

**459.205 Separation distance requirements — exemptions.**

A separation distance requirement provided in this subchapter shall not apply to the following:

1. A confinement feeding operation structure, if the structure is part of a confinement feeding operation which qualifies as a small animal feeding operation. However, this subsection shall not apply if the confinement feeding operation structure is an unformed manure storage structure.

2. a. A confinement feeding operation structure which is constructed or expanded, if the titleholder of the land benefiting from the distance separation requirement executes a written waiver with the titleholder of the land where the structure is located. If a confinement feeding operation structure is constructed or expanded within the separation distance required between a confinement feeding operation structure and a public thoroughfare as required pursuant to section 459.202, the state or a political subdivision constructing or maintaining the public thoroughfare benefiting from the distance separation requirement may execute a written waiver with the titleholder of the land where the structure is located. The confinement feeding operation structure shall be constructed or expanded under such terms and conditions that the parties negotiate.

b. A written waiver under this subsection becomes effective only upon the recording of the waiver in the office of the recorder of deeds of the county in which the benefited land is located. The filed waiver shall preclude enforcement by the state of section 459.202 as it relates to a distance requirement between the confinement feeding operation structure and the location or object benefiting from the separation distance requirement.

3. A confinement feeding operation structure which is constructed or expanded within any distance from a residence, educational institution, commercial enterprise, bona fide religious institution, city, or public use area, if the residence, educational institution, commercial enterprise, or bona fide religious institution was constructed or expanded, or the boundaries of the city or public use area were expanded, after the date that the confinement feeding operation was established. The date the confinement feeding operation was established is the date on which the confinement feeding operation commenced operating. A change in ownership or expansion of the confinement feeding operation shall not change the established date of operation.

4. The application of liquid manure on land within a separation distance required between the applied manure and an object or location for which separation is required under section 459.204, if any of the following apply:

a. The liquid manure is injected into the soil or incorporated within the soil not later than twenty-four hours from the original application, as provided by rules adopted by the commission.

b. The titleholder of the land benefiting from the separation distance requirement executes a written waiver with the titleholder of the land where the manure is applied.

c. The liquid manure originates from a small animal feeding operation.

d. The liquid manure is applied by spray irrigation equipment using a center pivot mechanism as provided by rules adopted by the department, if all of the following apply:

(1) The spray irrigation equipment uses hoses which discharge the liquid manure in a downward direction at a height of not more than nine feet above the soil.

(2) The spray irrigation equipment disperses manure through an orifice at a maximum pressure of not more than twenty-five pounds per square inch.

(3) The liquid manure is not applied within two hundred fifty feet from a residence not owned by the titleholder of the land, a commercial enterprise, a bona fide religious institution, an educational institution, or a public use area.

5. The stockpiling of dry manure within a separation distance required between a stockpile and an object or location for which separation is required under section 459.204B if any of the following apply:

a. The titleholder of the land benefiting from the separation distance requirement executes a written waiver with the titleholder of the land where the stockpile is located.

b. The stockpile consists of dry manure originating from a small animal feeding operation.

c. The stockpile consists of dry manure originating from a confinement feeding operation

that was constructed before January 1, 2006, unless the confinement feeding operation is expanded after that date.

6. The distance between a confinement feeding operation structure and a cemetery, if any of the following applies:

a. The confinement feeding operation structure was constructed or expanded prior to January 1, 1999.

b. The construction or expansion of the confinement feeding operation structure began prior to January 1, 1999.

95 Acts, ch 195, §19

CS95, §455B.165

98 Acts, ch 1209, §20, 21, 53; 2000 Acts, ch 1154, §31; 2002 Acts, ch 1137, §21, 22, 67, 68, 71; 2002 Acts, 2nd Ex, ch 1003, §260, 262

C2003, §459.205

2009 Acts, ch 38, §4, 16