

## Statement for Public Hearing on Chapter 65 Rules

Michael Schmidt

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Thank you for the opportunity to speak today. My name is Michael Schmidt, and I am the staff attorney and interim executive director of the Iowa Environmental Council. IEC is an alliance of more than 100 member organizations and hundreds of individual members across the state. IEC's members hike, fish, paddle, swim, and recreate in and around lakes, rivers, and streams throughout the state, and rely on our surface and groundwater as drinking water sources.

IEC petitioned for rulemaking twice on chapter 65 in recent years and commented on prior drafts of these rules. We appreciate DNR's willingness to consider our comments, but have been frustrated by the refusal to adopt common-sense revisions to rules necessary to protect water quality. I'll highlight a few of those issues in a moment, and will provide more detailed comments in writing.

Iowa faces serious pollution of its drinking water sources, including both surface and groundwater. Most of that pollution comes from agricultural sources, including manure produced by animal feeding operations. Over the past few decades, the livestock industry has transformed through consolidation and we have seen the rapid growth of large-scale operations. We have seen associated increases in water pollution, particularly nitrate, which has direct costs to the health, finances, and quality of life of everyone downstream.

Iowans depend on the Environmental Protection Commission to protect Iowa's environment. The EPC must ensure that manure "will not cause surface water or groundwater pollution." (§459.311(3).) And by law, DNR must "prevent, abate, or control water pollution." (§455B.172.) Water quality data show that existing rules have not met those obligations. The proposed rules perpetuate those failures despite opportunities to fulfill the state's duties.

First, it appears that the governor's office preemptively objected to increased protections for karst terrain, where manure can quickly enter groundwater and surface water through porous bedrock and sinkholes. We have more and more manure storage structures that are getting old and more susceptible to cracks and leakage. News stories regularly report on basins that leak into creeks or other water bodies, demonstrating the risk from the hundreds of unlined earthen basins in the state. And thousands more AFOs have concrete basins. DNR's own experts have concluded that these basins will crack and leak and that more protective rules are needed in karst. We object to the proposed rules because they fail to add the protections we sought, or any additional protections, for karst terrain.

Next, the rules will prolong our water quality problems by allowing over-application of manure. We all know there is more manure and fertilizer being applied to farm fields in many parts of the state than crops can use. We see the results in our poor water quality. Why do these rules allow that to continue? Again, DNR must "prevent, abate, or control water pollution." The rules need to set application rates that stop sending fertilizer into our creeks, rivers, and streams.

Finally, DNR has rejected our requests to require manure management plans, or MMPs, to be submitted electronically and with geospatial information. State law encourages electronic submission “to every extent feasible.” (§ 459.302.) We have found through records requests that DNR has no way to evaluate whether multiple MMPs rely on the same field for manure application, unless staff page through every nearby MMP that might possibly have overlap. I cannot fathom how the department can provide effective oversight when thousands of manure management plans require a manual review like that. For proper enforcement, DNR must adopt rules that require electronic forms and geospatial data.

Iowans rely on our water for drinking water, for fish, and many other uses. The EPC and the DNR have a legal duty to protect it. I hope that you will make the changes we recommend to protect Iowa’s water for all Iowans, today and in the future. Thank you.