

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE ORDER**

IN THE MATTER OF:

**GABE JANES**

Hamilton County, Iowa

ADMINISTRATIVE ORDER  
NO. 2023-AFO-19

TO: Gabe Janes  
2435 Xircus Avenue  
Williams, Iowa 50271

**I. SUMMARY**

This administrative order (Order) requires Gabe Janes 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:**

Isaiah Lary, Field Office 2  
Iowa Department of Natural Resources  
2300 15<sup>th</sup> Street SW  
Mason City, Iowa 50401  
Phone: 641/424-4073

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 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. On October 31, 2022, Isaiah Lary, DNR Field Office 2 environmental specialist, conducted a manure application inspection at an animal feeding operation located in rural Hamilton County. During the inspection, Mr. Lary observed manure being mixed at a concrete manure tank. He met with Gabe Janes as he was driving a tractor with a manure tank leaving the facility. Mr. Janes explained that this was not his confinement facility, but that he applied manure from the facility to his own fields. He stated he does not do custom application. At the time of the inspection, Mr. Janes was the only person at the site. Mr. Janes explained that his father was certified and had been on site, but left the site. Mr. Janes stated that he had hauled approximately 80 loads of manure to the application field.

2. Following the inspection, Mr. Lary reviewed the manure applicator certification database. Mr. Janes had taken his education class on October 22, 2021 but was not currently certified. His certification expired on December 31, 2020. On November 4, 2022, Mr. Lary spoke to Mr. Janes and Mr. Janes confirmed that he had been alone applying manure on October 31, 2022.

3. On December 6, 2022, DNR issued Gabe Janes a Notice of Violation letter for the violation discovered by during the October inspection. The letter informed Mr. Janes the violation was being referred for further enforcement.

**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, including permit and minimum manure control requirements. The Commission has adopted such rules at 567 IAC Chapter 65.

2. 567 IAC 65.3(6) states that a confinement feeding operation required to submit an MMP to the DNR must use a certified commercial manure service for land application of manure and an operation that applies its own manure must comply with certification requirements in 567 IAC 65.19. 567 IAC 65.19(1) states that a confinement site manure applicator shall not apply dry or liquid manure to land unless the person is certified. During the DNR Field Office 2 inspection in October 2022, it was determined that Mr. Janes was not certified as a manure applicator but was transporting and land applying manure. The above-mentioned facts indicate a violation of these provisions.

**V. ORDER**

THEREFORE, the DNR orders Gabe Janes to do the following:

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1. Gabe Janes shall not handle, transport, or apply manure unless properly certified; and
2. Gabe Janes shall pay an administrative penalty in the amount of \$3,000.00 within 60 days of 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 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. Janes gained an economic benefit of applying manure without being properly certified. He avoided the costs associated with training and certification. Confinement site applicators are certified for a period of three years with a \$100.00 fee for the certification. Confinement site applicators are required to attend training and pay a \$25.00 education fee. Based on the above facts, the economic benefit Mr. Janes received was at least \$125.00 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. Manure applicators are required to obtain training and certifications to ensure they are properly trained. Applying manure without the proper training and certification increases the risk a manure related discharge during application. Manure applicator certification is an integral part of the animal feeding operation

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program and violations of that regulations threaten the integrity of the water quality program. Therefore, \$1,000.00 is assessed for this factor.

Culpability – Mr. Janes had 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. Janes had previously been certified and had taken education classes in previous years and should have been aware of the requirements. Therefore, \$1,875.00 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.

**VIII. NONCOMPLIANCE**

Compliance with Section V of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this administrative consent 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