

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

IN THE MATTER OF:

**MALACHI SCHROEDER**  
Crawford County

ADMINISTRATIVE CONSENT ORDER  
NO. 2021-AFO- 20

AFO #65227

TO: Malachi Schroeder  
3291 US Highway 59  
Ida Grove, Iowa 51445

**I. SUMMARY**

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Malachi Schroeder for the purpose of resolving Mr. Schroeder's failure to timely submit a complete original Manure Management Plan (MMP) and fees upon the purchase of an animal confinement feeding operation. This administrative consent order requires Mr. Schroeder to submit an original MMP, filing fee, indemnity fee, 2021 compliance fee, and to pay an administrative penalty in the amount of \$3,000.00. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Questions regarding this administrative consent order should be directed to:

**Relating to technical requirements:**

Alison Manz, Field Office 4  
Iowa Department of Natural Resources  
1401 Sunnyside Lane  
Atlantic, Iowa 50022  
Phone: 712/243-1934

**Relating to legal requirements:**

Kelli Book, Attorney for the DNR  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa 50319-0034  
Phone: 515/210-3408

**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 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,

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Division III, Part 1 or Iowa Code Chapter 459 and the rules adopted 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**

1. Malachi Schroeder owns an animal feeding operation located at 2065 C Avenue; Schleswig, Iowa (Section 14, Morgan Township, Crawford County). The facility is a 2,400 head grow to finish swine (960 animal units) operation. The Crawford County Assessor's Office indicates that Mr. Schroeder purchased the facility from Brandon Wigg on October 8, 2020. On April 27, 2021, Mr. Wigg contacted DNR Field Office 4 and stated the facility had been sold to Mr. Schroeder in October 2020. Mr. Wigg indicated he contacted Mr. Schroeder to remind him of the MMP requirements and that Mr. Schroeder had hired a consultant to prepare the MMP.

2. On May 13, 2021, DNR Field Office 4 attempted to call Mr. Schroeder regarding the MMP, but the number was disconnected.

3. On May 19, 2021, DNR issued a Notice Violation letter to Mr. Schroeder for failing to submit an original MMP and fees within 60 days of the transfer. The letter requested Mr. Schroeder submit an original MMP and fees by June 1, 2021. To date the original MMP and fees have not been submitted to the DNR.

**IV. 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. The Commission has adopted such rules at 567 IAC Chapter 65.

2. 567 IAC 16(1)"e" requires that a new owner of a confinement feeding operation must submit an original MMP within 60 days after acquiring the operation. The Crawford County Assessor's Office indicates the sale of the facility occurred on October 8, 2020, making the original MMP due December 7, 2020. To date the original MMP and fees have not been submitted. The above-mentioned facts indicate a violation of this provision.

3. 567 IAC 65.17(1)"d" requires that a person who submits an MMP shall include a phosphorus index with the MMP. 567 IAC 65.16(7) requires any person submitting an original MMP to also pay to the DNR an MMP filing fee of \$250.00. The filing fee is required to be submitted with the MMP. To date, the filing fee has not been received. 567 IAC 65.16(6) require all persons required to submit an MMP



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to also submit an indemnity fee. The indemnity fee is ten cents per animal unit. Mr. Schroeder's indemnity fee is \$96.00. The indemnity fee is required to be submitted with the MMP. To date, the indemnity fee has not been received.

4. Iowa Code section 459.12(13) and 567 IAC 65.16(3)"b" require an owner of a confinement feeding operation who is required to submit a MMP to submit a complete updated MMP and compliance fee on an annual basis to the DNR. The updated plan must reflect all amendments made during the period of time since the previous MMP submission. The compliance fee is fifteen cents per animal unit. Mr. Schroeder failed to timely submit the 2021 MMP update and fee. The above-mentioned facts indicate a violation of this provision.

**V. ORDER**

THEREFORE, the DNR orders and Mr. Schroeder agrees to do the following:

1. Mr. Schroeder shall submit a complete original MMP to DNR Field Office 4 within 30 days from the date the Director signs this administrative consent order;
2. Mr. Schroeder shall submit the \$250.00 filing fee to DNR Field Office 4 within 30 days from the date the Director signs this administrative consent order;
3. Mr. Schroeder shall submit the \$96.00 indemnity fee to DNR Field Office 4 within 30 days from the date the Director signs this administrative consent order;
4. Mr. Schroeder shall submit the 2021 compliance fee of \$144.00 to DNR Field Office 4 within 30 days from the date the Director signs this administrative consent order; and
5. Mr. Schroeder shall pay an administrative penalty in the amount of \$3,000.00 within 30 days from the date the Director signs this administrative consent 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

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**VIII. NONCOMPLIANCE**

Compliance with Section V of this administrative consent order constitutes full satisfaction of all requirements pertaining to the violations described in this administrative consent order. Failure to comply with this administrative consent 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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KAYLA LYON, DIRECTOR  
Iowa Department of Natural Resources

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MALACHI SCHROEDER

Dated this 20<sup>th</sup> day of  
September, 2021.

Kelli Book; Field Office 4; VIII.C.1