

**567—65.8 (459,459B) Construction.** For purposes of these rules:

**65.8(1)** Construction of an animal feeding operation structure begins or an animal feeding operation structure is constructed when any of the following occurs:

- a.* Excavation for a proposed animal feeding operation structure, or excavation for footings for a proposed animal feeding operation structure.
- b.* Installation of forms for concrete for an animal feeding operation structure.
- c.* Installation of piping for movement of manure within, from or between confinement feeding operation structures.

**65.8(2)** Construction does not begin upon occurrence of any of the following:

- a.* Removal of trees, brush, or other vegetative growth.
- b.* Construction of driveways or roads.
- c.* General earth moving for leveling or compacting at the site.
- d.* Installation of temporary utility services.

**65.8(3)** Prohibition on construction.

*a.* A person shall not construct or expand an animal feeding operation structure which is part of a confinement feeding operation, if the person is either of the following:

(1) A party to a pending action for a violation of this chapter concerning a confinement feeding operation in which the person has a controlling interest and the action is commenced in district court by the attorney general.

(2) A habitual violator.

*b.* A person shall not construct or expand a confinement feeding operation structure for five years after the date of the last violation committed by a person or a confinement feeding operation in which the person holds a controlling interest during which the person or operation was classified as a habitual violator under Iowa Code sections 459.317 and 459.604.

*c.* Paragraphs “*a*” and “*b*” shall not prohibit a person from completing the construction or expansion of an animal feeding operation structure, if either of the following applies:

(1) The person has an unexpired permit for the construction or expansion of the animal feeding operation structure.

(2) The person is not required to obtain a permit for the construction or expansion of the animal feeding operation structure.

*d.* A confinement feeding operation structure shall not be constructed on the one hundred year flood plain. Placing fill material on flood plain land to elevate the land above the one hundred year flood level will not be considered as removing the land from the one hundred year flood plain for the purpose of this paragraph. In addition, a person shall not construct a confinement feeding operation structure on a flood plain as provided in 567—71.13(455B) until the department issues a flood plain development permit pursuant to 567—Chapters 70 to 76.

*e.* A person shall not construct a confinement feeding operation structure on land that contains alluvial soils, according to the Soil Survey published by the Natural Resources Conservation Service of the United States Department of Agriculture, and determined according to subrule 65.9(4), unless the person has received a declaratory order or a determination from the department of natural resources that the proposed location of the structure is not on the one hundred year flood plain, pursuant to subrule 65.7(9).

*f.* A person shall not construct or expand an unformed manure storage structure within an agricultural drainage well area as specified in Iowa Code sections 459.310 and 460.205.