

567—65.106(455B,459,459B) Confinement feeding operation and stockpile separation distance requirements. All confinement feeding operation structures, stockpiles and qualified stockpile structures shall be separated from locations and objects as specified in this rule regardless of whether a construction permit is required. The separation distance requirements of this rule shall apply to all confinement feeding operation structures, unless specifically stated otherwise. If two or more confinement feeding operations are considered one operation as provided in rule 567—65.1(455B,459,459A,459B), definitions of “adjacent—air quality” and “adjacent—water quality,” the combined animal unit capacities of the individual operations shall be used for the purpose of determining the required separation. Exemptions to the following requirements are allowed to the extent provided in rule 567—65.107(455B,459,459B).

65.106(1) *Separation distance from residences, businesses, churches, schools and public use areas for new confinement feeding operations.* Separation from residences, businesses, churches, schools and public use areas shall be as specified in Iowa Code section 459.202 and summarized in Table 6 located at iowadnr.gov/afo/rules. The residence, business, church, school or public use area must exist at the time an applicant submits an application for a construction permit to the department, at the time an MMP or construction design statement is filed with the department if a construction permit is not required, or at the time construction of the confinement feeding operation structure begins if a construction permit or construction approval letter is not required.

65.106(2) *Separation distance from residences, businesses, churches, schools and public use areas for the expansion of prior constructed operations.* Except as provided in rule 567—65.107(455B,459,459B) or as specified in Iowa Code section 459.203, an existing confinement feeding operation may be expanded if any of the following applies:

a. For a confinement feeding operation constructed prior to January 1, 1999, any construction or expansion of a confinement feeding operation structure complies with the distance requirements applying to that structure as provided in Iowa Code sections 459.202(1) and 459.202(3) and summarized in Tables 6c (for swine, sheep, horses and poultry) and 6d (for beef and dairy cattle) located at iowadnr.gov/afo/rules.

b. For a confinement feeding operation constructed on or after January 1, 1999, but prior to March 1, 2003, any construction or expansion of a confinement feeding operation structure complies with the distance requirements applying to that structure as provided in Iowa Code sections 459.202(2) and 459.202(3) and summarized in Tables 6a (for swine, sheep, horses and poultry) and 6b (for beef and dairy cattle) located at iowadnr.gov/afo/rules.

c. For a confinement feeding operation constructed on or after March 1, 2003, any construction or expansion of a confinement feeding operation structure complies with the distance requirements applying to that structure as provided in Iowa Code sections 459.202(4) and 459.202(5) and summarized in Table 6 located at iowadnr.gov/afo/rules.

65.106(3) *Separation distance from water sources, major water sources, known sinkholes and agricultural drainage wells.* Separation distances specified in this subrule shall apply to any confinement feeding operation structure, including a SAFO. Separation distances from any confinement feeding operation structure to surface intakes, wellheads or cisterns of agricultural drainage wells, known sinkholes, water sources and major water sources shall be as specified in Iowa Code section 459.310 and summarized in Tables 6 to 6d located at iowadnr.gov/afo/rules. For the required separation distance to a major water source to apply, the major water source must be included in Table 1 located at iowadnr.gov/afo/rules at the time an applicant submits an application for a construction permit to the department, at the time an MMP or construction design statement is filed with the department if a construction permit is not required, or at the time construction of the AFO structure if a construction permit, MMP or construction design statement is not required.

65.106(4) *Separation distance from designated wetlands.* Separation distances specified in this subrule shall apply to any confinement feeding operation structure, including a SAFO. A confinement feeding operation structure shall not be constructed closer than 2,500 feet away from a “designated wetland” as defined and referenced in rule 567—65.1(455B,459,459A,459B). This requirement shall not apply to a confinement feeding operation structure if any of the following occur before the wetland is included in “Designated Wetlands in Iowa”:

a. The confinement feeding operation structure already exists. This exemption also applies to additional confinement feeding operation structures constructed at the site of such an existing confinement feeding operation structure after a wetland is included in “Designated Wetlands in Iowa.”

b. Construction of a confinement feeding operation structure has begun as provided in subrule 65.6(1).

c. An application for a permit to construct a confinement feeding operation structure has been submitted to the department.

d. An MMP concerning a proposed confinement feeding operation structure for which a construction permit is not required has been submitted to the department.

65.106(5) *Separation distance from water wells.* For a confinement feeding operation structure constructed after March 20, 1996, the separation distance to water wells shall be as specified in Tables 6 to 6d located at iowadnr.gov/afo/rules.

65.106(6) *Separation distance from public thoroughfares.* A confinement feeding operation structure shall not be constructed or expanded within 100 feet from the right-of-way or a public easement of a public thoroughfare.

65.106(7) *Stockpile and qualified stockpile structures—separation distance from residences.* A stockpile or qualified stockpile structure shall not be placed closer than 1,250 feet from a residence not owned by the titleholder of the land where the stockpile is located, a commercial enterprise, a bona fide religious institution, an educational institution, or a public use area.

65.106(8) *Stockpile and qualified stockpile structures—separation distance from tile inlets, designated areas, high-quality water resources, agricultural drainage wells and known sinkholes.* A stockpile or qualified stockpile structure shall not be placed within the following distances from any of the following:

a. A terrace tile inlet or surface tile inlet, 200 feet, unless the dry manure is stockpiled in a manner that does not allow precipitation-induced runoff to drain from the stockpile to the terrace tile inlet or surface tile inlet. A terrace tile inlet or surface tile inlet does not include a tile inlet that is not directly connected to a tile line that discharges directly into a water of the state.

b. Designated area, 400 feet. However, an increased separation distance of 800 feet shall apply to all of the following:

(1) A high-quality water resource.

(2) An agricultural drainage well (400 feet for dry bedded manure).

(3) A known sinkhole (400 feet for dry bedded manure).

c. Paragraph 65.106(8)“*b*” does not apply if dry manure is stockpiled in a manner that does not allow precipitation-induced runoff to drain from the stockpile to the designated area.

65.106(9) *Measurement of separation distances.* Except as provided in paragraph 65.106(9)“*f*,” the distance between confinement feeding operation structures and locations or objects from which separation is required shall be measured horizontally by standard survey methods between the closest point of the location or object (not a property line) and the closest point of the confinement feeding operation structure. The department may require that a separation distance be measured and certified by a licensed land surveyor, a PE licensed in the state of Iowa, or an NRCS-qualified staff person in cases where the department cannot confirm a separation distance. For purposes of this subrule, structure shall not include areas that do not house animals or store manure or litter.

a. Measurement to an unformed manure storage structure shall be to the point of maximum allowable level of manure pursuant to paragraph 65.100(1)“*b*.”

b. Measurement to a public use area shall be to the facilities that attract the public to congregate and remain in the area for significant periods of time, not to the property line.

c. Measurement to a major water source or water source shall be to the top of the bank of the stream channel of a river or stream or the ordinary high-water mark of a lake, reservoir or designated wetland.

d. Measurement to a public thoroughfare shall be to the closest point of the right-of-way.

e. The separation distance for a confinement feeding operation structure qualifying for the exemption to separation distances under paragraphs 65.107(4)“*b*” and “*c*” shall be measured from the closest point of the confinement feeding operation structure.

- f.* Measurement to a cemetery shall be to the closest point of its property line.
 - g.* Measurement to a stockpile shall be to the closest point of the stockpile.
- [ARC 7965C, IAB 5/15/24, effective 6/19/24]