

### **459.303 Confinement feeding operations — permit requirements.**

1. The department shall approve or disapprove applications for permits for the construction, including the expansion, of confinement feeding operation structures, as provided by rules adopted pursuant to [this chapter](#). The department's decision to approve or disapprove a permit for the construction of a confinement feeding operation structure shall be based on whether the application is submitted according to procedures required by the department and the application meets standards established by the department. A person shall not begin construction of a confinement feeding operation structure requiring a permit under [this section](#), unless the department first approves the person's application and issues to the person a construction permit. The department shall provide conditions for requiring when a person must obtain a construction permit.

a. Except as provided in paragraph "b", a person must obtain a permit to construct any of the following:

(1) A confinement feeding operation structure if after construction its confinement feeding operation would have an animal unit capacity of at least one thousand animal units.

(2) The confinement feeding operation structure is an unformed manure storage structure.

b. A person is not required to obtain a permit to construct a confinement feeding operation structure if any of the following apply:

(1) The confinement feeding operation structure, if constructed, would be part of a small animal feeding operation. However, the person must obtain a permit under [this section](#) if the confinement feeding operation structure is an unformed manure storage structure.

(2) The confinement feeding operation structure is part of a confinement feeding operation which is owned by a research college conducting research activities as provided in [section 459.318](#).

2. The department shall issue a construction permit upon approval of an application. The department shall approve the application if the application is submitted to the county board of supervisors in the county where the proposed confinement feeding operation structure is to be located as required pursuant to [section 459.304](#), and the application meets the requirements of [this chapter](#). If a county submits an approved recommendation pursuant to a construction evaluation resolution filed with the department, the application must also achieve a satisfactory rating produced by the master matrix used by the board or department under [section 459.304](#). The department shall approve the application regardless of whether the applicant is required to be issued a construction permit.

3. The department shall not approve an application for a construction permit unless the applicant submits all of the following:

a. An indemnity fee as provided in [section 459.502](#) that the department shall deposit into the manure storage indemnity fund created in [section 459.501](#).

b. A manure management plan as provided in [section 459.312](#) and manure management plan filing fee as provided in [section 459.400](#).

c. A construction permit application fee as provided in [section 459.400](#).

d. A livestock odor mitigation evaluation certificate issued by Iowa state university as provided in [section 266.49](#). The department shall not obtain, maintain, or consider the results of an evaluation. The applicant is not required to submit the certificate if any of the following applies:

(1) The confinement feeding operation is twice the minimum separation distance required from the nearest object or location from which a separation distance is required pursuant to [section 459.202](#) on the date of the application, not including a public thoroughfare.

(2) The owner of each object or location which is less than twice the minimum separation distance required pursuant to [section 459.202](#) from the confinement feeding operation on the date of the application, other than a public thoroughfare, executes a document consenting to the construction.

(3) The applicant submits a document swearing that Iowa state university has failed to furnish a certificate to the applicant within forty-five days after the applicant requested the university to conduct a livestock odor mitigation evaluation as provided in [section 266.49](#).

(4) The application is for a permit to expand a confinement feeding operation, if the confinement feeding operation was first constructed before January 1, 2009.

(5) Iowa state university does not provide for a livestock odor mitigation evaluation effort as provided in [section 266.49](#), for any reason, including because funding is not available.

4. The applicant may submit a master matrix as completed by the applicant.

5. *a.* A confinement feeding operation meets threshold requirements under [this subsection](#) if the confinement feeding operation after construction of a proposed confinement feeding operation structure would have a minimum animal unit capacity of the following:

(1) Three thousand animal units for animals other than swine maintained as part of a swine farrowing and gestating operation or farrow-to-finish operation or cattle maintained as part of a cattle operation.

(2) One thousand two hundred fifty animal units for swine maintained as part of a swine farrowing and gestating operation.

(3) Two thousand seven hundred fifty animal units for swine maintained as part of a farrow-to-finish operation.

(4) Four thousand animal units for cattle maintained as part of a cattle operation.

*b.* The department shall not approve an application for a construction permit unless the following apply:

(1) If the application is for a permit to construct an unformed manure storage structure, the application must include a statement approved by a professional engineer certifying that the construction of the unformed manure storage structure complies with the construction design standards required in [this subchapter](#).

(2) If the application is for a permit to construct three or more confinement feeding operation structures, the application must include a statement providing that the construction of the confinement feeding operation structures will not impede drainage through established drainage tile lines which cross property boundary lines unless measures are taken to reestablish the drainage prior to completion of construction. For a confinement feeding operation that meets threshold requirements, the statement must be approved by a professional engineer. Otherwise, if the application is for a permit to construct a formed manure storage structure, the statement must be part of the construction design statement as provided in [section 459.306](#).

(3) If the application is for a permit to construct a formed manure storage structure, other than for a confinement feeding operation meeting threshold requirements, the applicant must include a construction design statement as provided in [section 459.306](#). An application for a permit to construct a formed manure storage structure as part of a confinement feeding operation that meets threshold requirements must include a statement approved by a professional engineer certifying that the construction of the formed manure storage structure complies with the requirements of [this subchapter](#).

(4) The department may only require that an application for a permit to construct a formed manure storage structure or egg washwater storage structure that is part of a confinement feeding operation meeting threshold requirements include an engineering report, construction plans, or specifications prepared by a licensed professional engineer or the natural resources conservation service of the United States department of agriculture.

6. As a condition to approving an application for a construction permit, the department may require any of the following:

*a.* The installation of a related pollution control device or practice, including but not limited to the installation and operation of a water pollution monitoring system for an unformed manure storage structure.

*b.* The department's approval of the installation of any proposed system to permanently lower the groundwater table at a site as part of the construction of an unformed manure storage structure, as is necessary to ensure that the unformed manure storage structure does not pollute groundwater sources, including providing for standards as provided in [section 459.308](#).

7. *a.* The department shall not issue a permit to a person under [this section](#) if an enforcement action by the department, relating to a violation of [this chapter](#) concerning a

confinement feeding operation in which the person has an interest, is pending, as provided in [section 459.317](#).

b. The department shall not issue a permit to a person under [this section](#) for five years after the date of the last violation committed by a person or confinement feeding operation in which the person holds a controlling interest during which the person or operation was classified as a habitual violator under [section 459.604](#).

98 Acts, ch 1209, §26, 53

C99, §455B.200A

2002 Acts, ch 1137, §28, 29, 68, 70, 71; 2002 Acts, 2nd Ex, ch 1003, §251, 259 – 262

C2003, §459.303

2003 Acts, ch 44, §74; 2003 Acts, ch 108, §83; 2008 Acts, ch 1174, §11 – 14

Referred to in [§266.46](#), [459.102](#), [459.301](#), [459.304](#), [459.305](#), [459.306](#), [459.308](#), [459.310](#), [459.312](#), [459.400](#), [459.401](#), [459.403](#), [459.502](#), [459.503](#)

2008 enactment of subsection 3, paragraph d, takes effect January 1, 2009, and does not apply to applications for a permit to construct a confinement feeding operation submitted prior to that date; 2008 Acts, ch 1174, §12, 14

Implementation of subsection 3, paragraph d, is contingent upon receipt of sufficient funds by Iowa state university; 2008 Acts, ch 1174, §13