

IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: MID-STATE MILLING INC.	ADMINISTRATIVE CONSENT ORDER NO. 2024-AQ-20
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To: Mid-State Milling Inc.
Brooke Bahr
402 Market Street
Buckeye, Iowa 50043

Mid-State Milling Inc.
408 W 3rd Street NW
PO Box 571
State Center, Iowa 50247

Mid-State Milling Inc.
Michael R. Horn
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26 S First Avenue, Suite 302
Marshalltown, Iowa 50158

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I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Mid-State Milling Inc. (Mid-State Milling) 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:

Robert Quintero
Environmental Specialist
Iowa Department of Natural Resources
Field Office 2
2300 15th St. SW
Mason City, IA 50401
Phone: 641-424-4073

Relating to legal requirements:

Anne Preziosi, Attorney for the DNR
Iowa Department of Natural Resources
6200 Park Avenue
Suite 200
Des Moines, Iowa 50321
Phone: 515-238-3429

Payment of penalty to:

Director of the Iowa DNR
6200 Park Avenue
Suite 200
Des Moines, Iowa 50321

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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. The Mid-State Milling facility, located at 402 Market Street in Buckeye, Iowa, (the site) is a prepared feeds manufacturer. The facility has equipment that is a source of emissions to the outside atmosphere. On December 22, 2017, DNR received a Change of Ownership Notice from Mid-State Milling, requesting that eight air quality construction permits for the facility (Facility # 42-10-002) be transferred to Mid-State Milling from the former owner, The Maschhoffs Inc., as of January 1, 2018.

2. On March 15, 2019, DNR Field Office 2 staff made a courtesy visit to the site. Field Office 2 staff reviewed air quality permit requirements for the existing permits with Mill Manager Nick Hanna. During the visit, Mr. Hanna stated to Field Office 2 personnel that prior to the visit he was not aware that the air quality construction permits existed or that that were air quality requirements for the site.

September 26, 2019, Site Inspection

3. On September 26, 2019, Field Office 2 conducted an air quality inspection of the site. The following deficiencies were documented during the September 26, 2019, site visit:

a. Field Office 2 found that raw materials containing greater than 1% manganese were not stored in closed containers, as required by 40 CFR, Part 63, Subpart DDDDDDD. 40 CFR, Part 63, Subpart DDDDDDD is a National Emission Standard for Hazardous Air Pollutants (NESHAP) for Prepared Feeds Manufacturing that has been adopted by reference by DNR at 567 Iowa Administrative Code section 23.1(4)"fd".

- o Field Office 2 noted that the air quality construction permits for Emission Point 5 (Roller Mill) (Construction Permit No. 10-A-472) and Emission Point 9 (Truck Dump Pit) (Construction Permit No. 14-A-509) stated that the facility

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was not subject to the 40 CFR, Part 63, Subpart DDDDDDD NESHAP because the facility did not use manganese at any point in the process at the time of permit issuance in 2010 and 2014. The construction permit applications submitted by the previous owner, which resulted in the issuance of permits to the previous owner in 2010 and 2014 (Project Nos. 10-433 and 14-264), stated that the facility was not using manganese at any point in the process. Therefore, the facility was not required by these permits to comply with 40 CFR, Part 63, Subpart DDDDDDD.

- However, the Roller Mill Construction Permit No. 10-A-472, issued in 2010, stated that “[f]ailure to include any NSPS or NESHAP requirements as a part of this permit does not relieve the permittee from the requirement to comply with all applicable NSPS or NESHAP requirements.”
- During the 2019 inspection, it was determined that the facility was indeed using manganese, which is added at a later point in the process, where the Mixer (which vents internally), the Pellet Cooler (EP 8, Construction Permit No. 13-A-348-S1), and the Truck Loadout are used. The use of manganese makes this facility subject to 40 CFR, Part 63, Subpart DDDDDDD. The Truck Loadout was at the time of the September 2019 inspection, and continues to be, an “as-built” emission point, without the required air quality construction permit.

b. The facility also had not submitted the Notification of Compliance or the Annual Compliance Certification of compliance with, as required by 40 CFR, Part 63, Subpart DDDDDDD.

c. The facility had removed permitted control equipment (three bag houses) from Emission Point 9 (Truck Dump Pit) (Construction Permit No. 14-A-509), without obtaining a modified air quality construction permit from DNR. The baghouses were disconnected approximately one year prior to the September 2019 inspection, according to the facility representative present during the inspection. This removal of control equipment was in violation of air quality Construction Permit No. 14-A-509.

d. The facility had failed to inspect and maintain equipment associated with Emission Point 9 (Truck Dump Pit), at all times in a manner consistent with good practice for minimizing emissions, as required by Construction Permit No. 14-A-509 and by 567 Iowa Administrative Code section 21.8. The equipment inspection and maintenance records were not produced as requested during the inspection, as required by the air quality construction permit.

e. The facility had failed to maintain and record pressure drop for the baghouses that were required control equipment for Emission Point 9

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(Truck Dump Pit) while the baghouses were in operation, as required by Construction Permit No. 14-A-509. The equipment inspection and maintenance records were not produced as requested during the inspection, and no pressure drop logs were produced for review by DNR during the inspection, as required by the air quality construction permit.

f. The facility had failed to inspect or maintain equipment associated with Emission Point 6 (Ingredient Bin) Construction Permit No. 13-A-346) and Emission Point 7 (Finished Feed Bin) (Construction Permit No. 13-A-347), as required by the air quality construction permits and by 567 Iowa Administrative Code section 21.8.

4. An October 11, 2019, Notice of Violation (NOV) letter was issued to the facility, citing these violations. The NOV letter included a copy of the inspection report, which noted the specific violations.

5. On March 13, 2020, Mid-State Milling submitted air quality construction permit applications to correct the deficiencies documented during the 2019 inspection. These applications were given Project No. 20-086. The applications were for the following:

Emission Point Name	Emission Point Number	No. of Permit Prior to Project No. 20-086 and date of issue	No. of Permit After Project No. 20-086 and date of issue	Summary of Changes in Permits Issued as part of Project No. 20-086
Ingredient Bin	EP 6	13-A-346 August 12, 2013	13-A-346-S1 September 20, 2020	1. Removed baghouses (control equipment) from the truck dump pit. 2. Updated stack characteristics due to the removal of the baghouses (indoor, uncaptured).
Finished Feed Bin	EP 7	13-A-347 August 12, 2013	13-A-347-S1 September 20, 2020	Removed control equipment and changed stack characteristics to indoor venting.
Truck Dump Pit	EP 9	14-A-509	14-A-509-S1	Removed control equipment and changed stack

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		August 21, 2014	September 20, 2020	characteristics to indoor venting.
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6. The permit application description that was submitted by Mid-State Milling Inc. for Construction Permit No. 14-A-509 stated: "The baghouse was disconnected due to not working properly. This is our ingredient dump pit. Air emissions are contained by closing overhead doors and dump pit underground."

7. However, during an air quality inspection that occurred in 2010, DNR documented that the enclosure was not large enough to fit an entire tractor-trailer rig nor a tractor-wagon rig while unloading. Based on the most recent permit application, the current permit for the Truck Dump Pit (Emission Point 9 and Emission Unit 9) (Construction Permit No. 14-A-409-S1, section 5) states that the overhead doors shall be closed prior to receiving any material in the Truck Dump Pit (also referred to in as the Ingredient Dump Pit). The construction permit states that the overhead doors shall remain closed until all material has been transferred into the Ingredient Dump Pit.

8. Although the facility was under different ownership in 2010 and 2014, the enclosure has remained the same size and operating requirements for Construction Permit No. 14-A-409-S1 have, therefore, not been met since the permit was issued in 2014.

June 12, 2024, Site Inspection

9. On June 12, 2024, Field Office 2 conducted an air quality inspection of the site. The following deficiencies were documented during the June 12, 2024, site visit:

a. The Roller Mill (Emission Point 5) (air quality construction permit no. 10-A-472) was replaced with modified equipment without first obtaining an air quality construction permit, as required. During the time period between October 2019 and August 2020, the facility replaced one roller mill with two roller mills and relocated them without obtaining an air quality construction permit for these changes, as required. During the June 12, 2024, these changes were documented, and an uncontrolled vent pipe was observed emitting to the outside atmosphere located above the new roller mills.

b. The Dump Truck Pit (Emission Point 9) material was being received with the overhead doors open, in violation of Construction Permit No. 14-A-509-S1, Condition 5A. Records were not being kept of instances when materials were received without the doors being fully closed, in violation of Construction Permit No. 14-A-509-S1, Condition 5C. It was also noted that the size of the dump pit bay was not large enough to close the overhead doors while material was being received. The overhead

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doors on the Truck Dump Pit were damaged during a storm and have not been functional since before winter of 2023.

c. There also were no records regarding when housekeeping measures to minimize dust were being conducted, as required by 40 CFR, Part 63, Subpart DDDDDDD, although the facility stated during the June 20, 2024, inspection that manual sweeping is conducted to minimize dust and low pressure is used to remove dust from walls and ledges. The facility also had not submitted the Notification of Compliance or the Annual Compliance Certification of compliance, as required by 40 CFR, Part 63, Subpart DDDDDDD. Construction permits issued to the facility as of the June 2024 inspection date also stated that “[t]he absence of the inclusion of any NESHAP requirements as part of this permit does not relieve the owner or operator from any obligation to comply with all applicable NESHAP conditions.” As stated above, manganese is added at a later point in the process, where the Mixer (which vents internally), the Pellet Cooler (EP 8, Construction Permit No. 13-A-348-S1), and the Truck Loadout are used, which makes this facility subject to 40 CFR, Part 63, Subpart DDDDDDD. The Truck Loadout was at the time of the June 2024 inspection - and continues to be - an “as-built” emission point, without the required construction permit.

10. A June 20, 2024, NOV letter was issued to Mid-State Milling following the June 12, 2024, inspection. This NOV letter included a copy of the inspection report which noted the specific violations.

11. On July 18, 2024, the facility submitted an as-built permit application for the two Roller Mills.

August 22, 2024, Site Inspection

12. A site visit was conducted by DNR Central Office and DNR Field Office 2 staff to better understand the site operations and determine if there were any other unpermitted sources at the facility.

13. During the August 2024 site visit, DNR observed visible emissions from the unpermitted as-built vent connected to a storage bin that feeds grain and feed ingredients into the two as-built Roller Mills at the facility.

14. The Truck Loadout at the facility is an “as-built” emission unit and requires an air quality construction permit. The Truck Loadout also is located after the point in the process where the facility becomes subject to the requirements of 40 CFR 63 NESHAP Subpart DDDDDDD. During the August 2024 site visit, DNR observed that the Truck Loadout was in violation of the 40 CFR 63 NESHAP Subpart DDDDDDD requirement to lessen fugitive emissions

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by either reducing the distance between the loadout spout and the vehicle being loaded or by using a device of any kind at the bulk loadout spout that minimizes the distance to the vehicle being loaded.

15. On September 3, 2024, Mid-State Milling informed DNR that the Truck Dump Pit receiving bay enclosure would be extended to allow the overhead doors to close while in use. The extension was anticipated to be completed within 60 days.

16. A September 4, 2024, NOV letter was sent to Mid-State Milling following the August 22, 2024, inspection and requiring the facility to submit an air quality construction permit application for the Truck Loadout and to comply with 40 CFR, Part 63, Subpart DDDDDDD. Mid-State Milling informed DNR on September 19, 2024, that extensions to the Truck Loadout spouts have been installed to comply with 40 CFR, Part 63, Subpart DDDDDDD.

17. On September 26, 2024, the facility submitted an as-built permit application for the Truck Loadout.

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 20-33 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 22.1(1) states unless exempted in subrule 22.1(2) or to meet the parameters established in paragraph "c" of this subrule, no person shall construct, install, reconstruct or alter any equipment, control equipment without first obtaining an air quality construction permit. Mid-State Milling has failed to obtain air quality construction permits as required, as stated above.

4. 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. Mid-State Milling has failed to comply with the conditions of its air quality construction permits, as stated above.

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5. 567 IAC 21.8(1) requires that the owner or operator of any equipment or control equipment shall maintain and operate the equipment or control equipment at all times in a manner consistent with good practice for minimizing emissions. Mid-State Milling has failed to maintain and operate its equipment and its facility in a manner consistent with good practice for minimizing emissions, as stated above.

6. 40 CFR, Part 63, Subpart DDDDDDD, adopted by reference by DNR at 567 Iowa Administrative Code section 23.1(4), requires, among other things:

- that raw materials containing greater than 1% manganese be stored in closed containers; and
- that facilities submit a Notification of Compliance and an Annual Compliance Certification; and
- that records be kept regarding when housekeeping measures to minimize dust are being conducted; and
- that the facility lessen fugitive emissions by reducing the distance between the loadout spout and the vehicle being loaded or by using a device of any kind at the bulk loadout spout that minimizes the distance to the vehicle being loaded.

Mid-State Milling has failed to comply with these requirements.

V. ORDER

THEREFORE, DNR orders and Mid-State Milling agrees to the following:

1. Within 90 days of the date this Administrative Consent Order is signed by the Director, Mid-State Milling shall:

- modify the receiving bay to comply with Construction Permit No. 14-A-509-S1 issued for the Truck Dump Pit (Emission Point 9), and inform DNR in writing upon completion of the modification; and
- comply with all applicable requirements 40 CFR, Part 63, Subpart DDDDDDD.

2. Within 90 days of the date this Administrative Consent Order is signed by the Director, Mid-State Milling shall either:

- submit a construction permit application for the unpermitted as-built vent connected to the storage bin that feeds grain and feed ingredients into the two as-built Roller Mills at the facility; or
- modify the stack to be internally vented; and

3. Within 120 days of the date this Administrative Consent Order is signed by the director, Mid-State Milling shall conduct, through an independent

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third-party auditor whose selection must first be approved in writing by DNR, a comprehensive environmental audit to determine compliance status of all air emitting sources at the facility. The auditor shall not be a former or current employee or contractor of Mid-State Milling and shall not have more than a de minimus current or former financial interest in Mid-State Milling. Within 120 days of the date this order is signed by the director, Mid-State Milling shall provide a final audit report to DNR including any discovered violations, needed corrective actions, all auditor-recommended corrective actions, and schedule for compliance;

4. Within 60 days of the date this Administrative Consent Order is signed by the director, Mid-State Milling shall pay a penalty of \$9,000.00, as set forth in Section VI, below.

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 \$9,000.00 is assessed by this administrative consent order. The penalty must be paid within 60 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 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 to offset the economic benefit. 567 IAC 10.30(1) further states that reasonable estimates of economic benefit should be made where clear data are not available.

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Mid-State Milling has saved time and money by failing to timely obtain required air quality construction permits. Furthermore, Mid-State Milling has delayed the costs of making necessary modifications to the receiving bay and overhead doors that are vital to compliance with permitted operating limits.

For the reasons stated above, \$3,000.00 should be assessed for this factor.

Gravity of the Violation –Substantial civil penalties are authorized by statute for the type of violations cited in this Administrative Consent Order. 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.

Mid-State Milling has failed to comply with air quality construction permit requirements and air quality regulations. This threatens the integrity of the air quality program. Air quality construction permits are required to be obtained prior to construction in order to allow for the prior review of plans and specifications pertaining to a proposed contaminate source. Mid-State Milling failed to obtain such permits on several occasions. Mid-State Milling has been operating out of compliance with permit requirements since the Truck Dump Pit permit modification was issued. Also, Mid-State Milling has also operated unpermitted emission points, including two Roller Mills and the Truck Loadout that is subject to 40 CFR, Part 63, Subpart DDDDDDD.

For the reasons stated above, \$3,000.00 should be assessed for this factor.

Culpability – It is the responsibility of Mid-State Milling to know and comply with Iowa law regarding air quality regulations. The facility was informed of violations on two separate occasions in 2019 and on two separate occasions in 2024. Months after receiving a NOV letter for modifying equipment without an air quality construction permit, the facility repeated the violation.

For the reasons stated above, \$3,000.00 should be assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS


This administrative consent order is entered into knowingly and with the consent of Mid-State Milling. For that reason, Mid-State Milling waives its right to appeal this order or any part thereof.

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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



Name:
Mid-State Milling, Inc.

Dated this 13 day of
November, 2024.

DNR Air Quality Bureau; DNR Field Office 2

