

CHAPTER 460

AGRICULTURAL DRAINAGE WELLS AND SINKHOLES

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Code 2003 pursuant to Code editor directive;
2002 Acts, ch 1137, §68, 71;
2002 Acts, 2nd Ex, ch 1003, §260, 262

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SUBCHAPTER I

GENERAL PROVISIONS

460.101 Definitions.

1. “*Agricultural drainage well*” means a vertical opening to an aquifer or permeable substratum which is constructed by any means including but not limited to drilling, driving, digging, boring, augering, jetting, washing, or coring, and which is capable of intercepting or receiving surface or subsurface drainage water from land directly or by a drainage system.

2. “*Agricultural drainage well area*” means an area of land where surface or subsurface water drains into an agricultural drainage well directly or through a drainage system connecting to the agricultural drainage well.

3. “*Alternative drainage system*” means a drainage system constructed as part of a drainage district in order to drain surface or subsurface water from land due to the closing of an agricultural drainage well.

4. “*Book*”, “*list*”, “*record*”, or “*schedule*” kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

5. “*Designated agricultural drainage well area*” means an agricultural drainage well area in which there is located an anaerobic lagoon or earthen manure storage basin required to obtain a construction permit by the department of natural resources.

6. “*Division*” means the soil conservation division of the department of agriculture and land stewardship.

7. “*Drainage district*” means a drainage district established pursuant to chapter 468.

8. “*Drainage system*” means tile lines, laterals, surface inlets, or other improvements which are constructed to facilitate the drainage of land.

9. “*Earthen storage structure*” means an earthen cavity, either covered or uncovered, including but not limited to an anaerobic lagoon or earthen manure storage basin which is used to store manure, sewage, wastewater, industrial waste, or other waste as regulated by the department of natural resources, if stored in a liquid or semiliquid state.

10. “*Land*” means land which is used or which is suitable for use for any purpose, if the land is located within an agricultural drainage well area which includes land used or suitable for use in farming.

11. “*Surface water*” means water occurring on the surface of the ground.

12. “*Surface water intake*” means an artificial opening to a drain tile line which drains into an agricultural drainage well, if the artificial opening allows surface water to enter the drain tile line without filtration through the soil profile.

97 Acts, ch 193, §4

CS97, §455I.1

2000 Acts, ch 1148, §1; 2002 Acts, ch 1119, §200, 201; 2002 Acts, ch 1137, §52, 68, 71; 2002 Acts, 2nd Ex, ch 1003, §260, 262

C2003, §460.101

Referred to in §159.1

SUBCHAPTER II

AGRICULTURAL DRAINAGE WELLS

— REGULATION

460.201 Definition.

As used in this subchapter, unless the context otherwise requires, “*department*” means the department of natural resources.

2002 Acts, ch 1137, §68, 71; 2002 Acts, 2nd Ex, ch 1003, §260, 262

460.202 Preventing surface water drainage into agricultural drainage wells.

Not later than December 31, 2001, all of the following shall apply:

1. *a.* An owner of land on which an agricultural drainage well is located shall prevent surface water from draining into the agricultural drainage well. The landowner shall comply with rules, which shall be adopted by the department, in consultation with the division, required to carry out this section. The landowner shall do all of the following:

(1) If the land has a surface water intake emptying into an agricultural drainage well, including a surface water intake located in a road ditch, the landowner shall remove the surface water intake.

(2) If the land has a cistern connecting to an agricultural drainage well, the landowner shall construct and maintain sidewalls surrounding the cistern in order to prevent surface water runoff directly emptying into the agricultural drainage well.

(3) If the land has an agricultural drainage well, the landowner shall ensure that the agricultural drainage well and related drainage system are adequately ventilated in a manner that does not allow surface water to directly drain into the agricultural drainage well.

(4) The landowner shall install a locked cover over the agricultural drainage well or its cistern in order to prevent unauthorized access to the agricultural drainage well or its cistern.

b. This subsection does not require a person to remove a tile line that drains into an agricultural drainage well if the tile line does not have a surface water intake. This subsection also does not prohibit a person from installing a tile line, if the installed tile line does not increase an agricultural drainage well area.

2. An agricultural drainage well shall be inspected to ensure compliance with this section, as required by the county board of supervisors in the county in which the agricultural drainage well is located.

3. The department shall adopt guidelines as necessary to assist counties in performing inspections as provided in this section. The guidelines shall not affect the authority of a county to designate a person to perform inspections.

97 Acts, ch 193, §5

CS97, §455I.2

98 Acts, ch 1173, §1; 2002 Acts, ch 1137, §68, 71; 2002 Acts, 2nd Ex, ch 1003, §260, 262

C2003, §460.202

2011 Acts, ch 25, §143

Referred to in §460.206

460.203 Closing of agricultural drainage wells and construction of alternative drainage systems.

1. Not later than December 31, 2001, the owner of land which is within a designated agricultural drainage well area shall close each agricultural drainage well located on the land. The owner shall close the agricultural drainage well in a manner using materials and according to specifications required by rules which shall be adopted by the department in consultation with the division. The department may provide different closing requirements based on classifications established by the department. However, the department's requirements shall ensure that an agricultural drainage well is closed by using sealing materials such as bentonite to permanently seal the agricultural drainage well from contamination by surface or subsurface water drainage.

2. A person owning land affected by the closing of an agricultural drainage well as required pursuant to subsection 1 may construct an alternative drainage system as part of an established or new drainage district as provided in chapter 468. The alternative drainage system shall ensure that surface or subsurface water does not drain into an agricultural drainage well.

97 Acts, ch 193, §6

CS97, §455I.3

99 Acts, ch 72, §1; 2002 Acts, ch 1137, §68, 71; 2002 Acts, 2nd Ex, ch 1003, §260, 262

C2003, §460.203

Referred to in §460.206

460.204 Notice.

1. The department shall provide information regarding landowners registering agricultural drainage wells pursuant to section 460.302 to each county board of supervisors in which an agricultural drainage well is registered.

2. The department shall notify landowners of land on which an agricultural drainage well is located of the deadline for complying with this subchapter. The notice shall be provided by print, electronic media, or other notification process. The department shall provide the notice in cooperation with the county board of supervisors in the county where the agricultural drainage well is located.

3. The department shall mail a special notice to owners of land registering agricultural drainage wells pursuant to section 460.302.

97 Acts, ch 193, §7

CS97, §455I.4

2002 Acts, ch 1137, §68, 71; 2002 Acts, 2nd Ex, ch 1003, §260, 262

C2003, §460.204

460.205 Prohibition against constructing earthen storage structures.

A person shall not construct or expand an earthen storage structure within an agricultural drainage well area. Each day that a person operates an earthen storage structure which is constructed in violation of this section constitutes a separate violation.

97 Acts, ch 193, §8

CS97, §455I.5

2002 Acts, ch 1137, §68, 71; 2002 Acts, 2nd Ex, ch 1003, §260, 262

C2003, §460.205

Referred to in §459.310, 460.206

460.206 Penalties.

1. a. A person who violates section 460.202 or 460.203 is subject to a civil penalty of not more than one thousand dollars. However, if a person is found to have violated a section and again violates the section by not taking action necessary to correct a previous violation within sixty days after the person was found to have committed the previous violation, the person is subject to a civil penalty not to exceed five thousand dollars. If a person is convicted of violating a section two or more times and again violates that section by not taking action necessary to correct a previous violation within sixty days after the person was found to have

committed the last previous violation, the person is subject to a civil penalty not to exceed fifteen thousand dollars.

b. A person who violates section 460.205 is subject to a civil penalty not to exceed five thousand dollars.

2. Moneys collected from the assessment of civil penalties and interest on civil penalties as provided for in this section shall be deposited in the livestock remediation fund as created in section 459.501.

97 Acts, ch 193, §9

CS97, §455I.6

2002 Acts, ch 1137, §68, 71; 2002 Acts, 2nd Ex, ch 1003, §260, 262

C2003, §460.206

2011 Acts, ch 81, §11

460.207 Reimbursement of expenses.

The expenses incurred by a county in carrying out this subchapter shall be prorated among the landowners in the county who own land on which an agricultural drainage well is located. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes. If expenses are incurred by a drainage district, the board shall levy an assessment on the lands in the district where an agricultural drainage well is located as provided in section 468.50.

97 Acts, ch 193, §10

CS97, §455I.7

2002 Acts, ch 1137, §68, 71; 2002 Acts, 2nd Ex, ch 1003, §260, 262

C2003, §460.207

SUBCHAPTER III

AGRICULTURAL DRAINAGE WELLS — REGISTRATION — ALTERNATIVE DRAINAGE SYSTEMS — SINKHOLES

Referred to in §159.6A

460.301 Definition.

As used in this subchapter, unless the context otherwise requires, “*department*” means the department of agriculture and land stewardship.

2002 Acts, ch 1137, §68, 71; 2002 Acts, 2nd Ex, ch 1003, §260, 262

460.302 Agricultural drainage wells.

1. An owner of an agricultural drainage well shall register the well with the department of natural resources by September 30, 1988. The department of agriculture and land stewardship, in cooperation with the department of natural resources, shall adopt rules, pursuant to chapter 17A, which provide for an appeals process for violations of this subsection.

2. An owner of an agricultural drainage well and a landholder whose land is drained by the well or wells of another person shall develop, in consultation with the department of agriculture and land stewardship and the department of natural resources, a plan which proposes alternatives to the use of agricultural drainage wells by July 1, 1998.

a. Financial incentive moneys may be allocated from the financial incentive portion of the agriculture management account of the groundwater protection fund to implement alternatives to agricultural drainage wells.

b. An owner of an agricultural drainage well and a landholder whose land is drained by the well or wells of another person shall not be eligible for financial incentive moneys pursuant to paragraph “a” if the owner fails to register the well with the department of natural resources by September 30, 1988, or if the owner fails to develop a plan for alternatives in

cooperation with the department of agriculture and land stewardship and the department of natural resources.

3. The department shall:

a. (1) On July 1, 1987 initiate a pilot demonstration and research project concerning elimination of groundwater contamination attributed to the use of agricultural chemicals and agricultural drainage wells. The project shall be established in a location in north central Iowa determined by the department to be the most appropriate. A demonstration project shall also be established in northeast Iowa to study techniques for the cleanup of sinkholes.

(2) The agricultural drainage well pilot project shall be designed to identify the environmental, economic, and social problems presented by continued use or closure of agricultural drainage wells and to monitor possible contamination caused by agriculture land management practices and agricultural chemical use relative to agricultural drainage wells.

b. Develop alternative management practices based upon the findings from the demonstration projects to reduce the infiltration of synthetic organic compounds into the groundwater through agricultural drainage wells and sinkholes.

c. Examine alternatives and the costs of implementation of alternatives to the use of agricultural drainage wells, and examine the legal, technical, and hydrological constraints for integrating alternative drainage systems into existing drainage districts.

4. Financial incentive moneys expended through the use of the financial incentive portion of the agriculture management account may be provided by the department to landowners in the project areas for employing reduced chemical farming practices and land management techniques.

5. The secretary may appoint interagency committees and groups as needed to coordinate the involvement of agencies participating in department sponsored projects. The interagency committees and groups may accept grants and funds from public and private organizations.

6. The department shall publish a report on the status and findings of the pilot demonstration projects on or before July 1, 1989, and each subsequent year of the projects. The department of agriculture and land stewardship shall develop a priority system for the elimination of chemical contamination from agricultural drainage wells and sinkholes. The priority system shall incorporate available information regarding the significance of contamination, the number of registered wells in the area, and the information derived from the report prepared pursuant to this subsection. The highest priority shall be given to agricultural drainage wells for which the above criteria are best met, and the costs of necessary action are at the minimum level.

7. Beginning July 1, 1993, the department shall initiate an ongoing program to meet the goal of eliminating chemical contamination caused by the use of agricultural drainage wells by January 1, 1995, based upon the findings of the report published pursuant to subsection 6.

8. Notwithstanding the prohibitions of section 455B.267, subsection 4, an owner of an agricultural drainage well may make emergency repairs necessitated by damage to the drainage well to minimize surface runoff into the agricultural drainage well, upon the approval of the county board of supervisors or the board's designee of the county in which the agricultural drainage well is located. The approval shall be based upon the following conditions:

a. The well has been registered in accordance with both state and federal law.

b. The applicant will institute management practices including alternative crops, reduced application of chemicals, or other actions which will reduce the level of chemical contamination of the water which drains into the well.

c. The owner submits a written statement that approved emergency repairs are necessary and do not constitute a basis to avoid the eventual closure of the well if closure is later determined to be required. If a county board of supervisors or the board's designee approves the emergency repair of an agricultural drainage well, the county board of supervisors or the board's designee shall notify the department of natural resources of the approval within thirty days of the approval.

87 Acts, ch 225, §303

CS87, §159.29

88 Acts, ch 1188, §1; 90 Acts, ch 1027, §1 – 4; 94 Acts, ch 1198, §32; 96 Acts, ch 1219, §65; 2002 Acts, ch 1137, §68, 71; 2002 Acts, 2nd Ex, ch 1003, §260, 262

C2003, §460.302

2011 Acts, ch 25, §143

Referred to in §456B.11, 460.204, 460.304, 558.69

460.303 Agricultural drainage well water quality assistance fund.

1. An agricultural drainage well water quality assistance fund is created in the state treasury under the control of the soil conservation division. The fund is composed of moneys appropriated by the general assembly, and moneys available to and obtained or accepted by the division or the state soil conservation committee established pursuant to section 161A.4, from the United States or private sources for placement in the fund.

2. Moneys in the fund are subject to an annual audit by the auditor of state.

3. The fund shall be used to support an agricultural drainage well water quality assistance program as provided in section 460.304. Moneys shall be used to provide financial incentives under the program, and to defray expenses by the division in administering the program. However, not more than one percent of the money in the fund is available to defray administrative expenses. The division may adopt rules pursuant to chapter 17A to administer this section.

4. The division shall not in any manner directly or indirectly pledge the credit of the state.

5. Section 8.33 shall not apply to moneys in the fund. Notwithstanding section 12C.7, moneys earned as income, including as interest, from the fund shall remain in the fund until expended as provided in this section.

97 Acts, ch 193, §2

CS97, §159.29A

2002 Acts, ch 1137, §68, 71; 2002 Acts, 2nd Ex, ch 1003, §260, 262

C2003, §460.303

2003 Acts, ch 145, §286; 2006 Acts, ch 1057, §1

Referred to in §460.304

460.304 Agricultural drainage well water quality assistance program.

1. The soil conservation division shall establish an agricultural drainage well water quality assistance program as provided by rules which shall be adopted by the division pursuant to chapter 17A. The program shall be supported from moneys deposited in the agricultural drainage well water quality assistance fund created pursuant to section 460.303.

2. To the extent that moneys are available to support the program, the division shall expend moneys from the fund to do the following:

a. (1) Provide cost-share moneys to persons closing agricultural drainage wells in accordance with the priority system established pursuant to section 460.302. In conjunction with closing agricultural drainage wells, the division shall award cost-share moneys to carry out the following projects:

(a) Construct alternative drainage systems.

(b) Establish water quality practices other than constructing alternative drainage systems, including but not limited to converting land to wetlands.

(2) The amount of moneys allocated in cost-share payments to a person qualifying under the program shall not exceed seventy-five percent of the estimated cost of carrying out the project or seventy-five percent of the actual cost of carrying out the project, whichever is less.

b. Contract with persons to obtain technical assessments in agricultural drainage well areas, including but not limited to areas having a predominance of shallow bedrock or karst terrain as the division determines is necessary to carry out a project.

3. a. A person who owns an interest in land within a designated agricultural drainage well area shall not be eligible to participate in the program, if the person is any of the following:

(1) A party to a pending legal or administrative action, including a contested case proceeding under chapter 17A, relating to an alleged violation involving an animal feeding operation as regulated by the department of natural resources, regardless of whether the pending action is brought by the department or the attorney general.

(2) Is classified as a habitual violator for a violation of state law involving an animal feeding operation as regulated by the department of natural resources.

b. Noncrop acres located within a designated agricultural drainage well area shall not be eligible to benefit from the program.

c. The department of natural resources shall cooperate with the division by providing information necessary to administer this subsection.

97 Acts, ch 193, §3

CS97, §159.29B

2002 Acts, ch 1137, §68, 71; 2002 Acts, 2nd Ex, ch 1003, §260, 262

C2003, §460.304

2006 Acts, ch 1057, §2; 2007 Acts, ch 22, §83; 2011 Acts, ch 25, §117, 143

Referred to in §460.303

460.305 Sinkholes — conservation easement programs.

The department shall develop and implement a program for the prevention of groundwater contamination through sinkholes. The program shall provide for education of landowners and encourage responsible chemical and land management practices in areas of the state prone to the formation of sinkholes.

The program may provide financial incentives for land management practices and the acquisition of conservation easements around sinkholes. The program may also provide financial assistance for the cleanup of wastes dumped into sinkholes.

The program shall be coordinated with the groundwater protection programs of the department of natural resources and other local, state, or federal government agencies which could compensate landowners for resource protection measures. The department shall use moneys appropriated for this purpose from the agriculture management account of the groundwater protection fund.

87 Acts, ch 225, §302

CS87, §159.28

2002 Acts, ch 1137, §68, 71; 2002 Acts, 2nd Ex, ch 1003, §260, 262

C2003, §460.305