

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

<b>IN THE MATTER OF:</b>  <b>Schon Manure Hauling LLC</b> <b>Carroll County, Iowa</b>	<b>ADMINISTRATIVE CONSENT ORDER</b> <b>NO. 2016-AFO-15</b>
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**TO: Pat Schon, Registered Agent**  
**Schon Manure Hauling LLC**  
**31162 230<sup>th</sup> St**  
**Glidden, IA 51443**

**I. SUMMARY**

This administrative consent order (order) is entered into between Schon Manure Hauling LLC (Schon Manure) and the Iowa Department of Natural Resources (Department). Schon Manure hereby agrees to ensure that all of its employees are properly certified prior to hauling, transporting or land applying manure and to pay an administrative penalty. In the interest of avoiding litigation, the parties have agreed to the following provision.

Any questions regarding this order should be directed to:

**Relating to technical requirements:**  
Alison Manz, Environmental Specialist  
IDNR Field Office #4  
1401 Sunnyside Ln  
Atlantic, IA 50022  
712/243-1934

**Relating to legal requirements:**  
Carrie Schoenebaum, Attorney at Law  
Iowa Department of Natural Resources  
Wallace State Office Bldg. 502 E. 9<sup>th</sup> Street  
Des Moines, Iowa 50319-0034  
Ph: 515/725-8244

**Payment of penalty to:**  
Iowa Department of Natural Resources  
Henry A. Wallace Building  
Des Moines, Iowa 50319-0034

**II. JURISDICTION**

The parties hereby agree that this order is issued pursuant to 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 I, or

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Iowa Code Chapter 459 and the rules promulgated or permits issued pursuant thereto, 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**

The parties hereby agree to the following statement of facts:

*Current Violations*

1. On October 9, 2015, at 6:50 pm the Department was notified by a New Fashion Pork employee that at 5:30 pm, approximately 10,000 gallons of manure was spilled into a roadside ditch and onto a field located in Section 36, of Richland Township, T83N, R33W, Carroll County, Iowa.<sup>1</sup> The employee informed the Department that the manure had originated from a New Fashion Pork Farm and that the spill occurred when two manure tankers collided. The Department was advised that a representative from Schon Manure had reported the incident; however, no report was received by the Department.

At 8:00 pm the Department received a second notification of the spill from Becky Sexton, of Twin Lakes Environmental Services, LLC (Twin Lakes). According to Ms. Sexton a representative from Schon Manure was using discs to incorporate the spilled manure into the ground. This individual also stated that the spill did not impact any waterways.

At 9:30 pm Alison Manz, Environmental Specialist with the Department, spoke to John Cretsinger, Carroll County Deputy Sheriff, who responded to the incident. According to Deputy Cretsinger, the manure applicators involved in the incident were Chris Edwards and Brady Brehmer. Deputy Cretsinger stated that both individuals were employees of Schon Manure. On October 11, 2015, Deputy Cretsinger sent the Department an e-mail reiterating the facts surrounding the accident. In this e-mail, Deputy Cretsinger stated that Mr. Edwards was driving one of the tractors involved in the accident.

2. At 8:00 am on October 10, 2015, Ms. Manz went to the location of the spill. Once on-site, Ms. Manz observed pooled manure on the application field and in the roadside ditch. Ms. Manz also observed that the manure had not been incorporated into the ground; rather, it had been spread out on approximately ½ an acre of row crop. Ms. Manz did not find evidence that the manure had reached a waterway.

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<sup>1</sup> New Fashion Pork Farm is located at Section 1, Union Township, T82N, R33W, Carroll County, Iowa.

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At approximately 8:30 am Mr. Brehmer met Ms. Manz on-site. Mr. Brehmer stated that the applicators involved in the incident were himself and Jamie Hansman, not Chris Edwards as reported by Deputy Crestinger. And he stated that only 1,000 gallons of manure had been spilled. Ms. Manz asked why only 1,000 gallons of manure was hauled almost a mile away from the confinement in a 9,500 gallon hauler. Mr. Brehmer responded that the confinement pits were completely pumped out and there was only 1,000 gallons of manure left to haul.

At 9:00 am Ms. Manz met with employees of Twin Lakes. They stated that 9,500 gallons of manure was lost as a result of the incident. Mr. Manz observed the confinement's manure pits and observed that they were not empty.

3. Following the on-site investigation, Ms. Manz discovered that neither Chris Edwards, Jamie Hansman, nor the manager listed by Schon Manure, Douglas Stuhler, were certified commercial manure applicators as required by Iowa law. Each of applicator's certifications expired on March 1, 2015. The only certified applicator involved in the incident was Mr. Brehmer.

4. On October 12, 2015, Ms. Manz returned to the location of the spill. Once on-site she observed that the manure had been spread out onto the field and incorporated. Additionally, the pooled manure, in the ditch, had been excavated.

5. On October 12, 2015, Schon Manure listed Mr. Brehmer as the manager of the business. Further, Chris Edwards and Jamie Hansman along with numerous other employees of Schon Manure completed the training required to be a certified manure applicator and paid the relevant fees.

6. On October 21, 2015, the Department sent Mr. Brehmer, Mr. Hansman, Mr. Edwards and Schon Manure a Notice of Violation (NOV) for failure to have a valid applicator certification license while hauling and land applying manure.

Past Violations

7. On November 9, 2012, the Department received a complaint alleging that Schon Manure had land applied manure in violation of the mandatory 750 foot separation distance from a residence.

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8. On November 14, 2012, in response to the above discussed complaint the Department went to the site to investigate. Once on site, the Department observed that Shon Manure had surface applied manure in violation of the mandatory separation distance.
9. On December 4, 2012, the Department sent Schon Manure a NOV for the above discussed violation. This NOV summarized the relevant law and included a copy of that law.
10. On November 14, 2014, the Department received a complaint alleging that Schon Manure had surface applied manure in violation of the mandatory 750 foot separation distance from a residence.
11. On November 26, 2014, the Department went to the site to investigate. Once on site the Department confirmed a violation of the mandatory separation distance did occur.
12. On December 31, 2014, the Department sent Schon Manure a NOV for the above discussed violations. This NOV summarized the relevant law and included a copy of that law.

**IV. CONCLUSIONS OF LAW**

The parties hereby agree to the following conclusions of law:

1. Iowa Code section 459.103 provides that the Environmental Protection Commission (Commission) shall adopt rules related to the construction or operation of animal feeding operations, including permit and minimum manure control requirements. The Commission has adopted such rules at 567 IAC chapter 65.
2. Iowa Code section 459.315(1) states that a person shall not act as a commercial manure service representative unless the person is certified. Iowa Code section 459.315(2) states that a person who is required to be certified as a commercial manure service representative must be certified each year. 567 IAC 65.1 defines a commercial manure service representative as a manager, employee, agent, or contractor of a commercial manure service, if the person is engaged in transporting, handling, storing, or applying manure on behalf of the service. The above stated facts show non-compliance with this provision.
3. 567 IAC 65.19(1) states a commercial manure service and a commercial manure service representative shall not transport, handle, store or apply dry or liquid manure to

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land unless the person is certified. The above-mentioned facts indicate violations of this provision.

**V. ORDER**

THEREFORE, the Department orders and Schon Manure agrees to comply with the following provisions in order to cease, abate, and redress the above-cited violations:

1. In the future Schon Manure shall ensure that all of its employees are properly certified to haul, apply or otherwise handle manure in accordance with Iowa law; and
2. Schon Manure shall pay a penalty of \$5,000.00 within 30 days of the date the Director of the Department 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 each of the water quality 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 \$10,000.00, which may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. Pursuant to these rules, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with an administrative penalty. The administrative penalty assessed by this order is \$5,000.00. The administrative penalty is determined in accordance with the following:

Economic Benefit – Schon Manure is paid by customers to haul and land apply manure. Any compensation Schon manure received during the time that its employees were not properly certified is an economic benefit obtained through noncompliance. It is reasonable to assume that Schon Manure was compensated at least \$500.00 for such activity. For that reason, \$500.00 is assessed for this factor.

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 that type of violation. As indicated above, substantial civil penalties are authorized by statute. Despite the high penalties authorized, the Department has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter. The violations cited in this order threaten the integrity of the regulatory program because compliance with the regulations is required of all persons in this state. Land application of manure without proper certification increases the risk of a

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manure discharge and damage to the environment. Based on the above considerations, \$2,000.00 is assessed for this factor.

Culpability – All manure applicators have a duty to remain knowledgeable of the Department's requirements and to be alert to the probability that their conduct is subject to the Department's rules. The owners of Schon Manure were well aware of the certification requirements; in fact, in the past its employees were properly certified. Nevertheless, it failed to ensure Mr. Edwards, Mr. Hansman and the listed manager, Mr. Stuhler, were certified. Therefore, \$2,500.00 is assessed for this factor.

**VII. WAIVER OF APPEAL RIGHTS**

Iowa Code section 455B.175 and 561 IAC 7.4(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Commission. This order is entered into knowingly by and with the consent of Schon Manure. By signature to this order, all rights to appeal this order are waived.

**VIII. 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.

  
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Schon Manure Hauling LLC

Dated this 27<sup>th</sup> day of  
July, 2016.

  
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Chuck Gipp, DIRECTOR  
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 23<sup>rd</sup> day of  
August, 2016.

Schon Manure, Field Office 4, Carrie Schoenebaum; Allison Manz, I.C.1., & I.C.6.a.