IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF:    FARMERS FEED & SUPPLY, INC.

ADMINISTRATIVE CONSENT ORDER

NO. 2019-AQ-27

To: Farmers Feed & Supply, Inc.
   Darren DeGroot
   Plant Manager
   602 Main St
   Boyden, Iowa 51234

Farmers Feed & Supply, Inc.
Joe Swenson
President
508 East Saint Andrews Drive
Sioux Falls, South Dakota 57108

Farmers Feed & Supply, Inc.
Seth Monegue
Director of Feed Manufacturing
602 Main St
Boyden, Iowa 51234

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Farmers Feed & Supply, Inc., (Farmers Feed & Supply) for the purpose of resolving air quality violations. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Any questions regarding this administrative consent order should be directed to:

Relating to technical requirements:
Amber Wolf
Iowa Department of Natural Resources
Field Office No. 3
1900 N. Grand Avenue, Suite F17
Spencer, Iowa 51301
Phone: 712-262-4177

Relating to legal requirements:
Anne Preziosi, Attorney for the DNR
Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034
Phone: 515-725-9551

Payment of penalty to:
Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034
II. JURISDICTION

This administrative consent order is issued pursuant to the provisions of Iowa Code sections 455B.134(9) and 455B.138(1), which authorize the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division II (air quality), and the rules promulgated 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. Farmers Feed & Supply has a facility located at 602 Main Street, in Boyden, Iowa. This facility is a “pre-mix” facility for animal feed. Operations include blending and packaging animal feed ingredients.

2. While driving through Boyden on March 15, 2019, Amber Wolf, DNR Field Office 3 environmental specialist, observed new construction occurring at the Boyden Farmers Feed & Supply facility. Ms. Wolf requested information from the facility regarding the new construction.

3. On March 18, 2019, Ms. Wolf spoke with Darren DeGroot, the Farmers Feed & Supply Plant Manager. Mr. DeGroot stated that he was unaware that the facility needed air quality construction permits. Mr. DeGroot informed Ms. Wolf that new “pre-mix” equipment is being installed at the Boyden facility. Mr. DeGroot requested that DNR visit the site to determine the next steps. On March 25, 2019, Ms. Wolf and DNR Air Quality Bureau environmental engineer Rachel Quill visited the Boyden Farmers Feed & Supply facility and met with facility personnel and the construction contractor.

Failure to Obtain Construction Permits for New Equipment

4. Construction of the new “pre-mix” equipment at this facility began in March 2018, without first applying for and obtaining air quality construction permits, as required. As of August 2018, construction of the new equipment has continued and has been completed. It is the intention of Farmers Feed & Grain that the current “pre-mix” equipment will be decommissioned when the new equipment is running. The new “pre-mix” equipment will blend and package animal feed ingredients. The new equipment at the facility includes mixing and bagging operations, a tote filler, a dust collection system, two loadouts, and one dump pit. Farmers Feed & Supply plans to begin testing the equipment the week
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of August 28, 2019. Farmers Feed & Supply also plans to have a transition period, during which both the old and new equipment will operate. Emissions from the facility will increase during the transition period.

Failure to Obtain Construction Permits for Existing Equipment

5. During the March 25, 2019, inspection, Ms. Wolf and Ms. Quill determined that the emission points and emission units currently in use at the facility were constructed without first applying for and obtaining air quality construction permits, as required. The Farmers Feed & Supply facility in Boyden has been operating for several decades without the required air quality construction permits. According to Seth Monegue, Director of Feed Manufacturing, the original building and plant construction took place prior to 1970, prior to current permitting requirements. However, plant modifications, equipment changes, and equipment replacements have occurred as needed since that time. Mr. Monegue stated that a mixer was replaced around 1990. The following existing equipment was found during the March 2019 visit to be operating without either Small Unit Exemption (SUE) status or construction permits:

- Mixing and bagging equipment
- Dust collection system

Failure to Comply with NESHAP Subpart DDDDDDDD (7D)

6. Also during the March 25, 2019, facility visit, DNR determined that the facility is a prepared feeds manufacturing facility that meets all the applicability criteria listed in 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants or NESHAP), Subpart DDDDDDDD (7D) "Emission standards for hazardous air pollutants for area sources: prepared feeds manufacturing" (NESHAP Subpart 7D). The facility has failed since at least 2014, when this subpart was adopted in the DNR rules, to comply with the requirements contained in NESHAP Subpart 7D. The facility adds ingredients containing manganese above the threshold set in NESHAP Subpart 7D. Farmers Feed & Supply has failed to submit the required NESHAP Subpart 7D initial notification and notification of compliance status for its currently operating equipment. The new “pre-mix” equipment will be subject to 7D requirements when it begins operating.

7. A March 29, 2019, Notice of Violation letter (NOV) was sent to Farmers Feed & Supply for failure to timely obtain air quality construction permits and for failure to comply with NESHAP Subpart 7D. The NOV required that construction permit applications to be submitted to the DNR Air Quality Bureau
no later than May 1, 2019. Construction permit applications were received on June 10, 2019.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.133 provides that the Environmental Protection Commission (Commission) shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-35 relating to air quality.

Failure to Timely Obtain Construction Permits

2. Iowa Code section 455B.134(3) provides that the Director of DNR shall grant, modify, suspend, terminate, revoke, reissue or deny permits for the construction or operation of new, modified, or existing air contaminant sources and for related control equipment.

3. Pursuant to Iowa Code sections 455B.133 and 455B.134, 567 IAC 22.1(1) was adopted, which states, in relevant part, that "unless exempted in subrule 22.1(2) or to meet the parameters established in paragraph “c” of this subrule, no person shall construct, install, reconstruct or alter any equipment, control equipment or anaerobic lagoon without first obtaining a construction permit...." Farmers Feed & Supply has failed to timely obtain construction permits, as stated above.

4. 567 IAC 22.3(1) requires that:

In no case shall a construction permit which results in an increase in emissions be issued to any facility which is in violation of any condition found in a permit involving PSD, NSPS, NESHAP or a provision of the Iowa state implementation plan. If the facility is in compliance with a schedule for correcting the violation and that schedule is contained in an order or permit condition, the department may consider issuance of a construction permit.

As stated above, emissions from the facility will increase during the transition period. Therefore, a schedule for correcting the violations is contained in this administrative consent order.

Failure to Comply with NESHAP Subpart 7D

5. 567 IAC chapter 23.1(3) "ad" adopts by reference the provisions of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants or
NESHAP), Subpart DDDDDDD (7D) “Emission standards for hazardous air pollutants for area sources: prepared feeds manufacturing” (NESHAP Subpart 7D). This standard applies to prepared feeds manufacturing that produces animal feed products (not including feed for cats or dogs) and uses chromium or manganese compounds at new and existing facilities that are area sources for hazardous air pollutant emissions. Farmers Feed & Supply has failed to comply with the requirements contained of NESHAP Subpart 7D since at least 2014, when this subpart went into effect.

V. ORDER

THEREFORE, DNR orders and Farmers Feed & Supply agrees to the following:

1. Until the issuance of air quality construction permits for the new equipment pursuant to the June 10, 2019, construction permit applications, Farmers Feed & Supply shall cease all construction and testing activities, and shall not begin operation of any unpermitted equipment in violation of the requirements of 567 IAC 22.2(1); and

2. Farmers Feed & Supply shall cease operation of any unpermitted equipment at the facility within 45 days of the issuance of air quality construction permits issued pursuant to the June 10, 2019, construction permit applications; and

3. Within 30 days of the date this administrative consent order is signed by the Director, Farmers Feed & Supply shall provide to DNR the initial NESHAP 7D notification and notification of compliance status required per 40 CFR 63.11624, and Farmers Feed & Supply shall submit to DNR a written compliance plan detailing how its Boyd facility will achieve and maintain compliance immediately with all other requirements of NESHAP 7D; and

4. Within 30 days of the date this administrative consent order is signed by the Director, Farmers Feed & Supply shall pay a penalty of $4,500.00.

VI. PENALTY

Pursuant to the provisions of Iowa Code section 455B.109 and 567 IAC chapter 10, which authorize the Director to assess administrative penalties, a penalty of $4,500.00 is assessed by this administrative consent order. The penalty must be paid within 30 days of the date this order is signed by the Director. The administrative penalty is determined as follows:
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Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to $10,000.00 per day of violation for the air quality violations involved in this matter. More serious criminal sanctions are also available pursuant to Iowa Code section 455B.146A.

Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to $10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties through 567 IAC chapter 10. Pursuant to this rule, DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with a penalty. The administrative penalty assessed by this order is determined as follows:

**Economic Benefit** – Farmers Feed & Supply has gained a significant economic benefit by failing to comply with air quality permitting requirements, and by failing to comply with NESHAP requirements. In particular, Farmers Feed & Supply will benefit financially because it started construction of its feed mill addition prior to the issuance of required construction permits and has been constructing new equipment since March 2018 without the required construction permits. Further, the facility has operated without air quality construction permits for several decades. For these reasons, $1,500.00 is assessed for economic benefit.

**Gravity of the Violation** – Farmers Feed & Supply has been operating for several decades without air quality construction permits. Construction contrary to the Iowa Administrative Code threatens the integrity of the DNR regulatory program. For these reasons, $2,000.00 is assessed for gravity.

**Culpability** – Farmers Feed & Supply claimed to be unaware of the requirement to obtain air quality construction permits. The facility has been negligent in determining the applicability of the law to its operations. Also, the facility has failed to comply with the requirements of NESHAP Subpart since 2014. For these reasons, $1,000.00 is assessed for culpability.

**VII. WAIVER OF APPEAL RIGHTS**

This administrative consent order is entered into knowingly and with the consent of Farmers Feed & Supply. For that reason, Farmers Feed & Supply waives its right to appeal this order or any part thereof.
VIII. NONCOMPLIANCE

Failure to comply with this administrative consent order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.146. Compliance with Section “V. Order” of this administrative consent order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section “IV. Conclusions of Law” of this administrative consent order.

Kayla Lyon, Director
Iowa Department of Natural Resources

Farmers Feed & Supply, Inc.

DNR Field Office 3; Anne Preziosi; VII.A.1

Dated this 4th day of September, 2019.

Dated this 28th day of August, 2019.