

IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: GOLD-EAGLE COOPERATIVE	ADMINISTRATIVE CONSENT ORDER NO. 2021-AQ- 16
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To: Gold-Eagle Cooperative
Chris Boshart, General Manager
P.O. Box 280
515 N. Locust Street
Goldfield, Iowa 50542

Gold-Eagle Cooperative
Brad Davis, Registered Agent
415 Locust Street
Goldfield, Iowa 50542

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Gold-Eagle Cooperative 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:

David Knoll
Environmental Specialist Senior
Iowa Department of Natural Resources
Field Office 2
2300 15th Street SW
Mason City, Iowa 50401
Phone: 641-424-4073
Email: David.Knoll@dnr.iowa.gov

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: 515-238-3429
Email: Anne.Preziosi@dnr.iowa.gov

Payment of penalty to:

Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street

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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. Gold-Eagle Cooperative leases and operates a feed mill in Galt, Iowa. Gold-Eagle Cooperative began operating the Galt facility in October, 2019. Gold-Eagle Cooperative owns and operates more than 20 other agricultural related facilities in north central Iowa. Gold-Eagle Cooperative owns additional feed mills in Eagle Grove and Goldfield, Iowa. The Galt physical plant consists of grain receiving, ingredient bins, hammer mills, mixers, feed loadout, and other equipment that aid in feed preparation.

2. In October 2019, Gold-Eagle Cooperative began leasing and took over operation of the Galt facility from North Central Cooperative.

3. Gold-Eagle Cooperative continued normal operation of its Galt feed mill without the use of the control equipment after being advised of the violations during the inspection. Attempts to repair the grain oiling equipment were initiated shortly following the inspection, however other control equipment was not expeditiously repaired.

4. On November 1, 2020, an air quality inspection of the facility was conducted by DNR Field Office 2 Environmental Specialist Senior David Knoll. During this inspection, Mr. Knoll observed the following violations at the facility. Several of the deficiencies had previously been identified during a December 2011 inspection when the facility was being operated by North Central Cooperative.

5. Gold-Eagle Cooperative failed to comply with the requirement to timely obtain air quality construction permits. A new ingredient storage bin and

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baghouse (Dry Methionine Bin) were installed in 2020 and operated without obtaining an air quality construction permit, as required by 567 IAC 24.2(1).

6. Gold-Eagle Cooperative failed to maintain and operate equipment and control equipment at all times in a manner consistent with good practice for minimizing emissions, as required by 567 IAC 24.2(1) and the applicable air quality construction permits. The facility operated multiple feed equipment processes without operating the required control equipment since at least October 2019. The facility failed to maintain or repair control equipment, as required.

7. The grain oiling equipment was not being operated or maintained for Emission Points (EPs) C-1 to C-11 (Corn Storage Bins), as required by the air quality construction permits for these emission points. Further, records of maintenance and oil usage were not being kept, as required by permits.

8. The cyclones were not being operated or properly maintained for EP-16 (Grain Receiving, Hammermills & Mixing, Internal Handling, Feed Loadout)(Permit No. 98-A-919-S4), as required by the air quality construction permit for this emission point. Monitoring and recording of proper cyclone function was not taking place; and grain oiling and associated record keeping was not taking place, as required by the permit. Further, grain receiving and feed loadout was not occurring inside a building, as required by the permit.

9. The baghouse was not being operated or properly maintained for EP F-20 (20 Finished Feed Storage Bins) (Permit No. 07-A-724-S4), as required by the air quality construction permits for these emission points. Records regarding baghouse maintenance were not being kept, as required by the permit.

10. This facility is subject to 40 CFR Part 63, Subpart DDDDDDD, the National Emission Standard for Hazardous Air Pollutants (NESHAP) for Area Sources for Prepared Feeds Manufacturing, which has been adopted by reference by DNR at 567 IAC 23.1(4)"fd". The annual compliance certification statements specified in 40 CFR § 63.11624 were not available, as required.

11. No excess emissions were calculated or reported, as required, for the plant wide excess emissions that likely occurred as a result of multiple control equipment (grain oiling, cyclones, baghouses) not being utilized.

12. Shortly after the November 1, 2020, inspection, Mr. Knoll was told during a phone conversation with the facility that attempts to repair the grain oiling equipment were initiated shortly following the inspection; however, other control equipment was not expeditiously repaired.

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13. A January 27, 2020, Notice of Violation letter was sent to Gold-Eagle Cooperative for the deficiencies identified during the November 1, 2020, inspection. The letter informed the facility of possible further enforcement action. The letter requested a response within 15 days receipt. A written response was received on February 16, 2021, stating that progress toward improvements was occurring and a consultant had been retained. An as-built permit application was submitted by Gold-Eagle Cooperative on March 17, 2021.

14. The facility has a history of air quality violations. A December 15, 2011, air quality inspection of the facility was conducted by DNR Field Office 2 Environmental Specialist Senior Glenn Carper. At that time, the facility was being leased and operated by North Central Cooperative. Mr. Carper found multiple deficiencies related to operational requirements and record keeping.

15. Control equipment, including a baghouse and a grain oiling system, were not being operated and maintained at the time of inspection. Grain receiving and feed loadout were not taking place inside a building. A December 22, 2011, Notice of Violation Letter was issued by DNR.

16. Written responses from North Central Cooperative were received on January 24, 2012, and February 24, 2012, addressing each of the deficiencies. The responses outlined several actions underway to correct the deficiencies.

17. A third written response was received from North Central Cooperative on June 5, 2012. The response explained that some deficiencies had not yet been corrected, including grain receiving and feed loadout requirements, grain oiling, and stack testing. The response indicated that the facility might request air quality construction permit amendments to comply with these requirements.

18. A fourth written response, prepared by Thompson Environmental on behalf of North Central Cooperative, was received by DNR on July 19, 2012. This response further laid out a compliance plan for the remaining deficiencies.

19. Mr. Carper responded via email on July 19, 2012, stating that the compliance plan was acceptable.

20. On January 25, 2013, air quality construction permit amendments were issued for 22 emission points at the facility.

21. An air quality inspection of the facility was conducted on October 24, 2013, by DNR Field Office 2 Environmental Specialist Senior Glenn Carper.

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At that time the facility was still being operated by North Central Cooperative. Mr. Carper found the facility to now be in compliance with air permitting requirements. Control equipment such as baghouses, cyclones, and grain oiling were being properly operated and maintained at the time of October 2013 inspection.

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.

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 “[u]nless 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...” Gold-Eagle Cooperative failed to timely obtain a construction permit, as stated above.

4. 567 IAC 22.3(3) states that a permit may be issued subject to conditions which shall be specified in writing. As stated above, Gold-Eagle Cooperative failed to comply with operating and recordkeeping requirements contained in air quality construction permits, as stated above.

5. This facility is subject to 40 CFR Part 63, Subpart DDDDDDD, the National Emission Standard for Hazardous Air Pollutants (NESHAP) for Area Sources for Prepared Feeds Manufacturing, which has been adopted by reference by DNR at 567 IAC 23.1(4)“fd”. The annual compliance certification statements specified in 40 CFR § 63.11624 were not available, as required.

6. 567 IAC 24.1(1)“a” requires that sources be operated and maintained in a manner to minimize emissions. Gold-Eagle Cooperative has failed to operate and maintain equipment in a manner designed to minimize emissions, as required by its construction permits and by 567 IAC 24.1(1)“a”.

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7. 567 IAC 24.2(4) states that an incident of excess emission (other than an incident during startup, shutdown or cleaning of control equipment) is a violation. If the owner or operator of a source maintains that the incident of excess emission was due to a malfunction, the owner or operator must show that the conditions which caused the incident of excess emission were not preventable by reasonable maintenance and control measures. If excess emissions are occurring, either the control equipment causing the excess emission shall be repaired in an expeditious manner or the process generating the emissions shall be shut down within a reasonable period of time. A reasonable period of time is eight hours plus the period of time required to shut down the process without damaging the process equipment or control equipment. Additionally, 567 IAC 24.1(2) and 24.1(3) require an initial verbal report of excess emissions followed by a written report. No excess emissions were calculated or reported, as required, as stated above.

V. ORDER

THEREFORE, DNR orders and Gold-Eagle Cooperative agrees to the following:

1. Gold-Eagle Cooperative shall not operate feed mill equipment when control equipment is not functioning and emissions are being vented to the atmosphere;
2. Gold-Eagle Cooperative shall contact DNR prior to knowingly operating equipment in such a manner which may lead to excess emissions;
3. Gold-Eagle Cooperative shall comply with the requirements of its air quality construction permits; and, additionally, shall use its daily compliance form to keep a written record of the amount of oil applied to the grain in gallons. Also, throughout the day, operational staff shall conduct checks of grain oiling equipment, cyclones, baghouses, and bin vent filters for visual leaks and/or anything that is out of the ordinary; and
4. Within 30 days of the date this order is signed by the director, Gold-Eagle Cooperative shall pay a penalty of \$6,500.00.

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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 \$6,500.00 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:

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 – 567 IAC chapter 10 requires that DNR consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.2(1) states that “where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, DNR shall take enforcement action which includes penalties which at least offset the economic benefit.” 567 IAC 10.2(1) further states, “reasonable estimates of economic benefit should be made where clear data are not available.”

Gold-Eagle Cooperative benefited financially by continuing to operate for more than one year without operating multiple emission control equipment such as the grain oiler, cyclones, and baghouses. The facility also gained economic benefit by failing to maintain this equipment. Additional savings occurred when Gold-Eagle Cooperative failed to take time to track several record keeping requirements, and failed to calculate and report excess emissions. Additionally, Gold-Eagle Cooperative saved permitting and likely consultant fees too, by installing new equipment without obtaining the required construction permit.

For these reasons, \$2,000.00 is assessed for economic benefit.

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

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penalties are authorized by statute. Despite the high penalties authorized, DNR has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter.

Operating equipment with no control equipment in place adversely impacts the DNR's air pollution control program and results in pollutant discharge to the atmosphere. Operating equipment in this manner circumvents the DNR's ability to review the potential emissions and make a determination on whether or not operating the equipment will be a violation of NAAQS or cause other adverse effects. This, in turn, prevents DNR from ensuring that the Iowa citizens' interests in clean air are protected. Gold-Eagle Cooperative's failure to properly permit the dry methionine bin also contributes to the above listed injuries.

For these reasons \$2,500.00 should be assessed for this factor.

Culpability – Gold-Eagle Cooperative owns additional feed mills in Eagle Grove and Goldfield, Iowa, and owns and operates a total of more than 20 agricultural related facilities. The Galt feed mill had been leased by a different facility (North Central Cooperative) at the time of the December 2011 inspection when many violations were identified. These violations were remediated; however, many of the same violations were again found when under Gold-Eagle Cooperative's operation. When the Gold-Eagle Cooperative Goldfield feed mill location was inspected by DNR for air quality compliance in December 2020, Gold-Eagle Cooperative should have been well aware of the air quality permitting process and the air quality permitting requirements for this facility. Gold-Eagle Cooperative should have been well aware of the requirements to only operate equipment in a manner consistent with good air quality practices, to report excess emissions when they occur, and to obtain necessary construction permits.

For these reasons, \$2,000.00 is assessed for culpability.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Gold-Eagle Cooperative. For that reason, Gold-Eagle Cooperative waives its right to appeal this order or any part thereof.

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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



Gold-Eagle Cooperative

Dated this 13 day of
December, 2021.

DNR Field Office 2; Anne Preziosi: VII.A.1, VII.A.2.