

IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: IOWA FERTILIZER COMPANY LLC	ADMINISTRATIVE CONSENT ORDER NO. 2024-AQ-19
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To: Iowa Fertilizer Company LLC
Amber Conlee
Environmental Manager
3550 180th Street
Wever, Iowa 52658

Iowa Fertilizer Company LLC
Corporation Service Company
Registered Agent
505 5th Avenue, Suite 729
Des Moines, Iowa 50309

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Iowa Fertilizer Company LLC (IFCo) 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
6200 Park Avenue, Ste. 200
Des Moines, Iowa 50321
Phone: 515-343-6589

Relating to legal requirements:
Anne Preziosi, Attorney for the DNR
Iowa Department of Natural Resources
6200 Park Avenue, Ste. 200
Des Moines, Iowa 50321
Phone: 515-238-3429

Payment of penalty to:
Director of the Iowa DNR
6200 Park Avenue, Ste. 200
Des Moines, Iowa 50321

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

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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. IFCo has a facility located in Wever, Iowa. The facility manufactures anhydrous ammonia, urea ammonium nitrate (UAN), granular urea, and diesel exhaust fluid (DEF). The primary raw material is natural gas which is delivered by pipeline. By-products of the process are liquid urea and nitric acid. All of the final products are transported from the facility by either truck or rail. In addition, there is support equipment such as auxiliary boilers, emergency generators, and cooling towers. The daily maximum product capabilities of the plant can be found in Table 1.

Table 1 - Daily Maximum Product Capabilities

Product Description	Maximum Daily Production Rate (tons/day)
Urea Ammonium Nitrate (UAN)	5,950
Granular Urea	2,100
Ammonia	3,086
Diesel Exhaust Fluid	992

Summary of Violations

2. IFCo has violated conditions of two of its air quality construction permits, and has failed to comply with the conditions of its Title V operating permit.

3. IFCo has failed to comply with Conditions 5 and 8 of Air Quality Construction Permit No. 12-A-387-P3, issued for Ammonia Flare – Front End (Emission Point (EP) 08A). Condition 5, “*Operating Requirements – Best Available Control Technology (BACT) Work Practices*”, and Condition 8, “*Owner and Operator Responsibility*”, are summarized below:

- Condition 5d establishes that for purposes of the BACT work practice on the Ammonia Flare (EP 08A), it shall:

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- Be designed for and operated with no visible emissions except for periods not to exceed a total of five (5) minutes during any two (2) consecutive hours.
- Be designed to ensure smokeless operation.
- Condition 8 requires the permit holder, owner, and operator of the facility shall assure that the installation of the equipment listed in this permit conforms to the design in the application.
 - IFCo has self-disclosed to DNR that the Ammonia Flare – Front End installed at the facility is not designed to be smokeless and operates at times with visual emissions greater than the time allowed by the BACT work practice requirements contained in the permit.

4. IFCo has failed to comply with Conditions 5 and 8 of Air Quality Construction Permit No. 14-A-039-P2, issued for Ammonia Flare – Back End (EP 08B). Condition 5, “*Operating Requirements – Best Available Control Technology (BACT) Work Practices*”, and Condition 8, “*Owner and Operator Responsibility*”, are summarized below:

- Condition 5d establishes that for purposes of the BACT work practice on the Ammonia Flare (EP 08B), it shall:
 - Be designed for and operated with no visible emissions except for periods not to exceed a total of five (5) minutes during any two (2) consecutive hours.
 - Be designed to ensure smokeless operation.
- Condition 8 requires the permit holder, owner, and operator of the facility shall assure that the installation of the equipment listed in this permit conforms to the design in the application.
 - IFCo has self-disclosed to the Iowa Department of Natural Resources (DNR) that the Ammonia Flare – Back End installed at the facility is not designed to be smokeless and operates at times with visual emissions greater than the time allowed by the BACT work practice requirements.

5. Since IFCo’s Title V Operating Permit No. 20-TV-001 contains requirements for IFCo to comply with its air quality construction permits, IFCo also has violated its Title V Operating Permit.

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Chronology

6. On October 26, 2012, DNR issued Prevention of Significant Deterioration (PSD) Air Quality Construction Permit No. 12-A-387-P to IFCo for equipment related to EP 08, the Ammonia Flare. This permit was issued as part of Construction Permit Project No. 12-219.

7. On March 13, 2014, DNR issued PSD Air Quality Construction Permit No. 12-A-387-P1 for EP 08A (equipment related to the Ammonia Flare – Front End). Also, on March 13, 2014, DNR issued PSD Air Quality Construction Permit No. 14-A-039-P for equipment related to the Ammonia Flare – Back End (EP 08B) to IFCo. These permits were issued as part of Construction Permit Project No. 13-355.

8. On March 27, 2014, IFCo submitted to DNR start of Construction Notices for several Emission points including the Ammonia Flare – Front End (EP 08A) and the Ammonia Flare – Back End (EP 08B).

9. On April 11, 2016, DNR issued PSD Air Quality Construction Permit No. 12-A-387-P2 for equipment related to the Ammonia Flare – Front End (EP 08A) and Air Quality Construction Permit No. 14-A-039-P1 for equipment related to the Ammonia Flare – Back End (EP 08B). This permit was issued to IFCo as part of Construction Permit Project No. 15-142.

10. On November 30, 2018, DNR issued PSD Air Quality Construction Permit No. 12-A-387-P3 for equipment related to the Ammonia Flare – Front End (EP 08A) and Air Quality Construction Permit 14-A-039-P2 for equipment related to the Ammonia Flare – Back End (EP 08B). These permits were issued to IFCo as part of Construction Permit Project No. 18-126.

11. On November 1, 2022, IFCo reported to DNR that the Ammonia Flare – Front End (EP 08A) the Ammonia Flare – Back End (EP 08B) were not designed for smokeless operation. IFCo submitted a Compliance Plan to DNR on December 21, 2022, containing this information.

12. On November 28 2023, IFCo provided DNR a Phase I study related to the Ammonia Flare – Front End (EP 08A) and the Ammonia Flare – Back End (EP-08B). The study included options for potentially making the flares smokeless.

13. On January 31, 2024, IFCo met with the DNR to discuss compliance-related issues at the facility. IFCo again self-reported that the Ammonia Flare – Front End (EP 08A) and Ammonia Flare – Back End (EP 08B) are not believed by IFCo to be designed to be smokeless. IFCo showed DNR a video of a flare operating with noticeable visible emissions, which IFCo stated

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were related to restarting the facility. IFCo explained to DNR that visible emissions that are present during restart of the facility are occurring for a time period greater than allowed by the construction permits. IFCO stated that the flare manufacturer would be contacted to confirm the flares were not designed to be smokeless. IFCo also asked DNR to evaluate if the smokeless BACT requirement could be removed from the construction permits.

14. On February 22, 2024, IFCo and DNR held a follow-up meeting concerning the permitted requirement for the flares to be smokeless and the discussion whether the smokeless BACT permit requirement could be removed from the construction permits. IFCo provided information to DNR that the manufacturer had confirmed the flares were not designed to be smokeless, as the permits required. During the meeting, DNR provided the information to IFCo that the smokeless BACT requirement could not be removed from the construction permits. EP 08A and EP 08B were required to be designed to ensure smokeless operation.

15. On March 22, 2024, IFCo provided DNR a progress report related to addressing the smokeless requirement for EP 08A and 08B.

16. On April 17, 2024, IFCo provided DNR a compliance plan, which included proposed language for an administrative consent order, and a schedule to address the compliance issues related to EP 08A and EP 08B.

17. On June 3, 2024, DNR issued a Notice of Violation letter (NOV) to IFCo, identifying the failure to install smokeless flares per the BACT work practice requirements as a High Priority Violation. In addition, the NOV stated that IFCo did not apply for or receive construction permit approval to install flares that were not of a smokeless design.

18. IFCo has a past history of air quality violations. On October 22, 2018, DNR issued Consent Order 2018-AQ-22 to establish an enforceable compliance plan for exceeding natural gas usage limits and emission limits on two auxiliary boilers at the IFCo facility.

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

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construction or operation of new, modified, or existing air contaminant sources and for related control equipment. As stated above, IFCo failed to comply with several of its air quality construction permits.

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 include, but are not limited to, emission limits, operating conditions, fuel specifications, compliance testing, continuous monitoring, and excess emission reporting.

V. ORDER

THEREFORE, DNR orders and IFCo agrees to the following:

1. Beginning on the date that this Administrative Consent Order is signed by the Director, IFCo shall complete the work to retrofit the Ammonia Flare – Front End (EP 08A) and the Ammonia Flare – Back End (EP 08B) to meet the BACT work practice requirements contained in the air quality construction permits issued to the facility no later than December 31, 2027; and

2. Beginning on the date that this Administrative Consent Order is signed by the Director, IFCo shall submit progress reports every six months to DNR relating to the work to be completed pursuant to this Administrative Consent Order, and shall include information about any instances of startup and shutdown that cause visible emissions at the flares; and

3. Within 30 days of the date this Administrative Consent Order is signed by the Director, IFCo shall provide to DNR interim milestone dates with estimates of when work will be completed, including the engineering, equipment procurement, construction (shutdown required), commissioning, and project close out. Changes to the interim milestone dates shall be submitted to DNR as part of the six-month progress reports: and

4. Within 30 days of the date this Administrative Consent Order is signed by the Director, IFCo shall pay a penalty of \$10,000.00.

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 \$10,000.00 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:

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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 10.30(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 10.30(1) further states, “reasonable estimates of economic benefit should be made where clear data are not available.”

IFCo failed to install flares on EP 08A and EP 08B that meet the BACT work practice requirements contained in air quality construction permits issued to the facility. Economic benefit was gained by the delay in spending the additional funds required to properly control visible emissions from the flares.

For these reasons, \$7,000.00 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.

IFCo failed to install flares on EP 08A and EP 08B that met the Best Available Control Technology (BACT) work practice requirements, as required by air quality construction permits issued to the facility. Failure to do so has resulted in intermittent visible emissions to be released to the atmosphere that have the potential to harm human health and the environment.

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IFCo's failure to adhere to the requirements of its air quality construction permits since 2017 threatens the integrity of the DNR's air quality program.

For these reasons, \$1,500.00 is assessed for gravity.

Culpability – IFCo is responsible for failing to install and operate equipment at the facility within the permitted emissions limits and as described in its air quality construction permit applications submitted to the DNR. IFCo should have timely identified the visible emissions being intermittently emitted from EP 08A and EP 08B since beginning operation in 2017. IFCo is culpable for any emissions that are released from the facility.

For these reasons, \$1,500.00 is assessed for culpability.

VII. WAIVER OF APPEAL RIGHTS

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

Mike Kleis

Sr VP of Manufacturing

Iowa Fertilizer Company LLC

Dated this _____ day of
10/30/2024, 2024.

Mark Fields, DNR Air Quality Bureau; DNR FO6