

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

IN THE MATTER OF:

**JON HALVERSON**  
Fayette County Iowa

AFO #61677

ADMINISTRATIVE CONSENT ORDER  
NO. 20 22 -AFO- 01

TO: Jon Halverson  
21459 P Avenue  
Hawkeye, Iowa 61677

**I. SUMMARY**

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Jon Halverson for the purpose of resolving the failure to timely submit the Manure Management Plan (MMP) updates and fees for his animal feeding operation located in Fayette County, Iowa. This administrative consent order requires Mr. Halverson to pay a \$2,000.00 administrative penalty. 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:**

Ashley Sherrets  
DNR Field Office 1  
1101 Commercial Court, Suite 10  
Manchester, Iowa 52057  
Phone: 563/927-2640

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

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: JON HALVERSON

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. Jon Halverson owns and operates an animal feeding operation located at 21459 P Avenue; Hawkeye, Iowa (Section 21, Windsor Township, Fayette County). The confinement operation has one confinement building and houses 2,000 swine (800 animal units). The annual MMP update deadline was established as October 1 of each calendar year and the annual compliance fee for the facility is \$120.00.

2. The 2021 MMP update and fee for Mr. Halverson's facility were due October 1, 2021. The update and fee were not submitted by October 1, 2021. On October 12, 2021, DNR issued a Notice of Violation letter for the late 2021 MMP update and fee. The letter informed Mr. Halverson that failure to timely submit the MMP update and fee would result in further enforcement, including a monetary penalty. The letter also informed Mr. Halverson that repeated failure to timely submit the MMP update and fee would result in further enforcement. The 2021 MMP update and fee were submitted on October 25, 2021.

3. Mr. Halverson has a history of late MMP update and fee submittals. Mr. Halverson received Notice of Violation letters in 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2019, and 2020 for untimely submittals of the MMP updates and fees.

**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. 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. MMP updates and fees were submitted late in 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2019, 2020, and 2021. The above-mentioned facts indicate violations of this provision.



IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: JON HALVERSON

**V. ORDER**

THEREFORE, the DNR orders and Jon Halverson agrees to do the following:

1. Jon Halverson shall pay an administrative penalty in the amount of \$2,000.00 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 administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC Chapter 10. Pursuant to this chapter, the 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 an administrative penalty of \$2,000.00. The administrative penalty is determined as follows:

Economic Benefit - 567 IAC Chapter 10 requires that the 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, the department 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." Mr. Halverson's failure to timely submit the MMP updates and fees has allowed him to save time and money. It is estimated Mr. Halverson gained an economic benefit of at least \$50.00 and that amount is assessed for this factor.

Gravity - 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 DNR has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter. The MMP is a crucial aspect of the DNR's animal feeding operation program. The MMP ensures that an animal feeding operation has adequate production land available so that the manure can be properly applied to cropland at an agronomic rate in order to prevent over application of manure. Mr. Halverson's facility has a capacity of 800 animal units and environmental harm is likely to occur

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: JON HALVERSON

if the manure is not applied properly. Mr. Halverson has as history of late MMP update submittals. Failing to timely submit the MMP update and fee threatens the integrity of the animal feeding operation regulations. Therefore, \$950.00 is assessed for this factor.

Culpability – Mr. Halverson has a duty to remain knowledgeable of DNR's requirements and to be alert to the probability that his conduct is subject to DNR's rules. Additionally, Mr. Halverson has as history of late MMP update submittals. Therefore, \$1,000.00 is assessed for this factor.

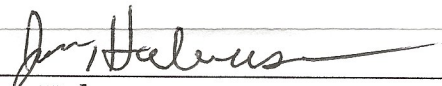
**VII. WAIVER OF APPEAL RIGHTS**

This administrative consent order is entered into knowingly and with the consent of Mr. Halverson. For that reason, Mr. Halverson waives the right to appeal this administrative consent order or any part thereof.

**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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Jon Halverson

Dated this 27 day of  
December, 2021.

Kelli Book; Field Office 1; VIII.C.2