Department has shown to be or may reasonably be expected to be contributing to a violation of a water quality standard.

C. REQUIRING AN INDIVIDUAL PERMIT.

1. The Department may require any person authorized by this permit to apply for and obtain an individual NPDES permit by notifying the permittee in writing that a permit application is required. This notice shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for the operator to file the application, and a statement that on the effective date of the individual NPDES permit, coverage under this general permit shall automatically terminate. If an operator fails to submit an individual NPDES permit application required by the Department under this paragraph, coverage of this general permit automatically is terminated at the end of the day specified for submittal of the individual NPDES application.
2. Any person authorized to discharge under this permit may apply for an individual NPDES permit. In such cases, the discharger shall submit an individual application using DNR Form 1, Form 2, Form 5, and the Supplement - Sulfate and Chloride data in accordance with the requirements of 567 IAC 64.3(4).
3.
 - a. When an individual NPDES permit is issued for a discharge authorized under this general permit, the applicability of this general permit is automatically terminated on the effective date of the individual NPDES permit.
 - b. When an individual NPDES permit is denied for a discharge otherwise subject to this general permit, the applicability of this general permit is automatically terminated on the date of such denial, unless otherwise specified by the Department.

D. AUTHORIZATION.

Where a mine or quarry is owned by one person but operated by another person, it is the operator's duty to obtain coverage under this permit.

1. An operator must submit a Notice of Intent (NOI) in accordance with the requirements of Part II of

this permit to be authorized to discharge under this general permit.

2. Within 30 days of the receipt of a complete NOI, the Department will either:
 - issue an authorization to discharge or
 - deny coverage under this general permit and require submittal of an application for an individual NPDES permit in accordance with Part I.C.1 of this permit.

If the Department does not respond within 30 days, the discharge will be automatically authorized as of the date construction or operation is scheduled to begin as provided in the NOI.

3. Authorized discharges may commence on the date shown on the authorization issued under Part I.D.2 of this permit. Unless the Department determines another date is appropriate, the authorization date shall be the later of:
 - the date the complete NOI was received by the Department, or
 - the date construction or operation is scheduled to begin as provided in the NOI.

PART II. NOTICE OF INTENT (NOI) REQUIREMENTS

A. DEADLINES FOR FILING A NOTICE OF INTENT.

1. Existing dischargers who had coverage under the general permit that expired July 19, 2016 and who intend to obtain coverage under this general permit shall submit to the Department the NOI specified in Part II.C. of this permit no later than January 15, 2017.
2. For new dischargers the NOI specified in Part II.C. of this permit shall be submitted to the Department at least 30 days prior to the commencement of discharge.
3. Existing dischargers who have coverage under an individual NPDES permit may apply for coverage under the general permit upon expiration of the individual permit and by filing a NOI in accordance with 567 IAC 64.3(4)"b".

B. FAILURE TO NOTIFY.

Dischargers who fail to submit either an NOI to be covered by this general permit or an application for an individual permit, and nonetheless discharge pollutants to a water of the United States within the State of Iowa, are in violation of the Clean Water Act and the Code of Iowa.

C. CONTENTS OF THE NOTICE OF INTENT.

A complete NOI shall include the following:

A completed Notice of Intent (NOI) form, DNR Form 542-4006, or electronic equivalent provided by the Department, signed in accordance with Standard Condition #5 of this permit.

Electronic submission may be required in accordance with rules promulgated by the Department.

The information on the form shall include the following:

1. Name, street address, and location of the site for which this notification is submitted. The location must be provided as the 1/4 section, section, township, and range, the latitude and longitude, and the county in which the discharge is located.
2. The owner's name, address and telephone number.
3. The name, address and telephone number of any operator (contractor).
4. The type of discharge (new or existing); whether or not the discharge is to a municipal separate storm sewer system; for new discharges the date the discharge is to commence; the number of discharge points; what the discharge includes (quarry dewatering, materials wash water, non-contact cooling water, air scrubber water), and the name of the receiving waters.
5. A statement whether any existing quantitative data collected within three years prior to the effective date of this permit is available describing the concentration of pollutants in discharges.
6. The results of analysis of at least one representative sample of the discharge from each outfall for sulfate. If a discharge is not occurring at the time of completing the NOI, a sample result for sulfate shall be submitted within sixty (60) days following the next discharge.

For sites that are continuing or renewing an authorization under General Permit #5 (including the permit issued July 20, 2011), a sample result for sulfate collected within 10 years prior to submittal of the NOI is sufficient.
7. The applicable fees specified in 567 IAC 64.16(455B).

8. The Standard Industrial Classification (SIC) code for the facility.

D. WHERE TO SUBMIT.

Paper Notices of Intent must be submitted to the Department at the following address:

NPDES Section
Iowa Department of Natural Resources
Environmental Services Division
502 E. 9th Street
Des Moines, IA 50319-0034

Electronic submission may be required in accordance with rules promulgated by the Department.

E. CONTINUING COVERAGE.

Any authorization to discharge under this permit is valid only through the permit expiration date. Coverage under this permit remains in effect beyond the expiration date only if the permittee:

- Has filed a complete Notice of Intent to be covered by a reissued or renewed general permit within 180 days after the expiration of this permit; or,
- Has filed a complete application for an individual NPDES permit in accordance with 567 IAC 64.3(4).

This continuing coverage remains in effect only until the Department takes final action on the NOI or individual permit application. If this general permit is not reissued, the Department will notify each discharger covered by this permit to apply for an individual NPDES permit according to the procedures identified 567 IAC 64.3(4) and Part I.C.1 of this permit.

F. TRANSFER OF COVERAGE UNDER THIS PERMIT.

See Standard Condition #7.

G. NOTICE OF DISCONTINUATION.

1. Within 30 days prior to or after elimination of the wastewater discharge, the operator or owner of the facility shall submit a Notice of Discontinuation (DNR Form 542-8038 or electronic equivalent) to the Department.
2. The Notice of Discontinuation shall contain the following information:

- a. the name of the owner/operator to which the permit was issued;
- b. the general permit number and permit authorization number; and
- c. the date the discharge was eliminated;
- d. a signed certification in accordance with Standard Condition #5.

PART III. EFFLUENT LIMITATIONS

Any discharge authorized by this permit shall not exceed a maximum concentration for any day of 45 mg/l or a 30 day average of 30 mg/l Total Suspended Solids (TSS) nor shall the pH of the discharge be less than 6.5 or greater than 9.0. Dischargers must be in compliance with these limits upon commencement of coverage and for the entire term of this permit.

PART IV. MONITORING AND REPORTING REQUIREMENTS

A. MONITORING REQUIREMENTS.

The following monitoring is required for all facilities subject to this permit. If a facility has multiple discharge points, each discharge point must be monitored.

For quarry dewatering and other authorized discharges (except for materials wash water), a representative sample shall be collected at least annually and shall be analyzed for total suspended solids and pH.

For discharges of materials wash water or a combination of materials wash water and any other authorized discharge, the discharge shall be sampled at least monthly for each month during which a discharge that contains wash water occurs and shall be analyzed for total suspended solids and pH. A discharge is considered to contain wash water whenever there is a wash plant operating at the facility and for one calendar month after the wash plant ceases operation.

B. REPORTING.

All permittees are required to submit signed copies of discharge monitoring results on DNR Form 542-8035 or the electronic equivalent by January 15th each year for the previous calendar year. The annual monitoring report must contain all monitoring as required in Part III.A. Electronic submission may be required in accordance with rules promulgated by the Department.

C. ADDITIONAL NOTIFICATION.

Facilities with at least one discharge through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports or results to the operator of the municipal separate storm sewer system upon request.

D. RETENTION OF RECORDS.

See Standard Condition #4.

PART V. BEST MANAGEMENT PRACTICES FOR NEW AND EXPANDED DISCHARGERS

All new and expanded dischargers must provide settling and pH adjustment sufficient to comply with the numeric effluent limitations in Part III of this permit and, in addition, shall use best management practices which will reduce the discharge of pollutants including the following:

- use settled wash water and/or quarry water for dust suppression when dust suppression is necessary.
- locate, design and operate quarry sumps, settling ponds and pumping equipment to maximize the settling of suspended solids prior to discharge.

New and expanded dischargers shall also implement other best management practices determined to be practical, cost effective and economically efficient including but not limited to the following:

- implement recycling of water used for materials washing and classifying whenever it is practical.
- use hydraulic dredging whenever practical and affordable (applicable only to sand and gravel facilities).

PART VI. DEFINITIONS

“CWA” or “Clean Water Act” means the Federal Water Pollution Control Act.

“Department” means the Iowa Department of Natural Resources.

“Existing discharge” means a discharge from a mine or quarry that commenced prior to July 20, 2011.

“Expanded discharge” means a discharge from a mine or quarry from which: (i) any material was extracted prior to July 20, 2011; and, (ii) new activities will be conducted that will result in a new or increased discharge of pollutants; or, the point of discharge is

moved to an upstream location on the same stream. For example, a wash plant is set-up on the site for the first time. An increase in the areal extent of a mine or quarry at an existing site as a result of normal mining does not constitute an expanded discharge for purposes of this permit.

“Facility or activity” means any NPDES point source or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

“Hazardous substance” means any substance or mixture of substances that presents a danger to the public health or safety and includes but is not limited to a substance that is toxic, corrosive, or flammable, or that is an irritant or that generates pressure through decomposition, heat, or other means. "Hazardous substances" may include any hazardous waste identified or listed by the administrator of the United States Environmental Protection Agency under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, or any toxic pollutant listed under section 307 of the federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous substance designated under section 311 of the federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designated by the secretary of transportation under the Hazardous Materials Transportation Act. 455B.381(5),-2015 Code of Iowa.

“Large and Medium municipal separate storm sewer system” means all municipal separate storm sewers that are either:

(i) located in an incorporated place with a population of 100,000 or more as determined by the latest Decennial Census by the Bureau of Census; or

(ii) located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties; or

(iii) owned or operated by a municipality other than those described in paragraph (i) or (ii) and that are designated by the Department as part of the large or medium municipal separate storm sewer system.

“Municipality” means a city, town, borough, county, parish, district, association, or other public body created by or under State law.

“New discharge” means a mine or quarry the construction of which is commenced after July 20, 2011 and from which there is or will be a new, altered or increased discharge of pollutants. A new discharge also includes a mine or quarry the construction of which commenced prior to July 20, 2011 where there will be a discharge into a stream or a stream segment not previously affected by a discharge from the mine or quarry. Construction will be deemed to have commenced beginning with the start of removing overburden.

“Owner or operator” means the owner or operator of any “facility or activity” subject to regulation under the NPDES program.

“Storm water” means storm water runoff, snow melt runoff, and surface runoff and drainage.

“Storm water discharge associated with industrial activity” means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under 40 CFR Part 122. The term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at 40 CFR part 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product, or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are Federally, State, or municipally owned or operated that meet the description of the facilities listed in the following paragraphs (i)-(xi)

of this definition) include those facilities designated under 40 CFR 122.26(a)(1)(v). The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this definition;

(i) Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi) of this definition);

(ii) Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283 and 285), 29, 311, 32 (except 323), 33, 3441, 373;

(iii) Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(1) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);

(iv) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of RCRA;

(v) Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under Subtitle D of RCRA;

(vi) Facilities involved in the recycling of materials, including metal scrap yards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;

(vii) Steam electric power generating facilities, including coal handling sites;

(viii) Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-4225), 43, 44, 45 and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (i)-(vii) or (ix)-(xi) of this definition are associated with industrial activity;

(ix) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved

pretreatment program under 40 CFR 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with 40 CFR 503;

(x) Construction activity including clearing, grading and excavation activities except operations that result in the disturbance of less than one acre of total land. Construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb one acre or more;

(xi) Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39 and 4221-4225.

“Water of the United States” means those waters defined at 40 CFR §122.2.

“Water quality standard” means water quality standards established by 567 IAC 61, including the general water quality criteria (narrative standards) in 567 IAC 61.3(2) and the specific water quality criteria (numeric standards) in 567 IAC 61.3(3).

STANDARD CONDITIONS

1. ADMINISTRATIVE RULES

Rules of this Department that govern the operation of your 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. DEFINITIONS

- (a) 30 day average means the sum of the total daily discharges by concentration during a calendar month, divided by the total number of days during the month that measurements were made.
- (b) daily maximum means the total discharge by concentration during a twenty-four hour period.

3. 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 terminating coverage under 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.

4. MONITORING AND RECORDS OF OPERATION

- (a) 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. *{See 567 IAC 63.2(3)}*
- (b) 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. *{See 40 CFR 122.41(j)(5)}*

5. SIGNATORY REQUIREMENTS

Applications, reports or other information submitted to the Department in connection with this permit must be signed and certified as required by 567 IAC 64.3(8).

6. OTHER INFORMATION

Where 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. Where you become aware that you failed to submit any relevant facts in the submission of in any report to the Director, including records of operation, you shall promptly submit such facts or information. *{See 567 IAC 60.4(2)"a" and 567 IAC 63.7}*

7. TRANSFER OF COVERAGE UNDER THE PERMIT

Where the operator of the facility changes, the Department must be notified of the transfer within 30 days. If a discharge

is covered by this general permit, the operator of record shall be subject to all terms and conditions of this general permit. The Director shall be notified in writing within 30 days of the transfer. 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. Whenever the address of the operator is changed, the Department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all transfers or address changes must be reported to the Department by mail. *{See 567 IAC 64.14}*

8. 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 and adequate laboratory controls and appropriate quality assurance procedures shall be provided to maintain compliance with the conditions of this permit. *{See 40 CFR 122.41(e) and 567 IAC 64.7(7)"f"}*

9. PERMIT MODIFICATION, SUSPENSION OR REVOCATION

- (a) Coverage under this permit may be revoked for cause including but not limited to those specified in 567 IAC 64.3(11) and 567 IAC 64.6(3).
- (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. *{See 40 CFR 122.62(a)(2) and 567 IAC 64.3(11)}*

The filing of a request for permit modification, revocation or suspension, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

10. DUTY TO COMPLY

You must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; termination of coverage under this permit; or denial of coverage under a reissued general permit. Authorization to discharge under 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. *{See 40 CFR 122.41(a) and 567 IAC 64.7(4)"e"}*

11. 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. *{See 40 CFR 122.41(d) and 567 IAC 64.7(5)"i"}*

12. 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 under 307(a)(1) of the Clean Water Act) or hazardous substance (as designated in 40 CFR Part 116 pursuant to 311 of the Clean Water Act). Information shall be provided orally 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 within 5 days of the occurrence. *{See 567 IAC 63.12}*

13. OTHER NONCOMPLIANCE

You shall report all instances of noncompliance not reported under Condition #12 at the time monitoring reports are submitted. 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. *{See 567 IAC 63.14}*

14. 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) Have 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.
- (d) Sample or monitor, at reasonable times, to assure compliance or as otherwise authorized by the Clean Water Act.

15. FAILURE TO SUBMIT FEES

Authorization to discharge under this permit may be revoked, if the required permit fees are not submitted within thirty (30) days of the date of notification that such fees are due.

{See 567 IAC 64.16(1)}

16. NEED TO HALT OR REDUCE ACTIVITY

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.

{See 40 CFR 122.41(c) and 567 IAC 64.7(7)“j”}

17. 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. This includes, but is not limited to, the following:

- (a) 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. *{See 40 CFR 122.42(a)}*

- (b) 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.
- (c) 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 for “Storm water discharge associated with construction activity”.

18. USE OF CERTIFIED LABORATORIES

Analyses of wastewater that are required to be submitted to the Department 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, settleable solids, physical measurements, and operational monitoring tests specified in 567 IAC 63.3(4) are excluded from this requirement.

19. BYPASSES

- (a) Definition – “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.
- (b) Prohibitions
 - i. Bypasses from any portion of a treatment facility or from a sanitary sewer collection system designed to carry only sewage are prohibited.
 - ii. Bypass is prohibited and the Department may not assess a civil penalty against a permittee for bypass if the permittee has complied with all of the following:
 - (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and
 - (2) 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
 - (3) The permittee submitted notices as required by paragraph “d” of this section.
- (c) 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 Department in accordance with 567 IAC 63.6(2).
- (d) Reporting bypasses. Bypasses shall be reported in accordance with 567 IAC 63.6.

20. UPSET PROVISION

- (a) Definition - "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.
- (b) Effect of an upset. An upset constitutes an affirmative defense in an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph "c" 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.
- (c) 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 in accordance with 567 IAC 63.6(6).
- (d) Burden of Proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

21. PROPERTY RIGHTS

This permit does not convey any property rights of any sort or any exclusive privilege. *{See 567 IAC 64.4(3)"b"}*

22. 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. *{See 567 IAC 64.4(3)"a"}*

23. SEVERABILITY

The provisions of this permit are severable and 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.

24. RESPONSIBLE PERSON

An operator authorized to discharge under this general permit is responsible for compliance with all terms and conditions of this permit including but not limited to all discharges caused by or resulting from activities by leaseholders, contractors and subcontractors