

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE ORDER**

IN THE MATTER OF:

**RAY STEFFENS**  
Fayette County Iowa

AFO #62714

ADMINISTRATIVE ORDER  
NO. 2022-AFO-14

TO: Ray Steffens  
29734 Lincoln Road  
West Union, Iowa 52175

**I. SUMMARY**

This administrative order (Order) requires to comply with the provision in Section V of this Order, subject to your appeal rights stated in this Order.

Questions regarding this Order should be directed to:

**Relating to technical requirements:**    **Relating to legal requirements:**

Brian Jergenson  
DNR Field Office 1  
1101 Commercial Court, Suite 10  
Manchester, Iowa 52057  
Phone: 563-927-2640

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

**Appeal or 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 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 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.

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**III. STATEMENT OF FACTS**

1. Ray Steffens owns and operates an animal feeding operation located at 19585 K Avenue; West Union, Iowa (Section 32, Union Township, Fayette County). The facility consists of a confinement building housing 1,800 grow to finish swine (720 animal units).

2. The annual MMP update deadline was established as March 1 of each calendar year and the annual compliance fee for the facility is \$108.00. The 2022 annual MMP update and annual compliance fee was due March 1, 2022, but was not submitted until March 23, 2022. DNR issued a Notice of Violation letter for the late submittal on March 14, 2022.

3. The 2021 MMP update and annual compliance fee was due March 1, 2021, but was not submitted until April 20, 2021. DNR issued a Notice of Violation letter for the late submittal on March 16, 2021.

4. The 2020 MMP update and annual compliance fee was due March 1, 2020, but was not submitted until May 1, 2020. DNR issued a Notice of Violation letter for the late submittal on March 10, 2020.

5. Facilities are required to submit complete Phosphorus Index MMPs every four years. The 2019 complete Phosphorus Index MMP and annual compliance fee was due March 1, 2019, but was not submitted until April 1, 2019 and supplemental information on May 8, 2019. DNR issued a Notice of Violation letter for the late submittal on March 12, 2019. Mr. Steffens failed to timely submit the complete Phosphorus Index MMPs and fees by March 1 for the following years: 2011, 2015

6. The 2017 MMP update and annual compliance fee was due March 1, 2017, an incomplete MMP was submitted on March 2, 2017. A complete MMP update was not submitted until March 29, 2017. DNR issued a Notice of Violation letter for the late submittal on March 16, 2017.

7. The 2016 MMP update and annual compliance fee was due March 1, 2016, but was not submitted until March 24, 2016. DNR issued a Notice of Violation letter for the late submittal on March 10, 2016.

8. The 2015 complete Phosphorus Index MMP and annual compliance fee was due March 1, 2015, but was not submitted until March 20, 2015. DNR issued a Notice of Violation letter for the late submittal on March 11, 2015.

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9. The 2013 MMP update and annual compliance fee was due March 1, 2013, an incomplete MMP was submitted on March 4, 2013. A complete MMP update was not submitted until March 28, 2013. DNR issued a Notice of Violation letter for the late submittal on March 19, 2013.

10. The 2011 complete Phosphorus Index MMP and annual compliance fee was due March 1, 2011, an incomplete Phosphorus Index MMP was submit on March 2, 2011. A complete Phosphorus Index MMP was not submitted until March 21, 2011. DNR issued a Notice of Violation letter for the late submittal on March 11, 2011.

**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. 567 IAC 65.17(17)"d" states that the phosphorus index is valid if the soil phosphorus concentration data is less than four years old. Mr. Steffens failed to timely submit the Phosphorus Index MMPs and fees for 2011, 2015, and 2019. Mr. Steffens failed to timely submit the annual MMP updates and fees for 2013, 2016, 2017, 2020, 2021, and 2022. The above-mentioned facts indicate multiple violations of this provision.

**V. ORDER**

THEREFORE, the DNR orders Mr. Steffens to do the following:

1. Pay an administrative penalty in the amount of \$3,000.00 within 60 days from the date the Director 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

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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 Order with an administrative penalty of \$3,000.00. 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. Steffens’ repeated delay in timely submitting the Phosphorus Index MMPs, MMP annual updates, and fees allowed the facility to save time and money. It is estimated that Mr. Steffens gained an economic benefit of at least \$100.00 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 submittals are a crucial aspect of the DNR’s animal feeding operation program and the compliance fees are crucial to the budget of the animal feeding program. Mr. Steffens’ repeated delay in timely submitting the Phosphorus Index MMPs, MMP annual updates, and fees threaten the integrity of the animal feeding operation regulations. Therefore, \$1,400.00 is assessed for this factor.

Culpability – Mr. Steffens 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. Mr. Steffens failed to timely submit the Phosphorus Index MMPs and fees for 2011, 2015, and 2019. Mr. Steffens failed to timely submit the annual MMP updates and fees for 2013, 2016, 2017, 2020, 2021, and 2022. Mr. Steffens is aware of the regulations yet has repeatedly failed to comply with the requirements by the deadline. Therefore, \$1,500.00 is assessed for this factor.

## **VII. APPEAL RIGHTS**

Pursuant to Iowa Code section 455B.175(1)(a) and 567 IAC Chapter 7, a written Notice of Appeal may be filed with the Director, at the address provided above, within 60 days of the date of issuance of this Order. The Notice of Appeal must identify the specific portion or portions of this Order being appealed and include a short and plain statement of the reasons for appeal. A contested case hearing will then be commenced pursuant to Iowa Code Chapter 17A and 561 IAC Chapter 7.

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**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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KAYLA LYON, DIRECTOR  
Iowa Department of Natural Resources

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