

459.102 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Aerobic structure" means an animal feeding operation structure other than an egg washwater storage structure which employs bacterial action which is maintained by the utilization of air or oxygen and which includes aeration equipment.

2. "Anaerobic lagoon" means an unformed manure storage structure, if the primary function of the structure is to store and stabilize manure, the structure is designed to receive manure on a regular basis, and the structure's design waste loading rates provide that the predominant biological activity is anaerobic. An anaerobic lagoon does not include any of the following:

a. A settled open feedlot effluent basin as defined in section 459A.102.

b. An anaerobic treatment system that includes collection and treatment facilities for all off gases.

3. "Animal" means cattle, swine, horses, sheep, chickens, turkeys, or fish.

4. "Animal feeding operation" means a lot, yard, corral, building, or other area in which animals are confined and fed and maintained for forty-five days or more in any twelve-month period, and all structures used for the storage of manure from animals in the operation. Except as required for a national pollutant discharge elimination system permit required pursuant to the federal Water Pollution Control Act, 33 U.S.C. ch. 26, as amended, an animal feeding operation does not include a livestock market.

5. "Animal feeding operation structure" means a confinement building, manure storage structure, dry bedded confinement feeding operation structure as defined in section 459B.102, or egg washwater storage structure.

6. "Animal unit" means a unit of measurement based upon the product of multiplying the number of animals of each category by a special equivalency factor as follows:

a. Slaughter or feeder cattle	1.000
b. Immature dairy cattle	1.000
c. Mature dairy cattle	1.400
d. Butcher or breeding swine weighing more than fifty-five pounds	0.400
e. Swine weighing fifteen pounds or more but not more than fifty-five pounds	0.100
f. Sheep or lambs	0.100
g. Horses	2.000
h. Turkeys weighing one hundred twelve ounces or more	0.018
i. Turkeys weighing less than one hundred twelve ounces	0.0085
j. Chickens weighing forty-eight ounces or more	0.010
k. Chickens weighing less than forty-eight ounces	0.0025
l. Fish	0.001

7. "Animal unit capacity" means a measurement used to determine the maximum number of animal units that may be maintained as part of an animal feeding operation at any one time, including as provided in sections 459.201 and 459.301.

8. "Animal weight capacity" means the product of multiplying the maximum number of animals which the owner or operator confines in an animal feeding operation at any one time by the average weight during a production cycle.

9. "Cemetery" means a space held for the purpose of permanent burial, entombment, or interment of human remains that is owned or managed by a political subdivision or private entity, or a cemetery regulated pursuant to chapter 523I. However, "cemetery" does not include a pioneer cemetery as defined in section 331.325.

10. "Commercial enterprise" means a building which is used as a part of a business that manufactures goods, delivers services, or sells goods or services, which is customarily and regularly used by the general public during the entire calendar year and which is connected

to electric, water, and sewer systems. A commercial enterprise does not include a farm operation.

11. “*Commercial manure service*” means a sole proprietor or business association as defined in section 202B.102, engaged in the business of transporting, handling, storing, or applying manure for a fee.

12. “*Commercial manure service representative*” means a natural person who is any of the following:

a. A manager of a commercial manure service. As used in this paragraph a “*manager*” is a person who is actively involved in the operation of a commercial manure service and takes an important part in making management decisions substantially contributing to or affecting the success of the commercial manure service.

b. An employee, agent, or contractor of a commercial manure service, if the person is engaged in transporting, handling, storing, or applying manure on behalf of the commercial manure service.

13. “*Commission*” means the environmental protection commission created pursuant to section 455A.6.

14. “*Confinement feeding operation*” means an animal feeding operation in which animals are confined to areas which are totally roofed.

15. “*Confinement feeding operation building*” or “*confinement building*” means a building used in conjunction with a confinement feeding operation to house animals.

16. “*Confinement feeding operation structure*” means an animal feeding operation structure that is part of a confinement feeding operation.

17. “*Confinement site manure applicator*” means a person, other than a commercial manure service or a commercial manure service representative, who applies manure on land if the manure originates from a manure storage structure.

18. “*Covered*” means organic or inorganic material placed upon an animal feeding operation structure used to store manure as provided by rules adopted by the department after receiving recommendations which shall be submitted to the department by the college of agriculture and life sciences at Iowa state university of science and technology.

19. “*Critical public area*” means land as designated by the department pursuant to rules adopted pursuant to chapter 17A, if all of the following apply:

a. The land is part of a public park, preserve, or recreation area that is owned or managed by the federal government; by the department, including under chapter 461A or 465C; or by a political subdivision.

b. The land has a unique scenic, cultural, archaeological, scientific, or historic significance or contains a rare or valuable ecological system.

20. “*Department*” means the department of natural resources created pursuant to section 455A.2.

21. “*Designated area*” means a known sinkhole, a cistern, an abandoned well, an unplugged agricultural drainage well, an agricultural drainage well surface inlet, a drinking water well, a designated wetland, or a water source. However, “*designated area*” does not include a terrace tile inlet or a surface tile inlet other than an agricultural drainage well surface tile inlet.

22. “*Designated wetland*” means land designated as a protected wetland by the United States department of the interior or the department of natural resources, including but not limited to a protected wetland as defined in section 456B.1, if the land is owned and managed by the federal government or the department of natural resources. However, a designated wetland does not include land where an agricultural drainage well has been plugged causing a temporary wetland or land within a drainage district or levee district.

23. “*Director*” means the director of the department of natural resources.

24. “*Document*” means any form required to be processed by the department under this chapter regulating animal feeding operations, including but not limited to applications or related materials for permits as provided in section 459.303, manure management plans as provided in section 459.312, comment or evaluation by a county board of supervisors considering an application for a construction permit, the department’s analysis of the

application including using and responding to a master matrix pursuant to section 459.304, and notices required under those sections.

25. “*Dry manure*” means manure which meets all of the following conditions:

a. The manure does not flow perceptibly under pressure.

b. The manure is not capable of being transported through a mechanical pumping device designed to move a liquid.

c. The constituent molecules of the manure do not flow freely among themselves but may show a tendency to separate under stress.

26. “*Earthen manure storage basin*” means an earthen cavity, either covered or uncovered, which, on a regular basis, receives waste discharges from a confinement feeding operation if accumulated wastes from the basin are completely removed at least once each year.

27. “*Educational institution*” means a building in which an organized course of study or training is offered to students enrolled in kindergarten through grade twelve and served by local school districts, accredited or approved nonpublic schools, area education agencies, community colleges, institutions of higher education under the control of the state board of regents, and accredited independent colleges and universities.

28. “*Egg washwater storage structure*” means an aerobic or anaerobic structure used to store the wastewater resulting from the washing and in-shell packaging of eggs.

29. “*Family member*” means a person related to another person as parent, grandparent, child, grandchild, sibling, or a spouse of such a related person.

30. “*Formed manure storage structure*” means a covered or uncovered impoundment used to store manure from an animal feeding operation, which has walls and a floor constructed of concrete, concrete block, wood, steel, or similar materials.

31. “*Frozen ground*” means soil that is impenetrable due to frozen soil moisture but does not include soil that is only frozen to a depth of two inches or less.

32. “*High-quality water resource*” means that part of a water source or wetland that the department has designated as any of the following:

a. A high-quality water (Class “HQ”) or a high-quality resource water (Class “HQR”) according to 567 IAC ch. 61, in effect on January 1, 2001.

b. A protected water area system, according to a state plan adopted by the department in effect on January 1, 2001.

33. “*Indemnity fee*” means a fee provided in section 459.502 or 459.503.

34. “*Karst terrain*” means land having karst formations that exhibit surface and subterranean features of a type produced by the dissolution of limestone, dolomite, or other soluble rock and characterized by closed depressions, sinkholes, or caves.

35. “*Liquid manure*” means manure that meets all of the following requirements:

a. It flows perceptibly under pressure.

b. It is capable of being transported through a mechanical pumping device designated to move a liquid.

c. Its constituent molecules flow freely among themselves and show the tendency to separate under stress.

36. “*Livestock market*” means any place where animals are assembled from two or more sources for public auction, private sale, or on a commission basis, which is under state or federal supervision, including a livestock sale barn or auction market, if such animals are kept for ten days or less.

37. “*Long-term stockpile location*” means an area where a person stockpiles manure for more than six months in any two-year period.

38. “*Major water source*” means a water source that is a lake, reservoir, river, or stream located within the territorial limits of the state, or any marginal river area adjacent to the state, if the water source is capable of supporting a floating vessel capable of carrying one or more persons during a total of a six-month period in one out of ten years, excluding periods of flooding, which has been identified by rules adopted by the commission.

39. “*Manure*” means animal excreta or other commonly associated wastes of animals, including but not limited to bedding, litter, or feed losses.

40. “*Manure storage structure*” means a formed manure storage structure or an unformed manure storage structure.

a. A manure storage structure includes a dry bedded manure storage structure as defined in section 459B.102.

b. A manure storage structure does not include an egg washwater storage structure.

41. “*One hundred year floodplain*” means the land adjacent to a major water source, if there is at least a one percent chance that the land will be inundated in any one year, according to calculations adopted by rules adopted pursuant to section 459.103. In making the calculations, the department shall consider available maps or data compiled by the federal emergency management agency.

42. “*Permittee*” means a person who, pursuant to section 459.303, obtains a permit for the construction of a manure storage structure, or a confinement feeding operation, if a manure storage structure is connected to the confinement feeding operation.

43. “*Professional engineer*” means a person engaged in the practice of engineering as defined in section 542B.2 who is issued a certificate of licensure as a professional engineer pursuant to section 542B.17.

44. “*Public thoroughfare*” means a road, street, or bridge that is constructed or maintained by the state or a political subdivision.

45. “*Public use area*” means any of the following:

a. A portion of land owned by the United States, the state, or a political subdivision with facilities which attract the public to congregate and remain in the area for significant periods of time, as provided by rules which shall be adopted by the department pursuant to chapter 17A.

b. A cemetery.

46. “*Qualified confinement feeding operation*” means a confinement feeding operation having an animal unit capacity of any of the following:

a. For a confinement feeding operation maintaining animals other than swine as part of a farrowing and gestating operation or farrow-to-finish operation or cattle as part of a cattle operation, five thousand three hundred thirty-three or more animal units.

b. (1) For a confinement feeding operation maintaining swine as part of a farrowing and gestating operation, two thousand five hundred or more animal units.

(2) In calculating the animal unit capacity of a confinement feeding operation under subparagraph (1), an animal unit does not include replacement breeding swine, if all of the following apply:

(a) The replacement breeding swine are raised at the confinement feeding operation.

(b) The replacement breeding swine are used in the farrowing and gestating operation.

(3) The method of calculating animal units under subparagraph (2) shall only be used for purposes of determining whether a confinement feeding operation is a qualified confinement feeding operation subject to section 459.206.

c. For a confinement feeding operation maintaining swine as part of a swine farrow-to-finish operation, five thousand four hundred or more animal units.

d. For a confinement feeding operation maintaining cattle, eight thousand five hundred or more animal units.

47. “*Qualified stockpile cover*” means a barrier impermeable to precipitation that is used to protect a stockpile from precipitation.

48. “*Qualified stockpile structure*” means any of the following:

a. A building.

b. A roofed structure other than a building that is all of the following:

(1) Impermeable to precipitation.

(2) Constructed using wood, steel, aluminum, vinyl, plastic, or other similar materials.

(3) Constructed with walls or other means to prevent precipitation-induced surface runoff from contacting the stockpile.

49. “*Religious institution*” means a building in which an active congregation is devoted to worship.

50. “*Restricted spray irrigation equipment*” means spray irrigation equipment which disperses manure through an orifice at a maximum pressure of eighty pounds per square inch or more.

51. “*Small animal feeding operation*” means an animal feeding operation which has an animal unit capacity of five hundred or fewer animal units.

52. “*Snow covered ground*” means soil covered by one inch or more of snow or soil covered by one-half inch or more of ice.

53. “*Spray irrigation equipment*” means mechanical equipment used for the aerial application of manure, if the equipment receives manure from a manure storage structure during application via a pipe or hose connected to the structure, and includes a type of equipment customarily used for the aerial application of water to aid the growing of general farm crops.

54. “*Stockpile*” means dry manure originating from a confinement feeding operation that is stored at a particular location outside a manure storage structure.

55. “*Stockpile dry manure*” means to create or add to a stockpile.

56. “*Surface water drain tile intake*” means an opening to a drain tile which allows surface water to enter the drain tile without filtration through the soil profile.

57. “*Swine farrow-to-finish operation*” means a confinement feeding operation in which porcine are produced and in which a primary portion of the phases of the production cycle are conducted at one confinement feeding operation. Phases of the production cycle include but are not limited to gestation, farrowing, growing, and finishing.

58. “*Unformed manure storage structure*” means a covered or uncovered impoundment used to store manure, other than a formed manure storage structure, which includes an anaerobic lagoon, aerobic structure, or earthen manure storage basin.

59. “*Water of the state*” means the same as defined in section 455B.171.

60. “*Water source*” means a lake, river, reservoir, creek, stream, ditch, or other body of water or channel having definite banks and a bed with water flow, except lakes or ponds without outlet to which only one landowner is riparian.

95 Acts, ch 195, §15

CS95, §455B.161

98 Acts, ch 1209, §12, 13, 53; 2002 Acts, ch 1137, §7, 8, 32, 68, 71; 2002 Acts, ch 1138, §1 – 3, 5; 2002 Acts, 2nd Ex, ch 1003, §248, 260, 262

C2003, §459.102

2003 Acts, ch 44, §71, 72; 2003 Acts, ch 52, §1, 6; 2003 Acts, ch 108, §82; 2003 Acts, ch 138, §1, 2; 2003 Acts, ch 163, §1, 2, 23; 2004 Acts, ch 1086, §77; 2005 Acts, ch 136, §34, 35; 2008 Acts, ch 1032, §59; 2008 Acts, ch 1191, §143, 147, 148; 2009 Acts, ch 38, §1, 16; 2009 Acts, ch 155, §1, 32, 34; 2012 Acts, ch 1036, §2; 2012 Acts, ch 1085, §1, 2

Referred to in §165B.1, 202.1, 202C.1, 331.304A, 455B.171, 455H.107, 459A.102, 459A.103, 459B.102, 579B.1, 654C.1, 657.11

[T] Subsection 3 amended

[T] Subsection 6, NEW paragraph 1

[T] Subsection 46, paragraph b amended