

567—65.105(459A) Construction permits.

65.105(1) *Open feedlot operations required to obtain a construction permit.* An open feedlot operation must obtain a construction permit prior to any of the following:

a. Constructing or expanding a settled open feedlot effluent basin or AT system or installing a settled open feedlot effluent transfer piping system if the open feedlot operation is required to be issued an NPDES permit.

b. Increasing the animal unit capacity of the open feedlot operation to more than the animal unit capacity approved by the department in a previous construction permit.

c. Increasing the volume of settled open feedlot effluent, settleable solids or open feedlot effluent stored at the open feedlot operation to more than the volume approved by the department in a previous construction permit.

d. Repopulating the open feedlot operation if it was discontinued for 24 months or more and the animal unit capacity will be 1,000 animal units or more.

65.105(2) *When a construction permit is not required.*

a. Research colleges. A construction permit is not required for construction of a settled open feedlot effluent basin or AT system if the basin or system is part of an open feedlot operation which is owned by a research college conducting research activities as provided in 2005 Iowa Code Supplement section 459A.105.

b. Solids settling facilities. A construction permit is not required for construction of a solids settling facility.

65.105(3) *Applications that cannot be approved.* The department shall not approve an application for a construction permit unless the applicant submits all of the following:

a. For an open feedlot operation submitting an application for a construction permit on or after September 30, 2006, a nutrient management plan as provided in rule 65.112(459A).

b. An engineering report, construction plans, and specifications prepared by a professional engineer or the Natural Resources Conservation Service of the United States Department of Agriculture certifying that the construction of the settled open feedlot effluent basin or AT system complies with the construction design standards required in Division II of chapter 65.

65.105(4) *Plan review criteria; time for approval or disapproval.*

a. Plan review criteria. Review of plans and specifications shall be conducted by the department to determine the potential of the settled open feedlot effluent basin or AT system to achieve the level of control being required of the open feedlot operation. Applicable criteria contained in federal law, state law, these rules, Natural Resources Conservation Service design standards and specifications, unless inconsistent with federal or state law or these rules, and United States Department of Commerce precipitation data will be used in the review. If the proposed facility plans are not adequately covered by these criteria, applicable criteria contained in current technical literature shall be used.

b. Time for approval or disapproval. The department shall approve or disapprove an application for a construction permit within 60 days after receiving the permit application. However, the applicant may deliver a notice requesting a continuance. Upon receipt of a notice, the time required for the department to act upon the application shall be suspended for the period provided in the notice, but for not more than 30 days after the department's receipt of the notice. The applicant may submit more than one notice. If review of the application is delayed because the application is incomplete, and the applicant fails to supply requested information within a reasonable time prior to the deadline for action on the application, the permit may be denied and a new application will be required if the applicant wishes to proceed. The department may also provide for a continuance when it considers the application. The department shall provide notice to the applicant of the continuance. The time required for the department to act upon the application shall be suspended for the period provided in the notice, but for not more than 30 days. However, the department shall not provide for more than one continuance.

65.105(5) *Expiration of construction permits.* The construction permit shall expire if construction, as defined in rule 65.106(459A), is not begun within one year and completed within three years of the date of issuance. A construction permit issued prior to September 14, 2005, shall expire if construction, as defined in rule 65.106(459A), is not begun within one year of the date of issuance and shall expire on

September 15, 2012, if construction is not completed by September 14, 2012. The director may grant an extension of time to begin or complete construction if it is necessary or justified, upon showing of such necessity or justification to the director.

65.105(6) *Revocation of construction permits.* The department may suspend or revoke a construction permit, modify the terms or conditions of a construction permit, or refuse to renew a permit expiring according to subrule 65.105(5) if it determines that the operation of the open feedlot operation constitutes a clear, present and impending danger to public health or the environment.

65.105(7) *Permit prior to construction.* An applicant for a construction permit shall notify the department prior to the start of construction for any open feedlot operation structure not required to be covered by a construction permit. The applicant shall not begin construction of a settled open feedlot effluent basin or AT system, or begin installation of a settled open feedlot effluent transfer piping system until the person has been granted a permit for the construction by the department.