459.301 Special terms.

For purposes of this subchapter, all of the following shall apply:

1. Two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common area or system for manure disposal. In addition, for purposes of determining whether two or more confinement feeding operations are adjacent, all of the following must apply:

a. At least one confinement feeding operation structure must be constructed on or after May 21, 1998.

b. A confinement feeding operation structure which is part of one confinement feeding operation is separated by less than a minimum required distance from a confinement feeding operation structure which is part of the other confinement feeding operation. The minimum required distance shall be as follows:

(1) One thousand two hundred fifty feet for confinement feeding operations having a combined animal unit capacity of less than one thousand animal units.

(2) Two thousand five hundred feet for confinement feeding operations having a combined animal unit capacity of one thousand animal units or more.

2. A confinement feeding operation structure is "*constructed*" in the same manner as provided in section 459.201.

3. *a.* In calculating the animal unit capacity of a confinement feeding operation, the animal unit capacity shall include the animal unit capacity of all confinement feeding operation buildings which are part of the confinement feeding operation, unless a confinement feeding operation building has been abandoned as provided in section 459.201.

b. In calculating animal unit capacity for purposes of an election to be considered a small animal feeding operation as provided in section 459.312A, the animal unit capacity of a confinement feeding operation shall include all confinement feeding operation buildings that are used to do any of the following:

(1) House animals.

(2) Store manure.

4. All distances between locations or objects provided in this subchapter shall be measured in feet from their closest points.

5. *a.* The department shall designate by rule each one hundred year floodplain in this state according to the location of the one hundred year floodplain. A person shall not be prohibited from constructing a confinement feeding operation structure on a one hundred year floodplain unless the one hundred year floodplain is designated by rule in accordance with this subsection.

b. (1) Until the effective date of rules adopted by the department to designate the location of each one hundred year floodplain in this state, a person shall not construct a confinement feeding operation structure on land that contains a soil type classified as alluvial unless one of the following applies:

(a) If the person does not apply for a construction permit as provided in section 459.303, the person must petition the department for a declaratory order pursuant to section 17A.9 to determine whether the location of the proposed confinement feeding operation structure is located on a one hundred year floodplain. The department shall issue a declaratory order in response to the petition, notwithstanding any other provision provided in section 17A.9 to the contrary, within thirty days from the date that the petition is filed with the department.

(b) If the person does apply for a construction permit as provided in section 459.303, the person must identify that the land contains a soil type classified as alluvial. The department shall determine whether the land is located on a one hundred year floodplain.

(2) The department shall provide in its declaratory order or its approval or disapproval of a construction permit application a determination regarding whether the confinement feeding operation structure is to be located on a one hundred year floodplain, whether the confinement feeding operation structure may be constructed at the location, and any conditions for the construction.

(3) This paragraph "*b*" is repealed on the effective date that rules are adopted by the department pursuant to paragraph "*a*". The department shall provide a caption on the adopted rule as published in the Iowa administrative bulletin as provided in section 17A.4,

stating that this paragraph is repealed as provided in this subparagraph. The director of the department shall deliver a copy of the adopted rule to the Iowa Code editor.

6. Dry manure that is stockpiled within a distance of one thousand two hundred fifty feet from another stockpile shall be considered part of the same stockpile.

98 Acts, ch 1209, §27, 53
C99, §455B.200B
2002 Acts, ch 1137, §30 – 32, 67, 68, 71; 2002 Acts, 2nd Ex, ch 1003, §252, 259, 260, 262
C2003, §459.301
2003 Acts, ch 44, §73; 2009 Acts, ch 38, §6, 16; 2013 Acts, ch 106, §1
Referred to in §459.102, 459.310