

IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: KENT NUTRITION GROUP, INC.	ADMINISTRATIVE CONSENT ORDER NO. 2023-AQ- 16
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To: Kent Nutrition Group, Inc.
Justin Ford
Environmental Specialist
2905 US Highway 61 N
Muscatine, Iowa 52761

Kent Nutrition Group, Inc.
John A. Kuhl
Registered Agent
2905 US Highway 61 N
Muscatine, Iowa 52761

Kent Nutrition Group, Inc.
Kyle Fry
Attorney
2905 US Highway 61 N
Muscatine, Iowa 52761

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Kent Nutrition Group, Inc. (Kent) 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:

Mark Fields
Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034
Phone: 515-343-6589

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

Payment of penalty to:

Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

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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. Kent owns and operates a facility located at 1500 RMT Avenue in Sheldon, Iowa. The facility manufactures animal feed. Operations at the facility include a flaking plant and other feed mill operations, including pelleting, storage, mixing, bagging, and load outs.

2. On June 4, 2019, DNR issued a Collection of Air Permits (CAP) for the Pellet Cooling System, which includes Pellet Cooling System #1, (EP PC1, Construction Permit No. 19-A-225), Pellet Cooling System #2, (EP PC2, Construction Permit No. 19-A-226), Pellet Cooling System #5, (EP PC5, Construction Permit No. 19-A-227), Pellet Cooling System #6, (EP PC6, Construction Permit No. 19-A-228), and Pellet Cooling System #7, (EP PC7, Construction Permit No. 19-A-229). The construction permits required Kent to stack test within 60 days of reaching maximum capacity or within 180 days of equipment start up.

3. Kent is required to maintain continuous compliance with PM, PM10, and PM2.5 emission limits contained in Condition 1b (State Emission Limits Per Emission Point) in Construction Permit Nos. 19-A-225, 19-A-227, 19-A-225-S1, 19-A-226-S1, and 19-A-229-S1. The emission limits were set in the construction permits to maintain potential emissions from the facility (Plant Number 71-01-020) below "*major source*" thresholds for purposes of Prevention of Significant Deterioration (PSD) applicability as defined in 567 IAC 33.3(1). The emission limits also were set to maintain potential emissions from the facility below "*major source*" thresholds for purposes of Title V applicability as defined in 567 IAC 22.100. Additionally, the emission limit rates were used in the facility-wide dispersion modeling analysis conducted under this project to predict attainment of the National Air Quality Standards (NAAQS) for these pollutants.

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4. On October 27 through 29, 2020, Kent conducted stack testing for PM, PM10, and PM2.5 on Pellet Cooling Systems #1, #2, #5, #6, and #7. This stack testing resulted in violations of the PM, PM10 and PM2.5 permitted lb/hr emission limits of Pellet Cooling Systems #1, and #5. The table below shows the tested results in violation.

Emission Point	Permit #	Pollutant	Result	Limit
Pellet Cooling System #1 (EP PC1)	19-A-225	PM/PM10/PM2.5	0.58 lb/hr	0.27 lb/hr
Pellet Cooling System #5 (EP PC5)	19-A-227	PM/PM10/PM2.5	0.29 lb/hr	0.27lb/hr

5. Condition 2 of the Pellet Cooling System CAP requires that each unit being sampled be operated in a normal manner at its maximum continuous output as rated by the equipment manufacturer, or at the rate specified by the owner as the maximum production rate at which this unit will be operated. Kent has not specified an alternative to the maximum continuous output as rated by the equipment manufacturer.

6. Kent failed to conduct the October 27 through 29, 2020, stack tests at the maximum continuous output as rated by the equipment manufacturer for Pellet Cooling Systems #2 and #7. Therefore, the test results were not acceptable for demonstrating compliance for Pellet Cooling Systems #2 and #7. The maximum design capacity of EP PC2 and EP PC7 is 30 ton/hr. Production data submitted indicates that EP PC2 was running at 23.4 ton/hr and EP PC7 was running at 22.6 ton/hr during the testing. The table below shows the tested results.

Emission Point	Permit #	Pollutant	Result	Limit
Pellet Cooling System #2 (EP PC2)	19-A-226	PM/PM10/PM2.5	0.70 lb/hr	0.80 lb/hr
Pellet Cooling System #7 (EP PC7)	19-A-229	PM/PM10/PM2.5	0.67 lb/hr	0.80 lb/hr

7. On February 19, 2021, DNR issued a Notice of Violation (NOV) to Kent for the October 2020 PM, PM10, and PM2.5 stack test results exceeding the permitted limits for Pellet Cooling Systems #1 and #5. The NOV also addressed that Kent did not operate Pellet Cooling Systems # 2 and #7 at maximum capacity during the stack tests, and stated that the test results were

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not acceptable for demonstrating compliance for Pellet Cooling Systems #2 and #7. Kent verbally indicates its intention to modify the Construction Permits of the sources to address the compliance issues by March 21, 2021.

8. On May 18, 2021, DNR issued a certified letter to Kent stating that the May 4, 2021, construction permit applications submitted by Kent to address compliance issues identified in the February 19, 2021, NOV were incomplete and did not address all issues identified. Kent was given a due date of June 2, 2021, to submit revised construction permit applications. Kent submitted revised construction permit applications on June 1, 2021.

9. On July 21, 2021, DNR issued CAPs for the Pellet Cooling System, which includes Pellet Cooling System #1, (EP PC1, Construction Permit No. 19-A-225-S1), Pellet Cooling System #2, (EP PC2, Construction Permit No. 19-A-226-S1), Pellet Cooling System #5, (EP PC5, Construction Permit No. 19-A-227-S1), Pellet Cooling System #6, (EP PC6, Construction Permit No. 19-A-228-S1), Pellet Cooling System #7, (EP PC7, Construction Permit No. 19-A-229-S1). The construction permits require stack testing on EPs PC1, PC2, PC5, and PC7 annually with the next test due in calendar year 2022. Stack testing on EP PC6 is required every 3 years with the next test due in calendar year 2023.

10. From August 2 through 4, 2022, Kent conducted PM, PM10, and PM2.5 stack testing on EPs PC1, PC2, PC5, and PC7, as required. This stack testing resulted in violations of the PM, PM10 and PM2.5 permitted lb/hr emission limits of Pellet Cooling Systems #1, #2, and #7. Kent continues to operate the sources in violation. The table below shows the tested results in violation.

Emission Point	Permit #	Pollutant	Result	Limit
Pellet Cooling System #1 (EP PC1)	19-A-225-S1	PM/PM10/PM2.5	1.98 lb/hr	0.66 lb/hr
Pellet Cooling System #2 (EP PC2)	19-A-226-S1	PM/PM10/PM2.5	1.66 lb/hr	0.81 lb/hr
Pellet Cooling System #7 (EP PC7)	19-A-229-S1	PM/PM10/PM2.5	0.94 lb/hr	0.81 lb/hr

11. On November 29, 2022, DNR issued a NOV to Kent for the August 2022 PM, PM10, and PM2.5 stack test results exceeding the permitted limits of the Pellet Cooling Systems #1, #2, and #7.

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12. On January 3, 2023, Kent submitted a compliance plan stating that the facility is investigating the root cause of the excess emissions and is implementing changes to the pellet mills to limit capacities and improve performance. The compliance plan proposed that stack testing occur by June 2023.

13. On May 25, 2023, Kent submitted an updated compliance plan stating that ongoing work for alterations to the emission points will not be completed by June 2023. Alterations are planned to be completed with stack testing anticipated in late July or early August 2023.

Compliance History

14. On May 1, 2019, DNR issued Administrative Consent Order No. 2019-AQ-17 to Kent for violations related to construction of a feed mill addition prior to applying for or receiving required construction permits, for installing and operating equipment without construction permits, for failure to maintain small unit exemption records, and for failure to comply with the requirements of 40 CFR Part 63 (NESHAP Subpart DDDDDDD).

15. In September 2017, Kent began construction of an addition to its existing feed mill in Sheldon, Iowa, prior to applying for or receiving construction permits. Subsequently, Kent was required to permit the equipment after construction had begun. The construction permits were adjusted to the existing equipment which required low PM, PM10, and PM2.5 emission limits to demonstrate compliance with emission standards.

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. 567 IAC 22.3(3) states that an air quality construction permit may be issued subject to conditions which shall be specified in writing, and may

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include, but are not limited to, emission limits, operating conditions, fuel specifications, compliance testing, continuous monitoring, and excess emission reporting. Kent has failed to comply with the provisions of a construction permit issued to it. As stated above, results of the August 2022 stack test event indicate that Kent is currently operating Pellet Cooling Systems #1, #2, and #7 in violation of PM, PM10, and PM2.5 emission limits of Construction Permit Nos. 19-A-225-S1, 19-A-226-S1, and 19-A-229-S1. Also, as stated above, a stack test event conducted in October of 2020 resulted in the violations of the permitted PM, PM10, and PM2.5 emission limits of Pellet Cooling Systems #1 and #5, Construction Permit Nos. 19-A-225 and 19-A-227. Pellet Cooling Systems #2 and #7 did not operate at maximum capacity during the October 2020 test event, as required by Construction Permits Nos. 19-A-226 and 19-A-229. The facility continues to operate out of compliance.

V. ORDER

THEREFORE, DNR orders and Kent agrees to the following:

1. Beginning on the date this order is signed by the Director, Kent shall adhere to the written compliance plan and schedule included in Attachment A to this Administrative Consent Order;

If applicable, all requests for permit amendments must demonstrate the modification will not cause or contribute to any NAAQS exceedance. In accordance with 567 IAC 22.3(1)"a-d", requested changes must be adequate to meet all state and federal requirements.

2. If compliance test emission results from the scheduled August 8 and 9, 2023, compliance stack tests exceed any permitted emission limit, then Kent shall provide DNR with one of the following options:

(a) Kent may submit, for DNR approval, a mitigation modeling analysis and plan that predicts compliance with the NAAQS employing the August 2023 test results. The Plan shall include, but need not be limited to, all the following information:

i. A list of the emission units and points at the facility that are being modified, physically or otherwise, to show compliance with the NAAQS;

ii. A description of the change(s) to each emission unit and point, and including control equipment, stack parameters and applicable emission rates used in the model;

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iii. Current permit numbers for the emission points and the emission units and emission point ID numbers:

iv. A schedule for completing the changes for each of the emission points.

v. A schedule for submitting construction permit applications to make any model restrictions enforceable.

(b) Kent may submit, for DNR approval, an alternative particulate control equipment strategy to meet the current permit limits. This control equipment strategy shall include, but need not be limited to, all of the following information:

i. A list of the emission units and points at the facility that are being modified, physically or otherwise, to comply with the permitted emission limits;

ii. A description of the change(s) to each emission unit and point, and including control equipment, stack parameters, etc;

iii. A schedule for completing the changes for each of the emission points.

iv. A schedule for submitting construction permit applications to include modifications, physical or otherwise.

If applicable, all requests for permit amendments must demonstrate the modification will not cause or contribute to any NAAQS exceedance. In accordance with 567 IAC 22.3(1)"a-d", requested changes must be adequate to meet all state and federal requirements; and

3. Within 30 days of the date this order is signed by the Director, Kent shall pay a penalty of \$8,500.00.

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 \$8,500.00 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

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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.”

Kent has gained economic benefit of at least \$4,000.00 by producing product for sale while knowingly operating in violation of the permitted limits.

For these reasons, \$4,000.00 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 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.

Actual harm to the environment and public health likely occurred due to the amount of PM, PM10, and PM2.5 that Kent is emitting above the emission limits set forth in the associated construction permits.

Emissions of PM10 and PM2.5 pose an increased public health risk due to the size of particles being directly linked to their potential for causing health issues. Small particles less than 10 micrometers in diameter pose the greatest problems, because they can get deep into the lungs, and some may even get into the bloodstream. Numerous scientific studies have linked particle pollution exposure to a variety of problems, including: premature death in people with heart or lung disease, nonfatal heart attacks, irregular heartbeat, aggravated asthma, decreased lung function, and increased respiratory symptoms, such as irritation of the airways, coughing, or difficulty breathing.

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As stated above, Kent continues operation of EPs PC1, PC2, and PC7 in violation of its permitted limits. Further, as stated above, these limits were set to allow Kent to avoid PSD and Title V requirements.

For these reasons, \$2,250.00 is assessed for gravity.

Culpability – Kent has a responsibility to remain knowledgeable and to comply with its construction permits and all applicable air quality requirements. Kent remains out of compliance, as demonstrated by the stack test violations described above. Further, Kent has operated its Sheldon, Iowa, facility out of compliance since September 2017, despite the issuance of Administrative Consent Order No. 2019-AQ-17.

DNR personnel have spent and continue to spend large amounts of time attempting to permit the Kent facility and bring the facility into compliance. This threatens the integrity of DNR's Air Quality program.

For these reasons, \$2,250.00 is assessed for culpability.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Kent. For that reason, Kent 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

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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



Kent Nutrition Group, Inc. Dated this 19th day of July, 2023.

Anne Preziosi; Mark Fields, DNR Air Quality Bureau; DNR FO3

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ATTACHMENT A
 Compliance Plan and Schedule
 Kent Nutrition Group, Inc.

Action item	Completion due date	Additional information
Kent shall conduct engineering testing with lower production rates on PC1, PC2, and PC7 for PM/PM10/PM2.5.	July 24, 2023	As described in the Kent letter to DNR dated July 10, 2023
Kent shall conduct compliance stack tests on PC1, PC2, and PC7 for PM/PM10/PM2.5.	August 8 & 9, 2023	As described in the Kent letter to DNR dated July 10, 2023
Kent shall submit stack test results and a detailed explanation of any physical or operational changes made to PC1, PC2, and PC7 process equipment and control equipment for DNR review.	September 21, 2023	As required by 567 IAC 25.1(7) written test results are due to DNR within 6 weeks.
If compliance test results demonstrate compliance with all emission limits, Kent shall submit permit applications for DNR approval to make any process and control equipment changes enforceable.	November 1, 2023	
If compliance test results exceed any permitted emission limit, then Kent shall provide DNR one of the options included in Section V, <i>Order</i> , paragraph 2a or 2b.	November 1, 2023	