

# House Amendment 8613

## Amendment Text

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1 1 Amend [House File 2468](#) as follows:  
1 2 #1. By striking everything after the enacting  
1 3 clause and inserting the following:  
1 4 "DIVISION I  
1 5 REGULATION OF ANIMAL FEEDING OPERATIONS  
1 6 Section 1. Section [4.1](#), Code 2001, is amended by  
1 7 adding the following new subsection:  
1 8 NEW SUBSECTION. 9A. "Internet" means the  
1 9 federated international system that is composed of  
1 10 allied electronic communication networks linked by  
1 11 telecommunication channels, that uses standardized  
1 12 protocols, and that facilitates electronic  
1 13 communication services, including but not limited to  
1 14 use of the world wide web; the transmission of  
1 15 electronic mail or messages; the transfer of files and  
1 16 data or other electronic information; and the  
1 17 transmission of voice, image, and video.  
1 18 Sec. 2. Section [455B.109](#), subsection 4, Code 2001,  
1 19 is amended to read as follows:  
1 20 4. All civil penalties assessed by the department  
1 21 and interest on the penalties shall be deposited in  
1 22 the general fund of the state. However, civil  
1 23 penalties assessed by the department and interest on  
1 24 the civil penalties, arising out of violations  
1 25

~~committed by~~  
- ~~involving~~ animal feeding operations under  
1 26 division II, part 2, shall be deposited in the

~~manure~~

1 27

~~storage indemnity~~  
- ~~animal agriculture compliance~~ fund  
1 28 as created in section

~~455J.2~~

- ~~455B.127.~~ Civil  
1 29 penalties assessed by the department and interest on  
1 30 the penalties arising out of violations committed by  
1 31 animal feeding operations under division III, which  
1 32 may be assessed pursuant to section 455B.191, shall  
1 33 also be deposited in the

~~manure storage indemnity~~

1 34 animal agriculture compliance fund

~~as created in~~

1 35

~~section 455J.2~~

1 36 Sec. 3. Section [455B.110](#), subsection 3, Code 2001,

1 37 is amended by striking the subsection.

1 38 PART 2

1 39 ANIMAL FEEDING OPERATIONS

1 40 Sec. 4. NEW SECTION. 455B.125 COUNTY ASSESSMENT  
1 41 OF FEES PROHIBITED.

1 42 A county shall not assess or collect a fee under  
1 43 this chapter for the regulation of animal agriculture,  
1 44 including but not limited to any fee related to the  
1 45 filing, consideration, or evaluation of an application  
1 46 for a construction permit pursuant to section  
1 47 455B.200A or the filing of a manure management plan  
1 48 pursuant to section 455B.203.

1 49 Sec. 5. NEW SECTION. 455B.126 ANIMAL AGRICULTURE  
1 50 COMPLIANCE FEES DELINQUENCIES.

2 1 If a fee imposed under this chapter for deposit  
2 2 into the animal agriculture compliance fund is  
2 3 delinquent, the department may charge interest on any  
2 4 amount of the fee that is delinquent. The rate of  
2 5 interest shall not be more than the current rate  
2 6 published in the Iowa administrative bulletin by the  
2 7 department of revenue and finance pursuant to section  
2 8 421.7. The interest amount shall be computed from the  
2 9 date that the fee is delinquent, unless the department  
2 10 designates a later date. The interest amount shall  
2 11 accrue for each month in which a delinquency is  
2 12 calculated as provided in section 421.7, and counting  
2 13 each fraction of a month as an entire month. The  
2 14 interest amount shall become part of the amount of the  
2 15 fee due.

2 16 Sec. 6. NEW SECTION. 455B.127 ANIMAL AGRICULTURE  
2 17 COMPLIANCE FUND.

2 18 1. An animal agriculture compliance fund is  
2 19 created in the state treasury under the control of the  
2 20 department. The compliance fund is separate from the  
2 21 general fund of the state.

2 22 2. The compliance fund is composed of two  
2 23 accounts, the general account and the assessment  
2 24 account.

2 25 a. The general account is composed of moneys  
2 26 appropriated by the general assembly and moneys  
2 27 available to and obtained or accepted by the  
2 28 department from the United States government or  
2 29 private sources for placement in the compliance fund.  
2 30 Unless otherwise specifically provided in statute,  
2 31 moneys required to be deposited in the compliance fund  
2 32 shall be deposited into the general account. The  
2 33 general account shall include moneys deposited into  
2 34 the account from all of the following:

2 35 (1) The construction permit application fee  
2 36 required pursuant to section 455B.200A.

2 37 (2) The manure management plan filing fee required  
2 38 pursuant to section 455B.203.

2 39 (3) Fees paid by persons required to be certified  
2 40 as commercial manure applicators or confinement site  
2 41 manure applicators pursuant to section 455B.203A.

2 42 (4) The collection of civil penalties assessed by  
2 43 the department and interest on civil penalties,  
2 44 arising out of violations involving animal feeding  
2 45 operations as provided in sections 455B.167 and  
2 46 455B.207.

2 47 b. The assessment account is composed of moneys  
2 48 collected from the annual compliance fee required  
2 49 pursuant to section 455B.203C.

2 50 3. Moneys in the compliance fund are appropriated  
3 1 to the department exclusively to pay the expenses of  
3 2 the department in administering and enforcing the  
3 3 provisions of division II, part 2, and division III,

3 4 part 1, subpart A, as necessary to ensure that animal  
3 5 feeding operations comply with all applicable  
3 6 requirements of those provisions, including rules  
3 7 adopted or orders issued by the department pursuant to  
3 8 those provisions. The moneys shall not be  
3 9 transferred, used, obligated, appropriated, or  
3 10 otherwise encumbered except as provided in this  
3 11 subsection. The department shall not transfer moneys  
3 12 from the compliance fund's assessment account to  
3 13 another fund or account, including but not limited to  
3 14 the fund's general account.

3 15 4. Moneys in the fund, which may be subject to  
3 16 warrants written by the director of revenue and  
3 17 finance, shall be drawn upon the written requisition  
3 18 of the director of the department of natural resources  
3 19 or an authorized representative of the director.

3 20 5. Notwithstanding section 8.33, any unexpended  
3 21 balance in the compliance fund at the end of the  
3 22 fiscal year shall be retained in the fund.  
3 23 Notwithstanding section 12C.7, subsection 2, interest,  
3 24 earnings on investments, or time deposits of the  
3 25 moneys in the compliance fund shall be credited to the  
3 26 fund.

3 27 Sec. 7. Section [455B.161](#), subsections 2, 3, 4, 5,  
3 28 9, 11, 16, 21, and 24, Code 2001, are amended to read  
3 29 as follows:

3 30 2. "Anaerobic lagoon" means an

~~impoundment used in~~

3 31

~~conjunction with an animal feeding operation~~

~~unformed~~

3 32 manure storage structure, if the primary function of  
3 33 the

~~impoundment~~

~~structure~~ is to store and stabilize

3 34

~~organic wastes~~

~~manure~~, the

~~impoundment~~

~~structure~~ is

3 35 designed to receive

~~wastes~~

~~manure~~ on a regular basis,

3 36 and the

~~impoundment's~~

~~structure's~~ design waste loading

3 37 rates provide that the predominant biological activity

3 38 is anaerobic. An anaerobic lagoon does not include

3 39 any of the following:

3 40 a.

~~A confinement feeding operation structure.~~

3 41

~~b.~~

A runoff control basin which collects and

3 42 stores only precipitation-induced runoff from an

3 43 animal feeding operation in which animals are confined

3 44 to areas which are unroofed or partially roofed and in  
3 45 which no crop, vegetation, or forage growth or residue  
3 46 cover is maintained during the period in which animals  
3 47 are confined in the operation.  
3 48

~~e.~~

- b. An anaerobic treatment system

~~which~~

- that

3 49 includes collection and treatment facilities for all  
3 50 off gases.

4 1 3. "Animal" means a

~~domesticated animal belonging~~

-  
4 2

~~to the bovine, porcine, ovine, caprine, equine, or~~

-  
4 3

~~avian~~

- species classified as cattle, swine, horses,

4 4 sheep, chickens or turkeys.

4 5 4. "Animal feeding operation" means a lot, yard,  
4 6 corral, building, or other area in which animals are  
4 7 confined and fed and maintained for forty-five days or  
4 8 more in any twelve-month period, and all structures  
4 9 used for the storage of manure from animals in the  
4 10 operation.

~~Two or more animal feeding operations~~

-  
4 11

~~under common ownership or management are deemed to be~~

-  
4 12

~~a single animal feeding operation if they are adjacent~~

-  
4 13

~~or utilize a common system for manure storage.~~

- An

4 14 animal feeding operation does not include a livestock  
4 15 market.

4 16 5. "Animal feeding operation structure" means

~~an~~

-  
4 17

~~anaerobic lagoon or confinement feeding operation~~

-  
4 18

~~structure~~

- a confinement building, manure storage

4 19 structure, or egg washwater storage structure.

4 20 9. "Confinement feeding operation building" or

4 21 "confinement building" means a building used in  
4 22 conjunction with a confinement feeding operation to  
4 23 house animals.

4 24 11. "Confinement feeding operation structure"

4 25 means

- ~~a formed manure storage~~
- an animal feeding

4 26 operation structure

- ~~, egg washwater storage structure,~~

4 27

- ~~earthen manure storage basin, or confinement building.~~

4 28

- ~~A confinement feeding operation structure does not~~

4 29

- ~~include an anaerobic lagoon~~
- that is part of a

4 30 confinement feeding operation.

4 31 16. "Formed manure storage structure" means a

4 32

- ~~structure, either~~
- covered or uncovered

- ~~,~~
- impoundment

4 33 used to store manure from

- ~~a confinement~~
- an animal

4 34 feeding operation, which has walls and a floor

4 35 constructed of concrete, concrete block, wood, steel,

4 36 or similar materials.

4 37 21. "Small animal feeding operation" means an

4 38 animal feeding operation which has an

- ~~animal weight~~

4 39 animal unit capacity of

- ~~two hundred thousand pounds or~~

4 40

- ~~less for animals other than bovine, or four hundred~~

4 41

- ~~thousand pounds~~
- five hundred or

- ~~less for bovine~~

- fewer

4 42 animal units.

4 43 24. "Unformed manure storage structure" means a

4 44 covered or uncovered

- ~~animal feeding operation~~

4 45

- ~~structure in which~~
- impoundment used to store manure

~~is~~

-  
4 46

~~stored~~

-, other than a formed manure storage structure,  
4 47 which

~~is~~

- includes an anaerobic lagoon, aerobic  
4 48 structure, or earthen manure storage basin.

4 49 Sec. 8. Section [455B.161](#), Code 2001, is amended by  
4 50 adding the following new subsections:

5 1 NEW SUBSECTION. 6A. "Animal unit" means a unit of  
5 2 measurement based upon the product of multiplying the  
5 3 number of animals of each category by a special  
5 4 equivalency factor as follows:

- |      |   |       |
|------|---|-------|
| 5 5  | a. Slaughter or feeder cattle .....       | 1.000 |
| 5 6  | b. Immature dairy cattle .....            | 1.000 |
| 5 7  | c. Mature dairy cattle .....              | 1.400 |
| 5 8  | d. Butcher or breeding swine weighing     |       |
| 5 9  | more than fifty-five pounds .....         | 0.400 |
| 5 10 | e. Swine weighing fifteen pounds or more  |       |
| 5 11 | but not more than fifty-five pounds ..... | 0.100 |
| 5 12 | f. Sheep or lambs .....                   | 0.100 |
| 5 13 | g. Horses .....                           | 2.000 |
| 5 14 | h. Turkeys .....                          | 0.018 |
| 5 15 | i. Broiler or layer chickens .....        | 0.010 |

5 16 NEW SUBSECTION. 6B. "Animal unit capacity" means  
5 17 a measurement used to determine the maximum number of  
5 18 animal units that may be maintained as part of an  
5 19 animal feeding operation at any one time, including as  
5 20 provided in sections [455B.161A](#) and [455B.200B](#).

5 21 NEW SUBSECTION. 8A. "Commission" means the  
5 22 environmental protection commission created pursuant  
5 23 to section [455A.6](#).

5 24 NEW SUBSECTION. 18A. "Manure storage structure"  
5 25 means a formed manure storage structure or an unformed  
5 26 manure storage structure. A manure storage structure  
5 27 does not include an egg washwater storage structure.

5 28 NEW SUBSECTION. 18B. "Public thoroughfare" means  
5 29 a road, street, or bridge that is constructed or  
5 30 maintained by the state or a political subdivision.

5 31 NEW SUBSECTION. 19A. "Qualified confinement  
5 32 feeding operation" means a confinement feeding  
5 33 operation having an animal unit capacity of any of the  
5 34 following:

5 35 a. For a confinement feeding operation maintaining  
5 36 animals other than swine as part of a farrowing and  
5 37 gestating operation or farrow-to-finish operation or  
5 38 cattle as part of a cattle operation, five thousand or  
5 39 more animal units.

5 40 b. For a confinement feeding operation maintaining  
5 41 swine as part of a farrowing and gestating operation,  
5 42 two thousand five hundred or more animal units.

5 43 c. For a confinement feeding operation maintaining  
5 44 swine as part of a swine farrow-to-finish operation,  
5 45 five thousand four hundred or more animal units.

5 46 d. For a confinement feeding operation maintaining  
5 47 cattle, eight thousand five hundred or more animal  
5 48 units.

5 49 Sec. 9. Section [455B.161A](#), subsection 1, Code  
5 50 2001, is amended by striking the subsection and  
6 1 inserting in lieu thereof the following:

6 2 1. Two or more animal feeding operations under  
6 3 common ownership or management are deemed to be a  
6 4 single animal feeding operation if they are adjacent

6 5 or utilize a common system for manure storage. For  
6 6 purposes of determining whether two or more  
6 7 confinement feeding operations are adjacent, all of  
6 8 the following must apply:

6 9 a. At least one confinement feeding operation  
6 10 structure must be constructed on or after March 21,  
6 11 1996.

6 12 b. A confinement feeding operation structure which  
6 13 is part of one confinement feeding operation is  
6 14 separated by less than a minimum required distance  
6 15 from a confinement feeding operation structure which  
6 16 is part of the other confinement feeding operation.  
6 17 The minimum required distance shall be as follows:

6 18 (1) (a) One thousand two hundred fifty feet for a  
6 19 confinement feeding operation having an animal unit  
6 20 capacity of less than three thousand animal units for  
6 21 animals other than swine maintained as part of a swine  
6 22 farrowing and gestating operation or farrow-to-finish  
6 23 operation, or cattle maintained as part of a cattle  
6 24 operation.

6 25 (b) One thousand two hundred fifty feet for a  
6 26 confinement feeding operation having an animal unit  
6 27 capacity of less than one thousand two hundred fifty  
6 28 animal units for swine maintained as part of a  
6 29 farrowing and gestating operation, less than two  
6 30 thousand seven hundred animal units for swine  
6 31 maintained as part of a farrow-to-finish operation, or  
6 32 less than four thousand animal units for cattle  
6 33 maintained as part of a cattle operation.

6 34 (2) (a) One thousand five hundred feet for a  
6 35 confinement feeding operation having an animal unit  
6 36 capacity of three thousand or more but less than five  
6 37 thousand animal units for animals other than swine  
6 38 maintained as part of a swine farrowing and gestating  
6 39 operation or farrow-to-finish operation, or cattle  
6 40 maintained as part of a cattle operation.

6 41 (b) One thousand five hundred feet for a  
6 42 confinement feeding operation having an animal unit  
6 43 capacity of one thousand two hundred fifty or more but  
6 44 less than two thousand animal units for swine  
6 45 maintained as part of a swine farrowing and gestating  
6 46 operation, two thousand seven hundred or more but less  
6 47 than five thousand four hundred animal units for swine  
6 48 maintained as part of a farrow-to-finish operation, or  
6 49 four thousand or more but less than six thousand five  
6 50 hundred animal units for cattle maintained as part of  
7 1 a cattle operation.

7 2 (3) (a) Two thousand five hundred feet for a  
7 3 confinement feeding operation having an animal unit  
7 4 capacity of five thousand or more animal units for  
7 5 animals other than swine maintained as part of a swine  
7 6 farrowing and gestating operation or farrow-to-finish  
7 7 operation, or cattle maintained as part of a cattle  
7 8 operation.

7 9 (b) Two thousand five hundred feet for a  
7 10 confinement feeding operation having an animal unit  
7 11 capacity of two thousand or more animal units for  
7 12 swine maintained as part of a swine farrowing and  
7 13 gestating operation, five thousand four hundred animal  
7 14 units or more for swine maintained as part of a  
7 15 farrow-to-finish operation, or six thousand five  
7 16 hundred or more animal units for cattle maintained as  
7 17 part of a cattle operation.

7 18 Sec. 10. Section [455B.161A](#), Code 2001, is amended  
7 19 by adding the following new subsections:

7 20 NEW SUBSECTION. 3. In calculating the animal unit  
7 21 capacity of a confinement feeding operation, the

7 22 animal unit capacity shall include the animal unit  
7 23 capacity of all confinement feeding operation  
7 24 buildings which are part of the confinement feeding  
7 25 operation, unless a confinement feeding operation  
7 26 building has been abandoned.  
7 27 NEW SUBSECTION. 4. A confinement feeding  
7 28 operation structure is abandoned if the confinement  
7 29 feeding operation structure has been razed, removed  
7 30 from the site of a confinement feeding operation,  
7 31 filled in with earth, or converted to uses other than  
7 32 a confinement feeding operation structure so that it  
7 33 cannot be used as a confinement feeding operation  
7 34 structure without significant reconstruction.  
7 35 NEW SUBSECTION. 5. All distances between  
7 36 locations of objects provided in this part shall be  
7 37 measured in feet from their closest points, as  
7 38 provided by rules adopted by the department. However,  
7 39 a distance between a public thoroughfare and a  
7 40 confinement feeding operation structure shall be  
7 41 measured from the portion of the right-of-way which is  
7 42 closest to the confinement feeding operation  
7 43 structure.  
7 44 Sec. 11. Section [455B.162](#), subsection 1,  
7 45 unnumbered paragraphs 1 and 2, Code 2001, are amended  
7 46 to read as follows:  
7 47 Except as provided in

~~subsection~~

~~subsections 3 and~~

7 48 6, and sections 455B.163 and 455B.165, this subsection  
7 49 applies to

~~animal~~

~~confinement feeding operation~~

7 50 structures constructed on or after May 31, 1995, but  
8 1 prior to January 1, 1999; and to the expansion of  
8 2 structures constructed prior to January 1, 1999.

8 3 The following table represents the minimum  
8 4 separation distance in feet required between

~~an animal~~

8 5 a confinement feeding operation structure and a  
8 6 residence not owned by the owner of the

~~animal~~

8 7 confinement feeding operation, or a commercial  
8 8 enterprise, bona fide religious institution, or an  
8 9 educational institution:

8 10 Sec. 12. Section [455B.162](#), subsection 2,  
8 11 unnumbered paragraph 1, Code 2001, is amended to read  
8 12 as follows:

8 13 Except as provided in

~~subsection~~

~~subsections 3 and~~

8 14 6, and sections 455B.163 and 455B.165, this subsection  
8 15 applies to

~~animal~~

~~confinement feeding operation~~

8 16 structures constructed on or after January 1, 1999,  
8 17 but prior to March 1, 2003, and to the expansion of  
8 18 structures constructed on or after January 1, 1999,  
8 19 but prior to March 1, 2003.

8 20 PARAGRAPH DIVIDED. The following table represents

8 21 the minimum separation distance in feet required  
8 22 between

~~an animal~~

- a confinement feeding operation  
8 23 structure and a residence not owned by the owner of  
8 24 the

~~animal~~

- confinement feeding operation, or a  
8 25 commercial enterprise, bona fide religious  
8 26 institution, or an educational institution:  
8 27 Sec. 13. Section [455B.162](#), subsection 3,  
8 28 unnumbered paragraph 1, Code 2001, is amended to read  
8 29 as follows:  
8 30 Except as provided in subsection 6, and sections  
8 31 455B.163 and 455B.165, this subsection applies to  
8 32

~~animal~~

- confinement feeding operation structures  
8 33 constructed on or after May 31, 1995, but prior to  
8 34 March 1, 2003; to the expansion of structures  
8 35 constructed on or after May 31, 1995, but prior to  
8 36 March 1, 2003; and to the expansion of structures  
8 37 constructed prior to May 31, 1995.  
8 38 PARAGRAPH DIVIDED. The following table represents  
8 39 the minimum separation distance in feet required  
8 40 between

~~animal~~

- a confinement feeding operation  
8 41

~~structures~~

- structure and a public use area; or between  
8 42 a confinement feeding operation structure and a  
8 43 residence not owned by the owner of the

~~animal~~

-  
8 44 confinement feeding operation, a commercial  
8 45 enterprise, a bona fide religious institution, or an  
8 46 educational institution, if the residence, commercial  
8 47 enterprise, religious institution, or educational  
8 48 institution is located within the corporate limits of  
8 49 a city:

8 50 Sec. 14. Section [455B.162](#), Code 2001, is amended  
9 1 by adding the following new subsections:

9 2 NEW SUBSECTION. 3A. Except as provided in  
9 3 subsections 3B and 6, and sections 455B.163 and  
9 4 455B.165, this subsection applies to confinement  
9 5 feeding operation structures constructed on or after  
9 6 March 1, 2003, and to the expansion of confinement  
9 7 feeding operation structures constructed on or after  
9 8 March 1, 2003.

9 9 The following table represents the minimum  
9 10 separation distance in feet required between a  
9 11 confinement feeding operation structure and a  
9 12 residence not owned by the owner of the confinement  
9 13 feeding operation, a commercial enterprise, a bona  
9 14 fide religious institution, or an educational  
9 15 institution:

9 16		For a	
9 17	For a	confinement	For a
9 18	confinement	feeding	confinement
9 19	feeding	operation	feeding

9 20	operation	having an	operation	
9 21	having an	animal unit	having an	
9 22	animal unit	capacity of	animal unit	
9 23	capacity of	1,000 or more	capacity of	
9 24	less than	but less than	3,000 or	
9 25	1,000 animal	3,000 animal	more animal	
9 26	<u>Type of structure</u>	<u>units</u>	<u>units</u>	
9 27	Anaerobic lagoon	1,875	2,500	3,000
9 28	Uncovered earthen			
9 29	manure storage			
9 30	basin	1,875	2,500	3,000
9 31	Uncovered formed			
9 32	manure storage			
9 33	structure	1,500	2,000	2,500
9 34	Covered earthen			
9 35	manure storage			
9 36	basin	1,250	1,875	2,375
9 37	Covered formed			
9 38	manure storage			
9 39	structure	1,250	1,875	2,375
9 40	Confinement			
9 41	building	1,250	1,875	2,375
9 42	Egg washwater			
9 43	storage			
9 44	structure	1,000	1,500	2,000

9 45 NEW SUBSECTION. 3B. Except as provided in  
9 46 subsection 6, and sections 455B.163 and 455B.165, this  
9 47 subsection applies to confinement feeding operation  
9 48 structures constructed on or after March 1, 2003, and  
9 49 to the expansion of confinement feeding operation  
9 50 structures constructed on or after March 1, 2003.

10 1 The following table represents the minimum  
10 2 separation distance in feet required between a  
10 3 confinement feeding operation structure and a public  
10 4 use area; or between a confinement feeding operation  
10 5 structure and a residence not owned by the owner of  
10 6 the confinement feeding operation, a commercial  
10 7 enterprise, a bona fide religious institution, or an  
10 8 educational institution, if the residence, commercial  
10 9 enterprise, religious institution, or educational  
10 10 institution is located within the corporate limits of  
10 11 a city:

10 12	For a	For a	For a	
10 13	confinement	confinement	confinement	
10 14	feeding	feeding	feeding	
10 15	operation	operation	operation	
10 16	having an	having an	having an	
10 17	animal unit	animal unit	animal unit	
10 18	capacity of	capacity of	capacity of	
10 19	1,000 or more	1,000 or more	3,000 or	
10 20	less than	but less than	more animal	
10 21	1,000 animal	3,000 animal	units	
10 22	<u>Type of structure</u>	<u>units</u>	<u>units</u>	
10 23	Confinement feeding			
10 24	operation			
10 25	structure	1,875	2,500	3,000

10 26 Sec. 15. Section [455B.162](#), subsection 4, Code  
10 27 2001, is amended to read as follows:  
10 28 4. Except as provided in section 455B.165,

~~on and~~

10 29

~~after January 1, 1999, an animal~~

~~a confinement feeding~~

10 30 operation structure shall not be constructed or

10 31 expanded within one hundred feet from a public  
10 32 thoroughfare

~~, including a road, street, or bridge~~

10 33

~~which is constructed or maintained by the state or a~~

10 34

~~political subdivision~~

10 35 Sec. 16. Section 455B.162, subsection 6,  
10 36 paragraphs a and c, Code 2001, are amended by striking  
10 37 the paragraphs.

10 38 Sec. 17. Section 455B.162, subsection 6, paragraph  
10 39 b, Code 2001, is amended to read as follows:

10 40

~~b.~~

~~a.~~

~~A~~

~~Except as provided in paragraph "b", a~~  
10 41 qualified confinement feeding operation storing manure  
10 42 in a manure storage structure shall only use

~~an animal~~

10 43

~~feeding operation~~

~~a manure storage structure~~

~~which~~

10 44 that employs bacterial action which is maintained by  
10 45 the utilization of air or oxygen, and which shall  
10 46 include aeration equipment. The type and degree of  
10 47 treatment technology required to be installed shall be  
10 48 based on the size of the confinement feeding  
10 49 operation, according to rules adopted by the  
10 50 department. The equipment shall be installed,  
11 1 operated, and maintained in accordance with the  
11 2 manufacturer's instructions and requirements of rules  
11 3 adopted pursuant to this subsection.

11 4 b. The requirements of paragraph "a" do not apply  
11 5 to any of the following:

11 6 (1) A qualified confinement feeding operation  
11 7 which includes a confinement feeding operation  
11 8 structure constructed prior to May 31, 1995.

11 9 (2) A qualified confinement feeding operation that  
11 10 stores manure on a dry matter basis.

11 11 Sec. 18. Section 455B.163, subsections 1 and 2,  
11 12 Code 2001, are amended to read as follows:

11 13 1. a.

~~An animal~~

~~A confinement feeding operation~~

11 14 structure as constructed or expanded prior to January  
11 15 1, 1999, complies with the distance requirements  
11 16 applying to that structure as provided in section  
11 17 455B.162, subsections 1 and 3.

11 18 b.

~~An animal~~

- A confinement feeding operation  
11 19 structure as constructed or expanded on or after  
11 20 January 1, 1999, but prior to March 1, 2003, complies  
11 21 with the distance requirements applying to that  
11 22 structure as provided in section 455B.162, subsections  
11 23 2 and 3.  
11 24 c. A confinement feeding operation structure as  
11 25 constructed or expanded on or after March 1, 2003,  
11 26 complies with the distance requirements applying to  
11 27 that structure as provided in section 455B.162,  
11 28 subsections 3A and 3B.  
11 29 2. All of the following apply to the expansion of  
11 30 the

~~animal~~  
- confinement feeding operation:  
11 31 a. No portion of the

~~animal~~  
- confinement feeding  
11 32 operation after expansion is closer than before  
11 33 expansion to a location or object for which separation  
11 34 is required under section 455B.162.  
11 35 b.

~~The~~  
- For a confinement feeding operation that  
11 36 includes a confinement feeding operation structure  
11 37 constructed prior to March 1, 2003, the animal weight  
11 38 capacity of the

~~animal~~  
- confinement feeding operation  
11 39 as expanded is not more than the lesser of the  
11 40 following:  
11 41 (1) Double its animal weight capacity on the  
11 42 following dates:  
11 43 (a) May 31, 1995, for

~~an animal~~  
- a confinement  
11 44 feeding operation that includes a confinement feeding  
11 45 operation structure constructed prior to January 1,  
11 46 1999

~~, or on~~

~~-~~  
11 47 (b) January 1, 1999, for

~~an animal~~  
- a confinement  
11 48 feeding operation that only includes a confinement  
11 49 feeding operation structure constructed on or after  
11 50 January 1, 1999, but does include a confinement  
12 1 feeding operation structure constructed prior to March  
12 2 31, 2003.  
12 3 (2) Either of the following:  
12 4 (a) Six hundred twenty-five thousand pounds animal  
12 5 weight capacity for animals other than

~~bovine~~

- cattle.  
12 6 (b) One million six hundred thousand pounds animal  
12 7 weight capacity for

~~bovine~~

- cattle.

12 8 c. For a confinement feeding operation that does  
12 9 not include a confinement feeding operation structure  
12 10 constructed prior to March 1, 2003, the animal unit  
12 11 capacity of the confinement feeding operation as  
12 12 expanded is not more than the lesser of the following:

12 13 (1) Double its animal unit capacity on March 1,  
12 14 2003.

12 15 (2) One thousand animal units.

12 16 Sec. 19. Section [455B.163](#), subsection 3,  
12 17 unnumbered paragraph 1, Code 2001, is amended to read  
12 18 as follows:

12 19 The

~~animal~~

- confinement feeding operation

~~was~~

12 20 includes a confinement feeding operation structure  
12 21 that is constructed prior to

~~January 1, 1999~~

- March 1,

12 22 2003, and is expanded by replacing one or more  
12 23 unformed manure storage structures with one or more  
12 24 formed manure storage structures, if all of the  
12 25 following apply:

12 26 Sec. 20. Section [455B.163](#), subsection 3, paragraph  
12 27 a, Code 2001, is amended to read as follows:

12 28 a. The animal weight capacity or animal unit  
12 29 capacity, whichever is applicable, is not increased  
12 30 for that portion of the

~~animal~~

- confinement feeding

12 31 operation that utilizes all replacement formed manure  
12 32 storage structures.

12 33 Sec. 21. Section [455B.165](#), subsections 1, 4, and  
12 34 5, Code 2001, are amended by striking the subsections.

12 35 Sec. 22. Section [455B.165](#), subsection 3, paragraph  
12 36 a, Code 2001, is amended to read as follows:

12 37 a.

~~An animal~~

- A confinement feeding operation

12 38 structure which is constructed or expanded, if the  
12 39 titleholder of the land benefiting from the distance  
12 40 separation requirement executes a written waiver with  
12 41 the titleholder of the land where the structure is  
12 42 located. If

~~an animal~~

- a confinement feeding operation

12 43 structure is constructed or expanded within the  
12 44 separation distance required between

~~an animal~~

- a

12 45 confinement feeding operation structure and a public  
12 46 thoroughfare as required pursuant to section 455B.162,  
12 47 the state or a political subdivision constructing or  
12 48 maintaining the public thoroughfare benefiting from  
12 49 the distance separation requirement may execute a  
12 50 written waiver with the titleholder of the land where  
13 1 the structure is located. The

~~animal~~

- confinement

13 2 feeding operation structure shall be constructed or  
13 3 expanded under such terms and conditions that the  
13 4 parties negotiate.

13 5 Sec. 23. NEW SECTION. 455B.166 DEPARTMENT OF  
13 6 NATURAL RESOURCES DEVELOPMENT OF COMPREHENSIVE  
13 7 PLANS AND PROGRAMS FOR AIR QUALITY.

13 8 1. As used in this section, unless the context  
13 9 otherwise requires:

13 10 a. "Airborne pollutant" means hydrogen sulfide,  
13 11 ammonia, or odor.

13 12 b. "Separated location" means a location or object  
13 13 from which a separation distance is required under  
13 14 section 455B.162, other than a public thoroughfare.

13 15 2. The department shall conduct a comprehensive  
13 16 field study to monitor the level of airborne  
13 17 pollutants emitted from animal feeding operations in  
13 18 this state, including but not limited to each type of  
13 19 confinement feeding operation structure.

13 20 3. a. After the completion of the field study,  
13 21 the department may develop comprehensive plans and  
13 22 programs for the abatement, control, and prevention of  
13 23 airborne pollutants originating from animal feeding  
13 24 operations in accordance with this section. The  
13 25 comprehensive plans and programs may be developed if  
13 26 the baseline data from the field study demonstrates to  
13 27 a reasonable degree of scientific certainty that  
13 28 airborne pollutants emitted by a confinement feeding  
13 29 operation are present at a separated location at  
13 30 levels commonly known to cause a material and  
13 31 verifiable adverse health effect. The department may  
13 32 adopt any comprehensive plans or programs in  
13 33 accordance with chapter 17A prior to implementation or  
13 34 enforcement of an air quality standard but in no event  
13 35 shall the plans and programs provide for the  
13 36 enforcement of an air quality standard or emission  
13 37 limitation prior to December 1, 2004.

13 38 b. Any air quality standard established by the  
13 39 department for animal feeding operations under the  
13 40 comprehensive plans and programs shall be based on  
13 41 distances measured from a confinement feeding  
13 42 operation structure to a separated location. In  
13 43 providing for the enforcement of the standards, the  
13 44 department shall take all initial measurements at the  
13 45 separated location. If the department determines that  
13 46 a violation of the standards exists, the department  
13 47 may conduct an investigation to trace the source of  
13 48 the airborne pollutant, including by taking  
13 49 measurements at the property line of the separated  
13 50 location. This section does not prohibit the  
14 1 department from entering the premises of an animal  
14 2 feeding operation in compliance with section 455B.103.  
14 3 The department shall comply with standard biosecurity  
14 4 requirements customarily required by the animal  
14 5 feeding operation which are necessary in order to  
14 6 control the spread of disease among an animal  
14 7 population.

14 8 c. The department shall establish recommended best  
14 9 management practices, mechanisms, processes, or  
14 10 infrastructure under the comprehensive plans and  
14 11 programs in order to reduce the airborne pollutants  
14 12 emitted from an animal feeding operation.

14 13 d. The department shall provide a procedure for  
14 14 the approval and monitoring of alternative or  
14 15 experimental practices, mechanisms, processes, or  
14 16 infrastructure to reduce the airborne pollutants  
14 17 emitted from an animal feeding operation, which may be

14 18 incorporated as part of the comprehensive plans and  
14 19 programs developed under this section.  
14 20 Sec. 24. NEW SECTION. 455B.167 CIVIL PENALTY.  
14 21 A person who violates this part shall be subject to  
14 22 a civil penalty which shall be established, assessed,  
14 23 and collected in the same manner as provided in  
14 24 section 455B.109. Any civil penalty collected shall  
14 25 be deposited in the animal agriculture compliance fund  
14 26 created in section 455B.127.  
14 27 Sec. 25. Section 455B.171, subsections 2, 3, 4, 5,  
14 28 6, 8, 20, 43, and 47, Code 2001, are amended by  
14 29 striking the subsections.  
14 30 Sec. 26. Section 455B.191, subsection 8, Code  
14 31 2001, is amended to read as follows:  
14 32 8. Moneys assessed and collected in civil  
14 33 penalties and interest earned on civil penalties,  
14 34 arising out of a violation involving an animal feeding  
14 35 operation, shall be deposited in the

~~manure storage~~

14 36

~~indemnity~~

~~animal agriculture compliance fund as~~  
14 37 created in section

~~455J.2~~

~~455B.127.~~

14 38 SUBPART B  
14 39 ANIMAL FEEDING OPERATIONS  
14 40 Sec. 27. Section 455B.200, Code 2001, is amended  
14 41 to read as follows:  
14 42 455B.200 GENERAL.  
14 43 1. The commission shall establish by rule adopted  
14 44 pursuant to chapter 17A, requirements relating to the  
14 45 construction, including expansion, or operation of  
14 46 animal feeding operations, including related animal  
14 47 feeding operation structures. The requirements shall  
14 48 include but are not limited to minimum manure control,  
14 49 the issuance of permits, and departmental  
14 50 investigations, inspections, and testing.  
15 1 2. Any provision referring generally to compliance  
15 2 with the requirements of this chapter as applied to  
15 3 animal feeding operations also includes compliance  
15 4 with requirements in rules adopted by the commission  
15 5 pursuant to this section, orders issued by the  
15 6 department as authorized under this chapter, and the  
15 7 terms and conditions applicable to permits or manure  
15 8 management plans required under this subpart.  
15 9 However, for purposes of approving or disapproving an  
15 10 application for a construction permit as provided in  
15 11 section 455B.200E, conditions for the approval of an  
15 12 application based on results produced by a master  
15 13 matrix are not requirements of this chapter until the  
15 14 department approves or disapproves an application  
15 15 based on those results.  
15 16 3. The department and the attorney general shall  
15 17 enforce the provisions of this chapter in the same  
15 18 manner as provided in division I, unless otherwise  
15 19 provided in this section.  
15 20 Sec. 28. Section 455B.200A, subsections 1 through  
15 21 4, Code 2001, are amended to read as follows:  
15 22 1. The department shall

~~issue~~

~~approve or~~

15 23 disapprove applications for permits for the  
15 24 construction, including the expansion, of

~~animal~~

15 25

~~feeding operation structures, including structures~~

15 26

~~which are part of~~  
~~confinement feeding~~

~~operations~~

15 27 operation structures, as provided

~~by rules adopted~~

15 28

~~pursuant to section 455B.200~~  
~~in this chapter.~~

~~The~~

~~A~~

15 29 person shall not begin construction of a confinement  
15 30 feeding operation structure requiring a permit under  
15 31 this section, unless the department

~~shall issue a~~

15 32 first approves the person's application and issues to  
15 33 the person a construction permit

~~to an animal feeding~~

15 34

~~operation if an application is submitted according to~~

15 35

~~procedures required by the department and~~

~~The~~

15 36 department shall provide conditions for requiring when  
15 37 a person must obtain a construction permit.

15 38 a. Except as provided in paragraph "b", a person  
15 39 must obtain a permit to construct any of the  
15 40 following:

15 41 (1) A confinement feeding operation structure if  
15 42 after construction its confinement feeding operation  
15 43 would have an animal unit capacity of at least one  
15 44 thousand animal units.

15 45 (2) The confinement feeding operation structure is  
15 46 an unformed manure storage structure.

15 47 b. A person is not required to obtain a permit to  
15 48 construct a confinement feeding operation structure,  
15 49 if any of the following apply:

15 50 (1) The confinement feeding operation structure,  
16 1 if constructed, would be part of a small animal  
16 2 feeding operation.

16 3 (2) The confinement feeding operation structure is  
16 4 part of a confinement feeding operation which is owned  
16 5 by a research college conducting research activities  
16 6 as provided in section 455B.206.

16 7 2. The department shall issue a construction  
16 8 permit upon approval of an application. The  
16 9 department shall approve the application

~~meets~~

16 10

~~standards established by the department,~~  
~~if the~~

16 11 application is submitted to the county board of  
16 12 supervisors in the county where the proposed  
16 13 confinement feeding operation is to be located as  
16 14 required pursuant to section 455B.200E, and the  
16 15 application meets the requirements of this chapter.  
16 16 If a county submits an approved recommendation  
16 17 pursuant to a construction evaluation resolution filed  
16 18 with the department, the application must also achieve  
16 19 a satisfactory rating produced by the master matrix  
16 20 used by the board or department under section  
16 21 455B.200E. The department shall approve the  
16 22 application regardless of whether the

~~animal feeding~~

16 23

~~operation~~

~~applicant~~ is required to

~~obtain such~~

~~to be~~

16 24 issued a construction permit.

~~The department shall~~

16 25

~~not require that a person obtain a permit for the~~

16 26

~~construction of an animal feeding operation structure~~

16 27

~~if the structure is part of a small animal feeding~~

16 28

~~operation. For purposes of this section, an animal~~

16 29

~~feeding operation structure includes a manure storage~~

16 30

~~structure.~~

16 31

~~2.~~

~~3.~~ The department shall not

~~issue~~

~~approve an~~

16 32 application for a construction permit

~~for the~~

16 33

~~construction of an animal feeding operation structure~~

16 34

~~which is part of a confinement feeding operation~~

16 35 unless the

~~person~~

~~applicant~~ submits all of the

16 36 following:

16 37 a. An indemnity fee as provided in section 455J.3

16 38

~~which~~

~~that~~ the department shall deposit into the

16 39 manure storage indemnity fund created in section

16 40 455J.2.

16 41 b. A manure management plan as provided in section

16 42 455B.203 and manure management plan filing fee as

16 43 provided in section 455B.203C.

16 44 c. A construction permit application fee as

16 45 provided in section 455B.203C.

16 46 3A. The applicant may submit a master matrix as

16 47 completed by the applicant.

16 48

~~3.~~

~~4. a.~~ A confinement feeding operation meets

16 49 threshold requirements under this paragraph if the

16 50 confinement feeding operation after construction of a

17 1 proposed confinement feeding operation would have a

17 2 minimum animal unit capacity of the following:

17 3 (1) Three thousand animal units for animals other

17 4 than swine maintained as part of a swine farrowing and

17 5 gestating operation or farrow-to-finish operation or

17 6 cattle maintained as part of a cattle operation.

17 7 (2) One thousand two hundred fifty animal units

17 8 for swine maintained as part of a swine farrowing and

17 9 gestating operation.

17 10 (3) Two thousand seven hundred fifty animal units

17 11 for swine maintained as part of a farrow-to-finish

17 12 operation.

17 13 (4) Four thousand animal units for cattle

17 14 maintained as part of a cattle operation.

17 15 b. The department shall not

~~issue~~

~~approve an~~

17 16 application for a construction permit

~~for the~~

17 17

~~construction of~~

~~unless the following apply:~~

17 18 (1) If the application is for a permit to

17 19 construct an unformed manure storage structure, the

17 20 application must include a statement approved by a

17 21 professional engineer certifying that the construction

17 22 of the unformed manure storage structure complies with  
17 23 the construction design standards required in this  
17 24 subpart.  
17 25 (2) If the application is for a permit to  
17 26 construct three or more

~~— animal~~

- confinement feeding  
17 27 operation structures

~~— unless the applicant files~~

~~—, the~~

17 28 application must include a statement

~~— approved by a~~

~~—~~

17 29

~~— professional engineer registered pursuant to chapter~~

~~—~~

17 30

~~— 542B certifying~~

- providing that the construction of the  
17 31

~~— animal~~

- confinement feeding operation structures will  
17 32 not impede

~~— the~~

- drainage through established drainage  
17 33 tile lines which cross property boundary lines unless  
17 34 measures are taken to reestablish the drainage prior  
17 35 to completion of construction. For a confinement  
17 36 feeding operation that meets threshold requirements,  
17 37 the statement must be approved by a professional  
17 38 engineer. Otherwise, if the application is for a  
17 39 permit to construct a formed manure storage structure,  
17 40 the statement must be part of the construction design  
17 41 statement as provided in section 455B.200C.

17 42 (3) If the application is for a permit to  
17 43 construct a formed manure storage structure, other  
17 44 than for a confinement feeding operation meeting  
17 45 threshold requirements, the applicant must include a  
17 46 construction design statement as provided in section  
17 47 455B.200C. An application for a permit to construct a  
17 48 formed manure storage structure as part of a  
17 49 confinement feeding operation that meets threshold  
17 50 requirements must include a statement approved by a  
18 1 professional engineer certifying that the construction  
18 2 of the formed manure storage structure complies with  
18 3 the requirements of this subpart.

18 4 (4) The department may only require that an  
18 5 application for a permit to construct a formed manure  
18 6 storage structure or egg washwater storage structure  
18 7 that is part of a confinement feeding operation  
18 8 meeting threshold requirements include an engineering  
18 9 report, construction plans, or specifications prepared  
18 10 by a licensed professional engineer or the natural  
18 11 resources conservation service of the United States  
18 12 department of agriculture.  
18 13

~~— 4.~~

- 5.

~~—Prior~~  
- As a condition to  
.  
~~—issuing a permit to~~  
-  
18 14  
.  
~~—a person~~  
- approving an application for  
.  
~~—the construction~~  
-  
18 15  
.  
~~—of an animal feeding operation~~  
- a construction permit,  
18 16 the department may require any of the following:  
18 17     a. The installation of a related pollution control  
18 18 device or practice, including but not limited to the  
18 19 installation and operation of a  
.  
~~—hydrological~~  
- water  
18 20 pollution monitoring system for an  
.  
~~—exclusively earthen~~  
-  
18 21 unformed manure storage structure  
.  
~~—according to~~  
-  
.  
~~—rules~~  
-  
18 22  
.  
~~—which shall be adopted by the department~~  
-  
18 23     b. The department's approval of the installation  
18 24 of any proposed system to permanently lower the  
18 25 groundwater table at a site as part of the  
18 26 construction of an unformed manure storage structure,  
18 27 as is necessary to ensure that the unformed manure  
18 28 storage structure does not pollute groundwater  
18 29 sources, including providing for standards as provided  
18 30 in section 455B.205.  
18 31     Sec. 29. Section [455B.200A](#), subsections 5 through  
18 32 8, Code 2001, are amended by striking the subsections.  
18 33     Sec. 30. Section [455B.200B](#), unnumbered paragraph  
18 34 1, Code 2001, is amended to read as follows:  
18 35     For purposes of this  
.  
~~—part~~  
- subpart, all of the  
18 36 following shall apply:  
18 37     Sec. 31. Section [455B.200B](#), subsection 1, Code  
18 38 2001, is amended by striking the subsection and  
18 39 inserting in lieu thereof the following:  
18 40     1. Two or more animal feeding operations under  
18 41 common ownership or management are deemed to be a  
18 42 single animal feeding operation if they are adjacent  
18 43 or utilize a common area or system for manure  
18 44 disposal. In addition, for purposes of determining  
18 45 whether two or more confinement feeding operations are  
18 46 adjacent, all of the following must apply:  
18 47     a. At least one confinement feeding operation  
18 48 structure must be constructed on and after May 21,

18 49 1998.

18 50 b. A confinement feeding operation structure which  
19 1 is part of one confinement feeding operation is  
19 2 separated by less than a minimum required distance  
19 3 from a confinement feeding operation structure which  
19 4 is part of the other confinement feeding operation.  
19 5 The minimum required distance shall be as follows:

19 6 (1) One thousand two hundred fifty feet for  
19 7 confinement feeding operations having a combined  
19 8 animal unit capacity of less than one thousand animal  
19 9 units.

19 10 (2) Two thousand five hundred feet for confinement  
19 11 feeding operations having a combined animal unit  
19 12 capacity of one thousand animal units or more.

19 13 Sec. 32. Section [455B.200B](#), Code 2001, is amended  
19 14 by adding the following new subsections:

19 15 NEW SUBSECTION. 3. In calculating the animal unit  
19 16 capacity of a confinement feeding operation, the  
19 17 animal unit capacity shall include the animal unit  
19 18 capacity of all confinement feeding operation  
19 19 buildings which are part of the confinement feeding  
19 20 operation, unless a confinement feeding operation  
19 21 building has been abandoned as provided in section  
19 22 455B.161A.

19 23 NEW SUBSECTION. 4. All distances between  
19 24 locations or objects provided in this subpart shall be  
19 25 measured in feet from their closest points.

19 26 NEW SUBSECTION. 5. a. The department shall  
19 27 designate by rule each one hundred year floodplain in  
19 28 this state according to the location of the one  
19 29 hundred year floodplain. A person shall not be  
19 30 prohibited from constructing a confinement feeding  
19 31 operation on a one hundred year floodplain unless the  
19 32 one hundred year floodplain is designated by rule in  
19 33 accordance with this subsection.

19 34 b. (1) Until the effective date of rules adopted  
19 35 by the department to designate the location of each  
19 36 one hundred year floodplain in this state, a person  
19 37 shall not construct a confinement feeding operation  
19 38 structure on land that contains a soil type classified  
19 39 as alluvial unless the one of the following applies:

19 40 (a) If the person does not apply for a  
19 41 construction permit as provided in section 455B.200A,  
19 42 the person must petition the department for a  
19 43 declaratory order pursuant to section 17A.9 to  
19 44 determine whether the location of the proposed  
19 45 confinement feeding operation structure is located on  
19 46 a one hundred year floodplain. The department shall  
19 47 issue a declaratory order in response to the petition,  
19 48 notwithstanding any other provision provided in  
19 49 section 17A.9 to the contrary, within thirty days from  
19 50 the date that the petition is filed with the  
20 1 department.

20 2 (b) If the person does apply for a construction  
20 3 permit as provided in section 455B.200A, the person  
20 4 must identify that the land contains a soil type  
20 5 classified as alluvial. The department shall  
20 6 determine whether the land is located on a one hundred  
20 7 year floodplain.

20 8 (2) The department shall provide in its  
20 9 declaratory order or its approval or disapproval of a  
20 10 construction permit application a determination  
20 11 regarding whether the confinement feeding operation is  
20 12 to be located on a one hundred year floodplain,  
20 13 whether the confinement feeding operation may be  
20 14 constructed at the location, and any conditions for  
20 15 the construction.

20 16 (3) This paragraph "b" is repealed on the  
20 17 effective date that rules are adopted by the  
20 18 department pursuant to paragraph "a". The department  
20 19 shall provide a caption on the adopted rule as  
20 20 published in the Iowa administrative bulletin as  
20 21 provided in section 17A.4, stating that this paragraph  
20 22 is repealed as provided in this subparagraph  
20 23 subdivision. The director of the department shall  
20 24 deliver a copy of the adopted rule to the Iowa Code  
20 25 editor.

20 26 NEW SUBSECTION. 6. As used in this subpart,  
20 27 unless the context otherwise requires:

20 28 a. "Critical public area" means land as designated  
20 29 by the department pursuant to rules adopted pursuant  
20 30 to chapter 17A, if all of the following apply:

20 31 (1) The land is part of a public park, preserve,  
20 32 or recreation area that is owned or managed by the  
20 33 federal government; by the department, including under  
20 34 chapter 461A or 465C; or by a political subdivision.

20 35 (2) The land has a unique scenic, cultural,  
20 36 archaeological, scientific, or historic significance  
20 37 or contains a rare or valuable ecological system.

20 38 b. "Designated wetland" means land designated as a  
20 39 protected wetland by the United States department of  
20 40 the interior or the department of natural resources,  
20 41 including but not limited to a protected wetland as  
20 42 defined in section 456B.1, if the land is owned and  
20 43 managed by the federal government or the department of  
20 44 natural resources. However, a designated wetland does  
20 45 not include land where an agricultural drainage well  
20 46 has been plugged causing a temporary wetland or land  
20 47 within a drainage district or levee district.

20 48 c. "Document" means any form required to be  
20 49 processed by the department under this subpart  
20 50 regulating animal feeding operations, including but  
21 1 not limited to applications or related materials for  
21 2 permits as provided in section 455B.200A, manure  
21 3 management plans as provided in section 455B.203,  
21 4 comment or evaluation by a county board of supervisors  
21 5 considering an application for a construction permit,  
21 6 the department's analysis of the application including  
21 7 using and responding to a master matrix pursuant to  
21 8 section 455B.200E, and notices required under those  
21 9 sections.

21 10 d. "High-quality water resource" means that part  
21 11 of a water source or wetland that the department has  
21 12 designated as any of the following:

21 13 (1) A high-quality water (Class "HQ") or a high-  
21 14 quality resource water (Class "HQR") according to 567  
21 15 IAC ch. 61, in effect on January 1, 2001.

21 16 (2) A protected water area system, according to a  
21 17 state plan adopted by the department in effect on  
21 18 January 1, 2001.

21 19 e. "Karst terrain" means land having karst  
21 20 formations that exhibit surface and subterranean  
21 21 features of a type produced by the dissolution of  
21 22 limestone, dolomite, or other soluble rock and  
21 23 characterized by closed depressions, sinkholes, or  
21 24 caves.

21 25 f. "Major water source" means a water source that  
21 26 is a lake, reservoir, river, or stream located within  
21 27 the territorial limits of the state, or any marginal  
21 28 river area adjacent to the state, if the water source  
21 29 is capable of supporting a floating vessel capable of  
21 30 carrying one or more persons during a total of a six-  
21 31 month period in one out of ten years, excluding  
21 32 periods of flooding which has been identified by rules

21 33 adopted by the commission.

21 34 g. "One hundred year floodplain" means the land  
21 35 adjacent to a major water source, if there is at least  
21 36 a one percent chance that the land will be inundated  
21 37 in any one year, according to calculations adopted by  
21 38 rules adopted pursuant to section 455B.200. In making  
21 39 the calculations, the department shall consider  
21 40 available maps or data compiled by the federal  
21 41 emergency management agency.

21 42 h. "Professional engineer" means a person engaged  
21 43 in the practice of engineering as defined in section  
21 44 542B.2 who is issued a certificate of licensure as a  
21 45 professional engineer pursuant to section 542B.17.

21 46 i. "Water of the state" means the same as defined  
21 47 in section 455B.171.

21 48 j. "Water source" means a lake, river, reservoir,  
21 49 creek, stream, ditch, or other body of water or  
21 50 channel having definite banks and a bed with water  
22 1 flow, except lakes or ponds without outlet to which  
22 2 only one landowner is riparian.

22 3 Sec. 33. NEW SECTION. 455B.200C CONSTRUCTION  
22 4 DESIGN STATEMENT FORMED MANURE STORAGE STRUCTURES.

22 5 1. a. Except as provided in paragraph "b", a  
22 6 person shall not construct a formed manure storage  
22 7 structure, unless the person submits a construction  
22 8 design statement for filing with the department.

22 9 b. The following persons are not required to  
22 10 submit a construction design statement with the  
22 11 department:

22 12 (1) A person who constructs a formed manure  
22 13 storage structure as part of a small animal feeding  
22 14 operation.

22 15 (2) A person who submits a statement approved by a  
22 16 professional engineer certifying that the construction  
22 17 of the formed manure storage structure complies with  
22 18 the construction design standards required in this  
22 19 subpart, including a person required to submit such a  
22 20 statement as part of an application for a construction  
22 21 permit pursuant to section 455B.200A.

22 22 2. The construction design statement must include  
22 23 all of the following:

22 24 a. A summary description of the type of formed  
22 25 manure storage structure proposed to be constructed,  
22 26 including whether such formed manure storage structure  
22 27 is to be constructed of concrete.

22 28 b. (1) If the formed manure storage structure is  
22 29 to be constructed of concrete, a statement by the  
22 30 person responsible for constructing the formed manure  
22 31 storage structure certifying that such person will  
22 32 construct the formed manure storage structure in  
22 33 accordance with the construction design standards  
22 34 required in this subpart.

22 35 (2) If the formed manure storage structure is not  
22 36 to be constructed of concrete, a statement by the  
22 37 person responsible for constructing the formed manure  
22 38 storage structure certifying that such person will  
22 39 construct the formed manure storage structure in  
22 40 accordance with the construction design standards  
22 41 required in this subpart.

22 42 c. If a construction permit is required pursuant  
22 43 to section 455B.200A for the construction of three or  
22 44 more confinement feeding operation structures that  
22 45 include a formed manure storage structure, the  
22 46 contractor must provide that the construction of the  
22 47 formed manure storage structure will not impede  
22 48 drainage through established drainage tile lines which  
22 49 cross property boundary lines unless measures are

22 50 taken to reestablish the drainage prior to completion  
23 1 of construction.

23 2 d. A manure management plan as required in section  
23 3 455B.203 which may be submitted as part of an  
23 4 application for a construction permit as provided in  
23 5 section 455B.200A.

23 6 3. Unless the construction design statement is  
23 7 part of a construction permit application as provided  
23 8 in section 455B.200A, the department shall file the  
23 9 construction design statement. Otherwise, the  
23 10 department shall approve or disapprove the  
23 11 construction design statement as part of the  
23 12 construction permit application. The construction  
23 13 design statement shall be considered filed on the date  
23 14 that it is first received by the department. The  
23 15 department may request information from the person  
23 16 submitting the construction design statement if the  
23 17 department determines that it is incorrect or  
23 18 incomplete. Within thirty days after filing the  
23 19 construction design statement, the department shall  
23 20 notify the person that the construction design  
23 21 statement is filed and request any additional  
23 22 information.

23 23 Sec. 34. NEW SECTION. 455B.200D DOCUMENT  
23 24 PROCESSING REQUIREMENTS.

23 25 1. The department shall adopt and promulgate forms  
23 26 required to be completed in order to comply with this  
23 27 subpart including forms for documents that the  
23 28 department shall make available on the internet.

23 29 2. a. The department shall provide for procedures  
23 30 for the receipt, filing, processing, and return of  
23 31 documents in an electronic format, including but not  
23 32 limited to the transmission of documents by the  
23 33 internet. The department shall provide for  
23 34 authentication of the documents that may include  
23 35 electronic signatures as provided in chapter 554D.

23 36 b. The department shall to every extent feasible  
23 37 provide for the processing of permits and manure  
23 38 management plans required under this subpart using  
23 39 electronic systems, including programming, necessary  
23 40 to ensure the completeness and accuracy of the  
23 41 documents in accordance with the requirements of this  
23 42 subpart.

23 43 Sec. 35. NEW SECTION. 455B.200E CONSTRUCTION  
23 44 PERMIT APPLICATION PROCEDURE COMMENTS MASTER  
23 45 MATRIX.

23 46 1. a. The department shall deliver a copy or  
23 47 require the applicant to deliver a copy of the  
23 48 application for a permit to construct, including  
23 49 expanding, a confinement feeding operation structure  
23 50 pursuant to section 455B.200A, including supporting  
24 1 documents, to the county board of supervisors in the  
24 2 county where the confinement feeding operation  
24 3 structure subject to the permit is proposed to be  
24 4 constructed.

24 5 b. The county auditor or other county officer  
24 6 designated by the county board of supervisors may  
24 7 accept the application on behalf of the board. If the  
24 8 department requires the applicant to deliver a copy of  
24 9 the application to the county board of supervisors,  
24 10 the board shall notify the department that the board  
24 11 has received the application according to procedures  
24 12 required by the department.

24 13 2. Regardless of whether the county board of  
24 14 supervisors has adopted a construction evaluation  
24 15 resolution, the county may provide comment to the  
24 16 department on a construction permit application for a

24 17 confinement feeding operation structure.

24 18 a. The board shall provide for comment as follows:

24 19 (1) The board shall publish a notice that the  
24 20 board has received the application in a newspaper  
24 21 having a general circulation in the county.

24 22 (2) The notice shall include all of the following:

24 23 (a) The name of the person applying to receive the  
24 24 construction permit.

24 25 (b) The name of the township where the confinement  
24 26 feeding operation structure is to be constructed.

24 27 (c) Each type of confinement feeding operation  
24 28 structure proposed to be constructed.

24 29 (d) The animal unit capacity of the confinement  
24 30 feeding operation if the construction permit were to  
24 31 be approved.

24 32 (e) The time when and the place where the  
24 33 application may be examined as provided in section  
24 34 22.2.

24 35 (f) Procedures for providing public comments to  
24 36 the board as provided by the board.

24 37 b. The board may hold a public hearing to receive  
24 38 public comments regarding the application. The county  
24 39 board of supervisors may submit comments by the board  
24 40 and the public to the department as provided in this  
24 41 section, including but not limited to all of the  
24 42 following:

24 43 (1) The existence of an object or location not  
24 44 included in the application that benefits from a  
24 45 separation distance requirement as provided in section  
24 46 455B.162 or 455B.204.

24 47 (2) The suitability of soils and the hydrology of  
24 48 the site where construction of a confinement feeding  
24 49 operation structure is proposed.

24 50 (3) The availability of land for the application  
25 1 of manure originating from the confinement feeding  
25 2 operation.

25 3 (4) Whether the construction of a proposed  
25 4 confinement feeding operation structure will impede  
25 5 drainage through established tile lines, laterals, or  
25 6 other improvements which are constructed to facilitate  
25 7 the drainage of land not owned by the person applying  
25 8 for the construction permit.

25 9 3. A county board of supervisors may adopt a  
25 10 construction evaluation resolution relating to the  
25 11 construction of a confinement feeding operation  
25 12 structure. The board must submit such resolution to  
25 13 the department for filing. If the board has submitted  
25 14 such resolution to the department, the board may  
25 15 evaluate the construction permit application and  
25 16 submit an adopted recommendation to the department to  
25 17 approve or disapprove a construction application  
25 18 permit as provided in this subsection. The board must  
25 19 make its decision to recommend approval or disapproval  
25 20 of the permit application as provided in this  
25 21 subsection.

25 22 a. For the expansion of a confinement feeding  
25 23 operation that includes a confinement feeding  
25 24 operation structure constructed prior to April 1,  
25 25 2002, the board shall not evaluate a construction  
25 26 permit application for the construction or expansion  
25 27 of a confinement feeding operation structure if after  
25 28 the expansion of the confinement feeding operation,  
25 29 its animal unit capacity is one thousand six hundred  
25 30 sixty-six animal units or less.

25 31 b. The board must conduct an evaluation of the  
25 32 application using the master matrix as provided in  
25 33 section 455B.200F. The board's recommendation may be

25 34 based on the master matrix as provided or may be based  
25 35 on comments under this section regardless of the  
25 36 results of the master matrix.

25 37 c. In completing the master matrix, the board  
25 38 shall not score criteria on a selective basis. The  
25 39 board must score all criteria which is part of the  
25 40 master matrix according to the terms and conditions  
25 41 relating to construction as specified in the  
25 42 application or commitments for manure management that  
25 43 are to be incorporated into a manure management plan  
25 44 as provided in section 455B.203.

25 45 d. The board's adopted recommendation to the  
25 46 department shall include the specific reasons and any  
25 47 supporting documentation for the decision to recommend  
25 48 approval or disapproval of the application.

25 49 4. The department must receive the county board of  
25 50 supervisor's comments or evaluation for approval or  
26 1 disapproval of an application for a construction  
26 2 permit not later than thirty days following the  
26 3 applicant's delivery of the application to the  
26 4 department. Regardless of whether the department  
26 5 receives comments or an evaluation by a county board  
26 6 of supervisors, the department must approve or  
26 7 disapprove an application for a construction permit  
26 8 within sixty days following the applicant's delivery  
26 9 of the application to the department. However, the  
26 10 applicant may deliver a notice requesting a  
26 11 continuance. Upon receipt of a notice, the time  
26 12 required for the county or department to act upon the  
26 13 application shall be suspended for the period provided  
26 14 in the notice, but for not more than thirty days after  
26 15 the department's receipt of the notice. The applicant  
26 16 may submit more than one notice. However, the  
26 17 department may provide that an application is  
26 18 terminated if no action is required by the department  
26 19 for one year following delivery of the application to  
26 20 the board. The department may also provide for a  
26 21 continuance when it considers the application. The  
26 22 department shall provide notice to the applicant and  
26 23 the board of the continuance. The time required for  
26 24 the department to act upon the application shall be  
26 25 suspended for the period provided in the notice, but  
26 26 for not more than thirty days. However, the  
26 27 department shall not provide for more than one  
26 28 continuance.

26 29 5. a. The department shall approve an application  
26 30 for a construction permit if the board of supervisors  
26 31 which has filed a county construction evaluation  
26 32 resolution submits an adopted recommendation to  
26 33 approve the construction permit application which may  
26 34 be based on a satisfactory rating produced by the  
26 35 master matrix to the department and the department  
26 36 determines that the application meets the requirements  
26 37 of this chapter. The department shall disapprove an  
26 38 application that does not satisfy the requirements of  
26 39 this chapter regardless of the adopted recommendation  
26 40 of the board. The department shall consider any  
26 41 timely filed comments made by the board as provided in  
26 42 this section to determine if an application meets the  
26 43 requirements of this chapter.

26 44 b. If the board submits to the department an  
26 45 adopted recommendation to disapprove an application  
26 46 for a construction permit that is based on a rating  
26 47 produced by the master matrix, the department shall  
26 48 first determine if the application meets the  
26 49 requirements of this chapter as provided in section  
26 50 455B.200. The department shall disapprove an

27 1 application that does not satisfy the requirements of  
27 2 this chapter regardless of any result produced by  
27 3 using the master matrix. If the application meets the  
27 4 requirements of this chapter, the department shall  
27 5 conduct an independent evaluation of the application  
27 6 using the master matrix. The department shall approve  
27 7 the application if it achieves a satisfactory rating  
27 8 according to the department's evaluation. The  
27 9 department shall disapprove the application if it  
27 10 produces an unsatisfactory rating regardless of  
27 11 whether the application satisfies the requirements of  
27 12 this chapter. The department shall consider any  
27 13 timely filed comments made by the board as provided in  
27 14 this section to determine if an application meets the  
27 15 requirements of this chapter.

27 16 c. If the county board of supervisors does not  
27 17 submit a construction evaluation resolution to the  
27 18 department, fails to submit an adopted recommendation,  
27 19 submits only comments, or fails to submit comments,  
27 20 the department shall approve the application if the  
27 21 application meets the requirements of this chapter as  
27 22 provided in section 455B.200.

27 23 6. The department may conduct an inspection of the  
27 24 site on which the construction is proposed after  
27 25 providing at a minimum twenty-four hours notice or  
27 26 upon receiving consent from the construction permit  
27 27 applicant. The county board of supervisors that has  
27 28 adopted a construction evaluation resolution may  
27 29 designate a county employee to accompany a  
27 30 departmental official during the site inspection. The  
27 31 county employee shall have the same right to access to  
27 32 the site's real estate as the departmental official  
27 33 conducting the inspection during the period that the  
27 34 county employee accompanies the departmental official.  
27 35 The departmental official and the county employee  
27 36 shall comply with standard biosecurity requirements  
27 37 customarily required by the confinement feeding  
27 38 operation that are necessary in order to control the  
27 39 spread of disease among an animal population.

27 40 7. Upon written request by a county resident, the  
27 41 county board of supervisors shall forward to the  
27 42 county resident a copy of the board's adopted  
27 43 recommendation, any county comments to the department  
27 44 on the permit application, and the department's  
27 45 responses, as provided in chapter 22.

27 46 8. a. The department shall deliver a notice to  
27 47 the applicant within three days of the department's  
27 48 decision to approve or disapprove an application for a  
27 49 construction permit. If the board of supervisors has  
27 50 submitted an adopted recommendation to the department  
28 1 for the approval or disapproval of a construction  
28 2 permit application as provided in this section, the  
28 3 department shall notify the board of the department's  
28 4 decision to approve or disapprove the application at  
28 5 the same time.

28 6 b. (1) The applicant may contest the department's  
28 7 decision by requesting a hearing and may elect to have  
28 8 the hearing conducted before an administrative law  
28 9 judge pursuant to chapter 17A or before the  
28 10 commission. If the applicant and a board of  
28 11 supervisors are both contesting the department's  
28 12 decision, the applicant may request that the  
28 13 commission conduct the hearing on a consolidated  
28 14 basis. The commission shall hear the case according  
28 15 to procedures established by rules adopted by the  
28 16 department. The commission may hear the case as a  
28 17 contested case proceeding under chapter 17A. The

28 18 department, upon petition by the applicant, shall  
28 19 deliver to the administrative law judge or the  
28 20 commission a copy of the board of supervisors'  
28 21 recommendation together with the results produced by  
28 22 its master matrix and any supporting data or documents  
28 23 submitted with the results, comments submitted by the  
28 24 board to the department, and the department's  
28 25 evaluation of the application including the results  
28 26 produced by its matrix and any supporting data or  
28 27 documents. If the commission hears the case, its  
28 28 decision shall be the department's final agency  
28 29 action. The commission shall render a decision within  
28 30 thirty-five days from the date that the applicant or  
28 31 board files a demand for a hearing.

28 32 (2) A county board of supervisors that has  
28 33 submitted an adopted recommendation to the department  
28 34 may contest the department's decision by requesting a  
28 35 hearing before the commission. The commission shall  
28 36 hear the case according to procedures established by  
28 37 rules adopted by the department. The commission may  
28 38 hear the case as a contested case proceeding under  
28 39 chapter 17A. The board may request that the  
28 40 department submit a copy of the department's  
28 41 evaluation of the application including the results  
28 42 produced by its matrix and any supporting data or  
28 43 documents. The decision by the commission shall be  
28 44 the department's final agency action. The commission  
28 45 shall render a decision within thirty-five days from  
28 46 the date that the board initiates the proceeding.

28 47 c. Judicial review of the decision of either the  
28 48 department or the commission may be sought in  
28 49 accordance with the terms of chapter 17A.

28 50 9. An applicant for a construction permit may  
29 1 withdraw the permit application from consideration by  
29 2 the department at any time by filing a written request  
29 3 with the department. The filing of the request shall  
29 4 not prejudice the right of the applicant to resubmit  
29 5 the application.

29 6 Sec. 36. NEW SECTION. 455B.200F MASTER MATRIX.

29 7 1. The department shall adopt rules for the  
29 8 development and use of a master matrix. The purpose  
29 9 of the master matrix is to provide a comprehensive  
29 10 assessment mechanism in order to produce a  
29 11 statistically verifiable basis for determining whether  
29 12 to approve or disapprove an application for the  
29 13 construction, including expansion, of a confinement  
29 14 feeding operation structure requiring a permit  
29 15 pursuant to section 455B.200A.

29 16 a. The master matrix shall be used to establish  
29 17 conditions for the construction of a confinement  
29 18 feeding operation structure and for the implementation  
29 19 of manure management practices, which conditions shall  
29 20 be included in the approval of the construction permit  
29 21 or the original manure management plan as applicable.  
29 22 The master matrix shall be used to determine all of  
29 23 the following:

29 24 (1) The appropriate location to construct a  
29 25 confinement feeding operation structure, including the  
29 26 proximity and orientation of a proposed confinement  
29 27 feeding operation structure to objects or locations  
29 28 for which separation distances are required pursuant  
29 29 to sections 455B.162 and 455B.204.

29 30 (2) The appropriate type of a confinement feeding  
29 31 operation structure required to be constructed,  
29 32 including the type and size of the manure storage  
29 33 structure, or the installation of a related pollution-  
29 34 control device.

29 35 b. The master matrix shall be designed to produce  
29 36 quantifiable results based on the scoring of objective  
29 37 criteria according to an established value scale.  
29 38 Each criterion shall be assigned points corresponding  
29 39 to the value scale. The master matrix shall consider  
29 40 risks and factors mitigating risks if the confinement  
29 41 feeding operation structure were constructed according  
29 42 to the application.

29 43 c. The master matrix may be a computer model.  
29 44 However, the master matrix must be a practical tool  
29 45 for use by persons when completing applications and by  
29 46 persons when scoring applications. To every extent  
29 47 feasible, the master matrix shall include criteria  
29 48 presented in the form of questions that may be readily  
29 49 scored according to ascertainable data and upon which  
29 50 reasonable persons familiar with the location of a  
30 1 proposed construction site would not ordinarily  
30 2 disagree.

30 3 2. The master matrix shall include criteria  
30 4 valuing environmental and community impacts, for use  
30 5 by county boards of supervisors and the department.  
30 6 The master matrix shall include definite point  
30 7 selections for all criteria provided in the master  
30 8 matrix. The master matrix shall provide only for  
30 9 scoring of positive points and shall not provide for  
30 10 deduction of points. The master matrix shall provide  
30 11 for a minimum threshold score required to receive a  
30 12 satisfactory rating. The master matrix shall be  
30 13 structured to ensure that it feasibly provides for a  
30 14 satisfactory rating. Criteria valuing environmental  
30 15 impacts shall account for animal agriculture's  
30 16 relationship to quality of the environment and the  
30 17 conservation of natural resources, and may include  
30 18 factors that refer to all of the following:

- 30 19 (a) Topography.
- 30 20 (b) Surface water drainage characteristics.
- 30 21 (c) The suitability of the soils and the hydrology  
30 22 or hydrogeology of the site.
- 30 23 (d) The proximity to public use areas and critical  
30 24 public areas.
- 30 25 (e) The proximity to water sources, including  
30 26 high-quality water resources.

30 27 Sec. 37. Section [455B.201](#), Code 2001, is amended  
30 28 by adding the following new subsection:

30 29 NEW SUBSECTION. 2A. The department may require  
30 30 that the owner of a confinement feeding operation  
30 31 install and operate a water pollution monitoring  
30 32 system as part of an unformed manure storage  
30 33 structure.

30 34 Sec. 38. Section [455B.203](#), subsections 1 and 2,  
30 35 Code 2001, are amended to read as follows:

30 36 1. The following persons shall submit a manure  
30 37 management plan, including an original manure  
30 38 management plan and an updated manure management plan,  
30 39 as required in this section to the department:

30 40 a. The owner of a confinement feeding operation,  
30 41 other than a small animal feeding operation, if

~~the~~

30 42

~~animal~~

~~any of the following apply:~~

30 43 (1) The confinement feeding operation was  
30 44 constructed after May 31, 1985, regardless of whether  
30 45 the confinement feeding operation structure was

30 46 required to be constructed pursuant to a construction  
30 47 permit

~~approved by rules adopted by the department~~

30 48

~~b.~~  
~~(2)~~

~~The owner of a confinement feeding~~

30 49

~~operation, if the confinement feeding operation is~~

30 50

~~required to be constructed pursuant to a permit issued~~

31 1

~~by the department~~

~~The owner constructs a manure~~

31 2 storage structure, regardless of whether the person is  
31 3 required to be issued a permit for the construction  
31 4 pursuant to section 455B.200A or whether the person  
31 5 has submitted a prior manure management plan.  
31 6

~~c.~~

~~b.~~ A person who applies manure from a

31 7 confinement feeding operation, other than a small  
31 8 animal feeding operation, which is located in another  
31 9 state, if the manure is applied on land located in  
31 10 this state.

31 11 1A. Not more than one confinement feeding  
31 12 operation shall be covered by a single manure  
31 13 management plan.

31 14 1B. The owner of a confinement feeding operation  
31 15 who is required to submit a manure management plan  
31 16 under this section shall submit an updated manure  
31 17 management plan to the department on an annual basis.  
31 18 The department shall provide for a date that each  
31 19 updated manure management plan is required to be  
31 20 submitted to the department. The department may  
31 21 provide for staggering the dates on which updated  
31 22 manure management plans are due. To satisfy the  
31 23 requirements of an updated manure management plan, an  
31 24 owner of a confinement feeding operation may, in lieu  
31 25 of a submitting a complete plan, file a document  
31 26 stating that the manure management plan has not  
31 27 changed, or state all of the changes made since the  
31 28 original manure management plan or a previous updated  
31 29 manure management plan was submitted and approved.

31 30 1C. The department shall deliver a copy of the  
31 31 manure management plan or require the person  
31 32 submitting the manure management plan to deliver a  
31 33 copy of the manure management plan to all of the  
31 34 following:

31 35 a. The county board of supervisors in the county  
31 36 where the manure storage structure owned by the person  
31 37 is located.

31 38 b. The county board of supervisors in the county  
31 39 where the manure storage structure is proposed to be  
31 40 constructed. If the person is required to be issued a  
31 41 permit for the construction of the manure storage

31 42 structure as provided in section 455B.200A, the manure  
31 43 management plan shall accompany the application for  
31 44 the construction permit as provided in section  
31 45 455B.200A.

31 46 c. The county board of supervisors in the county  
31 47 where the manure is to be applied.

31 48 The manure management plan shall be filed with the  
31 49 county board of supervisors. The county auditor or  
31 50 other county officer may accept the manure management  
32 1 plan on behalf of the board.

32 2 2. A person shall not remove manure from a manure  
32 3 storage structure which is part of a confinement  
32 4 feeding operation for which a manure management plan  
32 5 is required under this section, unless the department  
32 6 approves a manure management plan, including an  
32 7 original manure management plan and an updated manure  
32 8 management plan, as required in this section. The  
32 9 manure management plan shall be submitted by the owner  
32 10 of the confinement feeding operation as provided by  
32 11 the department

~~on forms prescribed by the department~~

32 12 in accordance with section 455B.200D. The owner of a  
32 13 confinement feeding operation required to submit a  
32 14 manure management plan for the construction of a  
32 15 manure storage structure may remove manure from  
32 16 another manure storage structure that is constructed,  
32 17 if the department has approved a manure management  
32 18 plan covering that manure storage structure. The  
32 19 department may adopt rules allowing a person to remove  
32 20 manure from a manure storage structure until the  
32 21 manure management plan is approved or disapproved by  
32 22 the department according to terms and conditions  
32 23 required by rules adopted by the department.

~~The~~

32 24

~~department shall approve or disapprove a manure~~

32 25

~~management plan within sixty days of the date that the~~

32 26

~~department receives a completed plan.~~

32 27 2A. The department shall not approve an original  
32 28 manure management plan unless the plan is accompanied  
32 29 by a manure management plan filing fee required  
32 30 pursuant to section 455B.203C. The department shall  
32 31 not approve an updated manure management plan unless  
32 32 the updated manure management plan is accompanied by  
32 33 an annual compliance fee required pursuant to section  
32 34 455B.203C.

32 35 2B. a. The department shall not

~~issue~~

~~approve an~~

32 36 application for a permit

~~for the construction of~~

~~to~~

32 37 construct a confinement feeding operation

~~or a related~~

32 38

~~animal feeding operation~~

- structure unless the

32 39

~~applicant~~

- owner of the confinement feeding operation

32 40 applying for approval submits

~~a~~

- an original manure

32 41 management plan together with

~~an~~

- the application for

32 42 the construction permit as provided in section

32 43 455B.200A.

32 44 b. The department shall not file a construction

32 45 design statement as provided in section 455B.200C,

32 46 unless the owner of the confinement feeding operation

32 47 structure submits an original manure management plan

32 48 together with the construction design statement. The

32 49 construction design statement and manure management

32 50 plan may be submitted as part of a construction permit

33 1 as provided in section 455B.200A.

33 2 2C. A manure management plan must be authenticated

33 3 by the person required to submit the manure management

33 4 plan as required by the department in accordance with

33 5 section 455B.200D.

33 6 2D. The department shall approve or disapprove a

33 7 manure management plan according to procedures

33 8 established by the department:

33 9 a. For an original manure management plan

33 10 submitted due to the construction of a confinement

33 11 feeding operation structure, the department shall

33 12 approve or disapprove the manure management plan as

33 13 follows:

33 14 (1) If the confinement feeding operation structure

33 15 is constructed pursuant to a construction permit

33 16 issued pursuant to section 455B.200A, the manure

33 17 management plan shall be approved or disapproved as

33 18 part of the construction permit application.

33 19 (2) If the confinement feeding operation structure

33 20 is not constructed pursuant to a construction permit

33 21 issued pursuant to section 455B.200A, the manure

33 22 management plan shall be approved or disapproved

33 23 within sixty days from the date that the department

33 24 receives the manure management plan.

33 25 b. For an original manure management plan

33 26 submitted for a reason other than the construction of

33 27 a confinement feeding operation structure, the manure

33 28 management plan shall be approved within sixty days

33 29 from the date that the department receives the manure

33 30 management plan.

33 31 c. For an updated manure management plan, the

33 32 manure management plan shall be approved within thirty

33 33 days from the date that the department receives the

33 34 updated manure management plan.

33 35 Sec. 39. Section 455B.203, subsection 3, paragraph

33 36 a, Code 2001, is amended to read as follows:

33 37 a. Restrictions on the application of manure based

33 38 on all of the following:

33 39 (1) Calculations necessary to determine the land

33 40 area required for the application of manure from a  
33 41 confinement feeding operation based on nitrogen use  
33 42 levels in order to obtain optimum crop yields  
33 43 according to a crop schedule specified in the manure  
33 44 management plan, and according to requirements adopted  
33 45 by the department

~~after receiving recommendations from~~

33 46

~~the animal agriculture consulting organization~~

33 47

~~provided for in 1995 Iowa Acts, chapter 195, section~~

33 48

~~37~~

33 49 (2) (a) A phosphorus index. The department shall  
33 50 establish a phosphorus index by rule in order to  
34 1 determine the manner and timing of the application to  
34 2 a land area of manure originating from a confinement  
34 3 feeding operation. The phosphorus index shall provide  
34 4 for the application of manure on a field basis. The  
34 5 phosphorus index shall be used to determine  
34 6 application rates, based on the number of pounds of  
34 7 phosphorus that may be applied per acre and  
34 8 application practices. The phosphorus index shall be  
34 9 based on the field office technical guide for Iowa as  
34 10 published by the United States department of  
34 11 agriculture, natural resources conservation service,  
34 12 which sets forth nutrient management standards.

34 13 (b) The department shall develop a state  
34 14 comprehensive nutrient management strategy. Prior to  
34 15 developing the state comprehensive nutrient management  
34 16 strategy, the department shall complete all of the  
34 17 following:

34 18 (i) The development of a comprehensive state  
34 19 nutrient budget for the maximum volume, frequency, and  
34 20 concentration of nutrients for each watershed that  
34 21 addresses all significant sources of nutrients in a  
34 22 water of this state on a watershed basis.

34 23 (ii) The assessment of the available nutrient  
34 24 control technologies required to identify and assess  
34 25 their effectiveness.

34 26 (iii) The development and adoption of  
34 27 administrative rules pursuant to chapter 17A required  
34 28 to establish a numeric water quality standard for  
34 29 phosphorus.

34 30 (c) Regardless of the development of the state  
34 31 comprehensive nutrient management strategy as provided  
34 32 in subparagraph subdivision (b), the department shall  
34 33 adopt rules required to establish a phosphorus index.  
34 34 The department shall cooperate with the United States  
34 35 department of agriculture natural resource  
34 36 conservation service technical committee for Iowa to  
34 37 refine and calibrate the phosphorus index in adopting  
34 38 the rules. However, in no instance shall the  
34 39 phosphorus index require an application rate that is  
34 40 less than the phosphorus use levels necessary to  
34 41 obtain optimum crop yields according to a crop  
34 42 schedule specified in the manure management plan.  
34 43 Rules adopted by the department pursuant to this  
34 44 subparagraph shall become effective on July 1, 2003.

34 45 (d) The department shall conduct a study that  
34 46 considers the effects on waters of this state from  
34 47 phosphorus originating from municipal and industrial  
34 48 sources and from farm and lawn and garden use. The  
34 49 department shall report the results of its study to  
34 50 the general assembly by January 1, 2004.

35 1 (e) A person submitting a manure management plan  
35 2 shall include a phosphorus index as part of the manure  
35 3 management plan as follows:

35 4 (i) A person who has submitted an original manure  
35 5 management plan prior to April 1, 2002, shall not be  
35 6 required to submit a manure management plan update  
35 7 which includes a phosphorus index, until on and after  
35 8 the four-year anniversary date that the department's  
35 9 rules adopted to implement the phosphorus index become  
35 10 effective.

35 11 (ii) A person required to submit an original  
35 12 manure management plan on and after April 1, 2002, but  
35 13 prior to the date that is sixty days after the  
35 14 department's rules adopted to implement the phosphorus  
35 15 index become effective, shall not be required to  
35 16 submit a manure management plan update that includes a  
35 17 phosphorus index until on and after the two-year  
35 18 anniversary date that the department's rules adopted  
35 19 to implement the phosphorus index become effective.

35 20 (iii) A person required to submit an original  
35 21 manure management plan on and after the date that is  
35 22 sixty days after the department's rules adopted to  
35 23 implement the phosphorus index become effective shall  
35 24 include the phosphorus index as part of the original  
35 25 manure management plan and updated manure management  
35 26 plans.

35 27 Subparagraph subdivisions (b) through (e) and this  
35 28 paragraph are repealed on the date that any person who  
35 29 has submitted an original manure management plan prior  
35 30 to April 1, 2002, is required to submit a manure  
35 31 management plan update which includes a phosphorus  
35 32 index as provided in subparagraph subdivision (c),  
35 33 subparagraph subdivision part (i). The department  
35 34 shall publish a notice in the Iowa administrative  
35 35 bulletin published immediately prior to that date, and  
35 36 the director of the department shall deliver a copy of  
35 37 the notice to the Iowa Code editor.

35 38 Sec. 40. Section [455B.203](#), subsection 4, Code  
35 39 2001, is amended to read as follows:

35 40 4. A

~~person~~

~~confinement feeding operation~~

35 41 classified as a habitual violator

~~or a confinement~~

35 42

~~feeding operation in which a habitual violator owns a~~

35 43

~~controlling interest,~~

~~as provided in section 455B.191~~

35 44 shall submit a manure management plan to the  
35 45 department on an annual basis, which must be approved  
35 46 by the department for the following year of operation.

35 47 The manure management plan shall be a replacement  
35 48 original manure management plan rather than a manure  
35 49 management plan update. However, the habitual  
35 50 violator required to submit a replacement original  
36 1 manure management plan must submit an annual  
36 2 compliance fee in the same manner as if the habitual  
36 3 violator were submitting an updated manure management  
36 4 plan.

36 5 Sec. 41. Section [455B.203](#), subsection 7, Code  
36 6 2001, is amended to read as follows:

36 7 7. A person

~~submitting~~

~~required to authenticate a~~

36 8 manure management plan submitted to the department who  
36 9 is found in violation of the terms and conditions of  
36 10 the plan shall not be subject to an enforcement action  
36 11 other than the assessment of a civil penalty pursuant  
36 12 to section

~~455B.191~~

~~455B.207.~~

36 13 Sec. 42. Section [455B.203A](#), subsection 6,  
36 14 paragraph b, Code 2001, is amended by striking the  
36 15 paragraph.

36 16 Sec. 43. NEW SECTION. 455B.203C COMPLIANCE FEES.

36 17 1. The department shall establish, assess, and  
36 18 collect all of the following compliance fees:

36 19 a. A construction permit application fee that is  
36 20 required to accompany an application submitted to the  
36 21 department for approval to construct a confinement  
36 22 feeding operation structure as provided in section  
36 23 455B.200A. The amount of the construction permit  
36 24 application fee shall not exceed two hundred fifty  
36 25 dollars.

36 26 b. A manure management plan filing fee that is  
36 27 required to accompany an original manure management  
36 28 plan submitted to the department for approval as  
36 29 provided in section 455B.203. However, the manure  
36 30 management plan required to be filed as part of an  
36 31 application for a construction permit shall be paid  
36 32 together with the construction permit application fee.  
36 33 The amount of the manure management plan filing fee  
36 34 shall not exceed two hundred fifty dollars.

36 35 c. An annual compliance fee that is required to  
36 36 accompany an updated manure management plan submitted  
36 37 to the department for approval as provided in section  
36 38 455B.203. The amount of the annual compliance fee  
36 39 shall not exceed a rate of fifteen cents per animal  
36 40 unit based on the animal unit capacity of the  
36 41 confinement feeding operation covered by the manure  
36 42 management plan. If the person filing the manure  
36 43 management plan is a contract producer, as provided in  
36 44 chapter 202, the contractor shall be assessed the  
36 45 annual compliance fee.

36 46 d. Fees paid by persons required by the department  
36 47 to be certified as commercial manure applicators or  
36 48 confinement site manure applicators pursuant to  
36 49 section 455B.203A.

36 50 2. a. Except as provided in paragraph "b", fees  
37 1 collected by the department shall be deposited into  
37 2 the animal agriculture compliance fund created in  
37 3 section 455B.127. Moneys collected from all fees  
37 4 other than the annual compliance fee shall be  
37 5 deposited into the compliance fund's general account.  
37 6 Moneys collected from the annual compliance fee shall  
37 7 be deposited into the compliance fund's assessment

37 8 account.

37 9 b. Receipts that are required to be received by  
37 10 the department from persons required to be certified  
37 11 pursuant to section 455B.203A may be used to  
37 12 compensate a person who teaches continuing  
37 13 instructional courses in lieu of deposit into the  
37 14 compliance fund.

37 15 3. At the end of each fiscal year the department  
37 16 shall determine the balance of unencumbered and  
37 17 unobligated moneys in the assessment account of the  
37 18 animal agriculture compliance fund created pursuant to  
37 19 section 455B.127. If on that date the balance of  
37 20 unencumbered and unobligated moneys in the account is  
37 21 one million dollars or more, the department shall  
37 22 adjust the rate of the annual compliance fee for the  
37 23 following fiscal year. The adjusted rate for the  
37 24 annual compliance fee shall be based on the  
37 25 department's estimate of the amount required to ensure  
37 26 that at the end of the following fiscal year the  
37 27 balance of unencumbered and unobligated moneys in the  
37 28 assessment account is not one million dollars or more.

37 29 Sec. 44. Section [455B.204](#), subsection 1, Code  
37 30 2001, is amended by striking the subsection.

37 31 Sec. 45. Section [455B.204](#), subsections 2 through  
37 32 4, Code 2001, are amended to read as follows:

37 33 2. Except as provided in subsection

~~3~~

- 4, the

37 34 following shall apply:

37 35 a.

~~An animal~~

- A confinement feeding operation

37 36 structure shall not be constructed closer than five  
37 37 hundred feet away from

~~a~~

- the surface intake

~~of an~~

37 38 agricultural drainage well. A confinement feeding  
37 39 operation structure shall not be constructed closer  
37 40 than one thousand feet from a wellhead,

~~or~~

- cistern of

37 41 an agricultural drainage well, or known sinkhole.  
37 42 However, the department may adopt rules requiring an  
37 43 increased separation distance under this paragraph in  
37 44 order to protect the integrity of a water of this  
37 45 state. The increased separation distance shall not be  
37 46 more than two thousand feet. If the department  
37 47 exercises its discretion to increase the separation  
37 48 distance requirement, the department shall not approve  
37 49 an application for the construction of a confinement  
37 50 feeding operation structure within that separation  
38 1 distance as provided in section 455B.200A.

38 2 b.

~~An animal~~

- A confinement feeding operation

38 3 structure shall not be constructed if the

~~animal~~

-

38 4 confinement feeding operation structure as constructed  
38 5 is closer than any of the following:  
38 6 (1)

~~Two~~

- Five hundred feet away from a

~~watercourse~~

38 7 water source other than a major water source.

38 8 (2)

~~Five hundred~~

- One thousand feet away from a

38 9 major water source.

38 10 (3) Two thousand five hundred feet away from a

38 11 designated wetland.

38 12 c. (1) A

~~watercourse~~

- water source, other than a

38 13 major water source, shall not be constructed,

38 14 expanded, or diverted, if the

~~watercourse~~

- water source

38 15 as constructed, expanded, or diverted is closer than

38 16

~~two~~

- five hundred feet away from

~~an animal~~

- a

38 17 confinement feeding operation structure.

38 18

~~d.~~

- (2) A major water source shall not be

38 19 constructed, expanded, or diverted, if the major water

38 20 source as constructed, expanded, or diverted is closer

38 21 than

~~five hundred~~

- one thousand feet from

~~an animal~~

-

38 22

~~feeding~~

- a confinement operation structure.

38 23 (3) A designated wetland shall not be established.

38 24 if the designated wetland is closer than two thousand

38 25 five hundred feet away from a confinement feeding

38 26 operation structure.

38 27 3. A confinement feeding operation structure shall

38 28 not be constructed on land that is part of a one

38 29 hundred year floodplain as designated by rules adopted

38 30 by the department pursuant to section 455B.200B.

38 31

~~3.~~

- 4. A separation distance required in subsection

38 32 2 shall not apply to any of the following:

38 33 a. A location or object and a farm pond or

38 34 privately owned lake, as defined in section 462A.2.

38 35 b. A confinement feeding operation building, an  
38 36 egg washwater storage structure, or a manure storage  
38 37 structure constructed with a secondary containment  
38 38 barrier. The department shall adopt rules providing  
38 39 for the construction and use of a secondary  
38 40 containment barrier, including construction design  
38 41 standards.  
38 42

~~4. All distances between locations or objects~~

38 43

~~shall be measured from their closest points, as~~

38 44

~~provided by rules adopted by the department.~~

38 45 Sec. 46. Section [455B.204A](#), Code 2001, is amended  
38 46 to read as follows:  
38 47 455B.204A

~~DISPOSAL~~

~~APPLICATION OF MANURE WITHIN~~

38 48 DESIGNATED AREAS ADOPTION OF RULES.

38 49 1. The department shall adopt rules relating to  
38 50 the

~~disposal~~

~~application~~ of manure in close proximity

39 1 to a designated area.

39 2 2.

~~A~~

~~Except as otherwise provided in this~~

39 3 subsection, a person shall not

~~dispose of~~

~~apply~~ manure

39 4 on

~~cropland~~

~~land located~~ within two hundred feet from

39 5 a designated area, unless one of the following

39 6 applies:

39 7

~~1.~~

~~a.~~ The manure is land applied by injection or

39 8 incorporation

~~within twenty four hours following the~~

39 9

~~application~~

~~on the same date as the manure was land~~

39 10 applied.

39 11

~~2.~~

~~b.~~ An area of permanent vegetation cover,

39 12 including filter strips and riparian forest buffers,

39 13 exists for fifty feet surrounding the designated area

39 14 other than an unplugged agricultural drainage well or

39 15 surface intake to an unplugged agricultural drainage

39 16 well, and

~~that~~

~~the area of permanent vegetation cover~~

39 17 is not subject to manure application.

39 18 c. The department adopts rules requiring an

39 19 increased separation distance for the application of

39 20 manure located in proximity to a high quality water

39 21 resource in order to protect the integrity of the high

39 22 quality water resource. However, the department shall

39 23 not provide for an increased separation distance

39 24 requirement that is more than four times the

39 25 separation distance requirement otherwise applicable

39 26 under this section.

39 27 As used in this section, "designated area" means a

39 28 known sinkhole, or a cistern, abandoned well,

39 29 unplugged agricultural drainage well, agricultural

39 30 drainage well surface inlet, drinking water well,

39 31 designated wetland, or

~~lake, or a farm pond or~~

39 32

~~privately owned lake as defined in section 462A.2~~

39 33 water source. However, a "designated area" does not

39 34 include a terrace tile inlet.

39 35 Sec. 47. Section [455B.205](#), subsection 1, Code

39 36 2001, is amended to read as follows:

39 37 1. The department shall

~~establish by rule~~

39 38

~~engineering~~

~~adopt rules requiring construction design~~

39 39 standards for

~~the construction of~~

~~unformed manure~~

39 40 storage structures required to be constructed pursuant

39 41 to a construction permit issued

~~under~~

~~pursuant to~~

39 42 section 455B.200A.

39 43 Sec. 48. Section [455B.205](#), subsection 2,

39 44 unnumbered paragraph 1, Code 2001, is amended to read

39 45 as follows:

39 46 The construction design standards for unformed

39 47 manure storage structures established by the

39 48 department shall account for special design

39 49 characteristics of

~~animal~~

~~confinement feeding~~

39 50 operations, including all of the following:

40 1 Sec. 49. Section [455B.205](#), Code 2001, is amended

40 2 by adding the following new subsection:

40 3 NEW SUBSECTION. 2A. A person shall not construct

40 4 an unformed manure storage structure on karst terrain

40 5 or on an area that drains into a known sinkhole.

40 6 Sec. 50. NEW SECTION. 455B.205A CONSTRUCTION

40 7 DESIGN STANDARDS FORMED MANURE STORAGE STRUCTURES.

40 8 The department shall adopt rules establishing

40 9 construction design standards for formed manure  
40 10 storage structures that are part of confinement  
40 11 feeding operations other than small animal feeding  
40 12 operations.  
40 13 1. The department may provide for different  
40 14 standards based on criteria developed by the  
40 15 department, which may include any of the following:  
40 16 a. The animal unit capacity of the manure storage  
40 17 structure's confinement feeding operation or the  
40 18 manure storage structure's manure volume capacity.  
40 19 b. Whether the manure storage structure stores  
40 20 manure in an exclusively dry form.  
40 21 c. Whether the manure storage structure is part of  
40 22 a confinement feeding operation building.  
40 23 d. The use of concrete, including its use for the  
40 24 structure's footings, walls, or floor.  
40 25 2. The construction design standards shall be  
40 26 based, to every extent possible, on uniform standards  
40 27 such as available standards promulgated by the  
40 28 American society for testing and materials. The  
40 29 department may require that all or any part of a  
40 30 formed manure storage structure be constructed of  
40 31 concrete.  
40 32 3. The construction design standards for concrete  
40 33 shall provide for all of the following:  
40 34 a. The concrete's minimum compressive strength  
40 35 calculated on a pounds-per-square-inch basis.  
40 36 b. The use of reinforcement, including but not  
40 37 limited to the grade, amount, and location of steel  
40 38 rebar or fiberglass, wire mesh or fabric, or similar  
40 39 materials set in the concrete, or the use of exterior  
40 40 braces to support joints.  
40 41 c. The depth of footings.  
40 42 d. The thickness of the footings, the floor and  
40 43 walls.  
40 44 4. A person shall only construct a formed manure  
40 45 storage structure on karst terrain or an area which  
40 46 drains into a known sinkhole pursuant to upgraded  
40 47 construction design standards necessary to ensure that  
40 48 the structure does not pollute groundwater sources.  
40 49 Sec. 51. NEW SECTION. 455B.207 CIVIL PENALTY.  
40 50 A person who violates this subpart shall be subject  
41 1 to a civil penalty which shall be established,  
41 2 assessed, and collected in the same manner as provided  
41 3 in section 455B.191. Any civil penalty collected  
41 4 shall be deposited in the animal agriculture  
41 5 compliance fund created in section 455B.127.  
41 6 Sec. 52. Section [455I.1](#), unnumbered paragraph 1,  
41 7 Code 2001, is amended by striking the unnumbered  
41 8 paragraph.  
41 9 Sec. 53. Section [455J.1](#), subsections 1 through 5  
41 10 and subsections 7 and 8, Code 2001, are amended by  
41 11 striking the subsections.  
41 12 Sec. 54. Section [455J.3](#), subsection 1, unnumbered  
41 13 paragraph 1, Code 2001, is amended to read as follows:  
41 14 If the confinement feeding operation has an animal  
41 15

~~weight~~

- unit capacity of less than

~~six hundred twenty~~

41 16

~~five thousand pounds~~

- one thousand animal units, the

41 17 following shall apply:

41 18 Sec. 55. Section [455J.3](#), subsection 2, unnumbered

41 19 paragraph 1, Code 2001, is amended to read as follows:

41 20 If the confinement feeding operation has an animal

41 21

~~weight~~

- ~~unit~~ capacity of

~~six hundred twenty five~~

41 22

~~thousand~~

- one thousand or more

~~pounds~~

- animal units but

41 23 less than

~~one million two hundred fifty thousand~~

41 24

~~pounds~~

- three thousand animal units, the following

41 25 shall apply:

41 26 Sec. 56. Section [455J.3](#), subsection 3, unnumbered

41 27 paragraph 1, Code 2001, is amended to read as follows:

41 28 If the confinement feeding operation has an animal

41 29

~~weight~~

- ~~unit~~ capacity of

~~one million two hundred fifty~~

41 30

~~thousand~~

- three thousand or more

~~pounds~~

- animal units,

41 31 the following shall apply:

41 32 Sec. 57. Section [455J.4](#), Code 2001, is amended to

41 33 read as follows:

41 34 455J.4 MANURE MANAGEMENT PLAN INDEMNITY FEE

41 35 REQUIRED.

41 36 An indemnity fee shall be assessed upon persons

41 37 required to submit

~~a~~

- an original manure management

41 38 plan as provided in section 455B.203, but not required

41 39 to obtain a construction permit pursuant to section

41 40 455B.200A. A person required to submit a replacement

41 41 original manure management plan shall not be assessed

41 42 an indemnity fee. The amount of the

~~fees~~

- fee shall be

41 43 ten cents per animal unit of capacity for the

41 44 confinement feeding

~~operations~~

- operation covered by

41 45 the manure management plan.

41 46 Sec. 58. NEW SECTION. 481A.151 RESTITUTION FOR  
41 47 POLLUTION CAUSING INJURY TO WILD ANIMALS.

41 48 1. A person who is liable for polluting a water of  
41 49 this state in violation of state law, including this  
41 50 chapter, shall also be liable to pay restitution to  
42 1 the department for injury caused to a wild animal by  
42 2 the pollution. The amount of the restitution shall  
42 3 also include the department's administrative costs for  
42 4 investigating the incident. The administration of  
42 5 this section shall not result in a duplication of  
42 6 damages collected by the department under section  
42 7 455B.392, subsection 1, paragraph "c".

42 8 2. The commission shall adopt rules providing for  
42 9 procedures for investigations and the administrative  
42 10 assessment of restitution amounts. The rules shall  
42 11 establish an opportunity to appeal a departmental  
42 12 action including by a contested case proceeding under  
42 13 chapter 17A. A final administrative decision  
42 14 assessing an amount of restitution may be enforced by  
42 15 the attorney general at the request of the director.

42 16 3. Rules adopted by the commission shall provide  
42 17 for methods used to determine the extent of an injury  
42 18 and the monetary values for the loss of injured wild  
42 19 animals based on species.

42 20 a. The rules shall provide for methods used to  
42 21 count dead fish and to calculate restitution values.  
42 22 The rules may incorporate methods and values published  
42 23 by the American fisheries society. To every extent  
42 24 practicable, the values shall be based on the  
42 25 estimates of lost recreational angler opportunities  
42 26 where applicable. As an alternative method of  
42 27 valuation, the rules may provide that for fish species  
42 28 that are protected by catch limits, possession limits,  
42 29 size limits, or closed seasons applicable to anglers,  
42 30 liquidated damages apply. The amount of the  
42 31 liquidated damages shall not exceed fifteen dollars  
42 32 per fish. For fish species that are classified by the  
42 33 commission as endangered or threatened, the rules may  
42 34 establish liquidated damages not to exceed one  
42 35 thousand dollars per fish.

42 36 b. The rules shall provide guidelines for  
42 37 estimating the extent of loss of a species that is  
42 38 affected by a pollution incident but which would not  
42 39 be practical to count in sample areas. The rules may  
42 40 establish liquidated damage amounts for species whose  
42 41 replacement cost is difficult to determine.

42 42 4. Moneys collected by the department in  
42 43 restitution shall be deposited into the state fish and  
42 44 game protection fund. The moneys shall be used  
42 45 exclusively to support restoration or improvement of  
42 46 fisheries, including but not limited to aquatic  
42 47 habitat improvement projects as provided in rules  
42 48 adopted by the commission. However, moneys collected  
42 49 from restitution paid for investigative costs shall be  
42 50 used as determined by the director.

43 1 Sec. 59. FORMED MANURE STORAGE STRUCTURES  
43 2 CONSTRUCTION DESIGN STANDARDS. Until the effective  
43 3 date of rules adopted by the department providing  
43 4 construction design standards for formed manure  
43 5 storage structures as provided in section 455B.205A,  
43 6 as enacted in this Act, the department's rules  
43 7 providing construction design standards used in the  
43 8 construction of formed manure storage structures shall  
43 9 apply to formed manure storage structures as provided  
43 10 in section 455B.205A, regardless of whether a formed  
43 11 manure storage structure must be constructed pursuant

43 12 to a permit issued under section 455B.200A, as amended  
43 13 by this Act. However, this section does not apply to  
43 14 a manure storage structure that stores manure  
43 15 exclusively on a dry-matter basis.

43 16 Sec. 60. INTERIM APPROVAL OF CONSTRUCTION PERMITS  
43 17 FOR CONFINEMENT FEEDING OPERATION STRUCTURES COUNTY  
43 18 PARTICIPATION AND RIGHTS OF APPLICANTS AND COUNTY  
43 19 BOARDS OF SUPERVISORS. This section applies to an  
43 20 applicant for a construction permit pursuant to  
43 21 section 455B.200A, as amended by this Act, and to a  
43 22 county board of supervisors that submits comments  
43 23 regarding a permit for the construction of a  
43 24 confinement feeding operation structure pursuant to  
43 25 section 455B.200A, as amended by this Act.  
43 26 Notwithstanding section 455B.200E, as enacted in this  
43 27 Act, all of the following shall apply:

43 28 1. The department shall not approve the  
43 29 application until thirty days following delivery of  
43 30 the application to the county board of supervisors.

43 31 2. The department shall consider and respond to  
43 32 comments submitted by the county board of supervisors  
43 33 regarding compliance by the applicant with the legal  
43 34 requirements for approving the construction permit in  
43 35 the same manner as provided pursuant to section  
43 36 455B.200A, Code of Iowa 2001.

43 37 3. The department shall notify the county board of  
43 38 supervisors prior to conducting an inspection of the  
43 39 site on which the construction is proposed in the  
43 40 permit application, and the county may accompany a  
43 41 departmental official during the site inspection, in  
43 42 the same manner as provided in section 455B.200A, Code  
43 43 of Iowa 2001.

43 44 4. Upon written request by a county resident, the  
43 45 county board of supervisors shall forward a copy of  
43 46 the board's comments and the department's responses to  
43 47 the county resident as provided in chapter 22.

43 48 5. The department shall notify the applicant and  
43 49 county board of supervisors of the county in which a  
43 50 confinement feeding operation structure subject to a  
44 1 construction permit is proposed to be constructed.  
44 2 The notice shall state the department's decision to  
44 3 approve or disapprove an application for the  
44 4 construction permit which shall be delivered to the  
44 5 applicant and board in the same manner as provided for  
44 6 counties in section 455B.200A, Code of Iowa 2001. The  
44 7 applicant may contest the department's decision by  
44 8 filing a demand for a hearing before an administrative  
44 9 law judge or the environmental protection commission.  
44 10 The board may contest the department's decision by  
44 11 filing a demand for a hearing before the commission.  
44 12 The applicant shall contest the decision and the  
44 13 commission shall conduct the proceeding and render a  
44 14 decision in the same manner as provided in section  
44 15 455B.200E, as enacted by this Act.

44 16 Sec. 61. ESTABLISHMENT OF A MASTER MATRIX  
44 17 TECHNICAL ADVISORY COMMITTEE.

44 18 1. The department of natural resources shall adopt  
44 19 rules establishing a master matrix as required  
44 20 pursuant to section 455B.200F according to  
44 21 recommendations made to the department by a technical  
44 22 advisory committee established pursuant to this  
44 23 section. The technical advisory committee shall be  
44 24 composed of all of the following:

44 25 a. A designee of the secretary of agriculture.

44 26 b. A designee of the director of the department of  
44 27 natural resources.

44 28 c. A designee of the president of the university

44 29 of Iowa.

44 30 d. A designee of the president of Iowa state  
44 31 university.

44 32 e. A representative of the Iowa environmental  
44 33 council.

44 34 f. A representative of the Iowa state association  
44 35 of counties.

44 36 g. A representative of the Iowa farm bureau  
44 37 federation.

44 38 h. A representative of the Iowa's farmers union.

44 39 i. Two representatives of organizations  
44 40 representing livestock producers who shall be jointly  
44 41 designated to the department of natural resources by  
44 42 the Iowa pork producers association, the Iowa  
44 43 cattlemens' association, the Iowa dairy products  
44 44 association, the Iowa poultry association, and the  
44 45 Iowa turkey federation.

44 46 The department of natural resources shall provide  
44 47 administrative support to the committee. The attorney  
44 48 general shall appoint an assistant attorney general to  
44 49 provide the committee with legal counsel and  
44 50 assistance.

45 1 2. In establishing the scoring system for the  
45 2 master matrix, only positive points shall be used.  
45 3 The master matrix shall be designed as a menu of items  
45 4 with positive points assigned to each item within the  
45 5 selection list. The matrix shall not include any  
45 6 deduction of points.

45 7 3. The department shall adopt rules pursuant to  
45 8 chapter 17A in order to carry out the requirements of  
45 9 this section. Based on the committee's  
45 10 recommendations to establish a master matrix, the  
45 11 department shall provide a draft of a notice of  
45 12 intended action to the environmental protection  
45 13 commission not later than during its September 2002  
45 14 meeting. The department's notice of intended action  
45 15 shall not be published later than in the November 27,  
45 16 2002, issue of the Iowa administrative bulletin. The  
45 17 notice of intended action required under this section  
45 18 shall include a statement of the terms or substance of  
45 19 the intended action in the manner provided for in  
45 20 section 17A.4. The rules shall take effect on March  
45 21 1, 2003.

45 22 Sec. 62. DEPARTMENT OF NATURAL RESOURCES  
45 23 APPROVAL OF APPLICATIONS FOR CONSTRUCTION PERMITS  
45 24 USING INTERIM MATRIX.

45 25 1. Notwithstanding sections 455B.200A and  
45 26 455B.200F, the department shall approve or disapprove  
45 27 an application for a permit to construct a confinement  
45 28 feeding operation structure pursuant to section  
45 29 455B.200A, if an application is submitted according to  
45 30 procedures required by the department, the application  
45 31 meets standards established under chapter 455B, as  
45 32 amended by this Act, and the application complies with  
45 33 the requirements of this section. This section does  
45 34 not apply to the expansion of a confinement feeding  
45 35 operation that includes a confinement feeding  
45 36 operation structure constructed prior to April 1,  
45 37 2002, due to the construction or expansion of a  
45 38 confinement feeding operation structure if after the  
45 39 expansion of the confinement feeding operation, its  
45 40 animal unit capacity is one thousand six hundred  
45 41 sixty-six animal units or less.

45 42 2. This section applies on and after the date that  
45 43 the department publishes a notice in the Iowa  
45 44 administrative bulletin commencing its evaluation of  
45 45 applications under this section.

45 46 3. The department shall approve or disapprove an  
45 47 application based on an interim matrix. The interim  
45 48 matrix shall be used to award points as provided in  
45 49 this subsection. In order to be issued a construction  
45 50 permit, a person must achieve one hundred points. The  
46 1 points shall be awarded as follows:

46 2 a. The following criteria shall apply to  
46 3 separation distances. The separation distances  
46 4 provided in this paragraph shall apply in addition to  
46 5 separation distances required for confinement feeding  
46 6 operation structures or for the application of manure  
46 7 originating from confinement feeding operations as  
46 8 provided in chapter 455B, divisions II and III, as  
46 9 provided in the 2001 Code of Iowa, unless otherwise  
46 10 provided in this paragraph "a".

46 11 (1) The following criteria shall apply to require  
46 12 additional separation distances between a proposed  
46 13 confinement feeding operation structure and a  
46 14 residence not owned by the owner of the confinement  
46 15 feeding operation, a commercial enterprise, a bona  
46 16 fide religious institution, or an educational  
46 17 institution as provided in section 455B.162:

46 18 (a) Two hundred fifty or more feet but less than  
46 19 five hundred feet: five points.

46 20 (b) Five hundred or more feet but less than seven  
46 21 hundred fifty feet: ten points.

46 22 (c) Seven hundred fifty or more feet but less than  
46 23 one thousand feet: fifteen points.

46 24 (d) One thousand or more feet but less than one  
46 25 thousand two hundred fifty feet: twenty points.

46 26 (e) One thousand two hundred fifty or more feet:  
46 27 twenty-five points.

46 28 (2) The following criteria shall apply to require  
46 29 additional separation distances between a proposed  
46 30 confinement feeding operation structure and a public  
46 31 use area as provided in section 455B.162 or a primary  
46 32 highway as defined in section 306C.10:

46 33 (a) Two hundred fifty or more feet but less than  
46 34 five hundred feet: five points.

46 35 (b) Five hundred or more feet but less than seven  
46 36 hundred fifty feet: ten points.

46 37 (c) Seven hundred fifty or more feet but less than  
46 38 one thousand feet: fifteen points.

46 39 (d) One thousand or more feet but less than one  
46 40 thousand two hundred fifty feet: twenty points.

46 41 (e) One thousand two hundred fifty or more feet:  
46 42 twenty-five points.

46 43 (3) The following criteria shall apply to require  
46 44 additional separation distances between a proposed  
46 45 confinement feeding operation structure and a major  
46 46 water source as provided in section 455B.204 or a  
46 47 high-quality water resource as defined in section  
46 48 455B.200B, as enacted in this Act:

46 49 (a) Two hundred fifty or more feet but less than  
46 50 five hundred feet: five points.

47 1 (b) Five hundred or more feet but less than seven  
47 2 hundred fifty feet: ten points.

47 3 (c) Seven hundred fifty or more feet but less than  
47 4 one thousand feet: fifteen points.

47 5 (d) One thousand or more feet but less than one  
47 6 thousand two hundred fifty feet: twenty points.

47 7 (e) One thousand two hundred fifty or more feet:  
47 8 twenty-five points.

47 9 (4) The following criteria shall apply to require  
47 10 additional separation distances between a proposed  
47 11 confinement feeding operation structure and a critical  
47 12 public area as defined in section 455B.200B,

47 13 subsection 6, as enacted by this Act:

47 14 (a) One thousand or more feet but less than one  
47 15 thousand two hundred fifty feet: twenty points.

47 16 (b) One thousand two hundred fifty or more feet:  
47 17 twenty-five points.

47 18 (5) The following criteria shall apply to require  
47 19 an additional separation distance of five hundred or  
47 20 more feet between a proposed confinement feeding  
47 21 operation structure and a watercourse, other than a  
47 22 major water source, as provided in section 455B.204:  
47 23 five points.

47 24 (6) The following criteria shall apply to require  
47 25 additional separation distances between the  
47 26 application of manure originating from a confinement  
47 27 feeding operation and a residence not owned by the  
47 28 owner of the confinement feeding operation, or a  
47 29 commercial enterprise, bona fide religious  
47 30 institution, or an educational institution as provided  
47 31 in section 455B.162:

47 32 (a) Two hundred fifty or more feet but less than  
47 33 five hundred feet: five points.

47 34 (b) Five hundred or more feet but less than seven  
47 35 hundred fifty feet: ten points.

47 36 (c) Seven hundred fifty or more feet but less than  
47 37 one thousand feet: fifteen points.

47 38 (d) One thousand or more feet but less than one  
47 39 thousand two hundred fifty feet: twenty points.

47 40 (e) One thousand two hundred fifty or more feet:  
47 41 twenty-five points.

47 42 An applicant who incorporates manure by injection  
47 43 shall be entitled to the following: fifteen points.

47 44 (7) The following criteria shall apply to require  
47 45 an additional separation distance between the  
47 46 application of manure originating from a confinement  
47 47 feeding operation and a public use area as provided in  
47 48 section 455B.162 or a primary highway as defined in  
47 49 section 306C.10:

47 50 (a) Two hundred fifty or more feet but less than  
48 1 five hundred feet: five points.

48 2 (b) Five hundred or more feet but less than seven  
48 3 hundred fifty feet: ten points.

48 4 (c) Seven hundred fifty or more feet but less than  
48 5 one thousand feet: fifteen points.

48 6 (d) One thousand or more feet but less than one  
48 7 thousand two hundred fifty feet: twenty points.

48 8 (e) One thousand two hundred fifty or more feet:  
48 9 twenty-five points.

48 10 (8) The following criteria shall apply to require  
48 11 additional separation distances between the  
48 12 application of manure originating from a confinement  
48 13 feeding operation and a critical public area as  
48 14 defined in section 455B.200B, subsection 6, as enacted  
48 15 in this Act:

48 16 (a) One thousand or more feet but less than one  
48 17 thousand two hundred fifty feet: twenty points.

48 18 (b) One thousand two hundred fifty or more feet:  
48 19 twenty-five points.

48 20 An applicant who incorporates manure by injection  
48 21 shall be entitled to the following: fifteen points.

48 22 (9) The following criteria shall apply to require  
48 23 additional separation distances between the  
48 24 application of manure originating from a confinement  
48 25 feeding operation and a major water source:

48 26 (a) One thousand or more feet but less than one  
48 27 thousand two hundred fifty feet: twenty points.

48 28 (b) One thousand two hundred fifty or more feet:  
48 29 twenty-five points.

48 30 (10) The following criteria shall apply to require  
48 31 additional separation distances between the  
48 32 application of manure originating from a confinement  
48 33 feeding operation and a high-quality water resource as  
48 34 defined in section 455B.200B, as enacted in this Act:  
48 35 (a) Five hundred or more feet but less than seven  
48 36 hundred fifty feet: ten points.  
48 37 (b) Seven hundred fifty or more feet but less than  
48 38 one thousand feet: fifteen points.  
48 39 (c) One thousand or more feet but less than one  
48 40 thousand two hundred fifty feet: twenty points.  
48 41 (d) One thousand two hundred fifty or more feet:  
48 42 twenty-five points.  
48 43 (11) The following criteria shall apply to require  
48 44 additional separation distances required for the  
48 45 application of manure originating from a confinement  
48 46 feeding operation and a watercourse other than a major  
48 47 water source as provided in section 455B.204: five  
48 48 points.  
48 49 b. The following points shall be awarded if a  
48 50 confinement feeding operation is located on land owned  
49 1 or operated by the same family for three or more  
49 2 years: fifteen points.  
49 3 c. The following points shall be awarded if the  
49 4 owner of the confinement feeding operation owns the  
49 5 animals maintained by the confinement feeding  
49 6 operation and provides substantial structure: ten  
49 7 points.  
49 8 d. The following criteria shall apply to a  
49 9 confinement feeding operation located on land owned by  
49 10 one of the following persons:  
49 11 (1) A person who resides on the land: five  
49 12 points.  
49 13 (2) A person who closest resides to the proposed  
49 14 confinement feeding operation structure: ten points.  
49 15 (3) A person who performs the majority of the  
49 16 physical work which significantly contributes to the  
49 17 operation: ten points.  
49 18 (4) A person who is involved in making substantial  
49 19 improvements to the confinement feeding operation, if  
49 20 the improvements do not provide for expansion by more  
49 21 than one hundred fifty percent of the animal unit  
49 22 capacity of the confinement feeding operation: ten  
49 23 points.  
49 24 (5) A person who qualifies as a beginning farmer  
49 25 as defined in section 175.2: fifteen points.  
49 26 e. The following criteria shall apply to an owner  
49 27 of a confinement feeding operation who provides for  
49 28 the following manure management practices:  
49 29 (1) The incorporation of manure within twenty-four  
49 30 hours: five points.  
49 31 (2) The use of a cover over a manure storage  
49 32 structure or a natural crust or oil sprinkling: five  
49 33 points.  
49 34 (3) Participation in the United States department  
49 35 of agriculture natural resource and conservation  
49 36 program referred to as the "filter strip program at 33  
49 37 feet": ten points.  
49 38 (4) The installation of a filter designed to  
49 39 reduce odors from exhaust fans: ten points.  
49 40 (5) The utilization of feed or feed additives  
49 41 containing high phytase corn: ten points.  
49 42 (6) The utilization of a biofilter or impermeable  
49 43 cover: ten points.  
49 44 (7) The utilization of a methane digester  
49 45 (recovery) system for energy or an anaerobic digester:  
49 46 twenty-five points.

49 47 (8) The utilization of landscaping or other  
49 48 similar controls approved by the department: ten  
49 49 points.  
49 50 (9) The establishment or expansion of a filter  
50 1 strip from thirty-three feet or more up to one hundred  
50 2 twenty feet: fifteen points.  
50 3 (10) The construction of a secondary containment  
50 4 structure: fifteen points.  
50 5 (11) The construction of a manure storage  
50 6 structure beneath a confinement feeding operation  
50 7 structure building: ten points.  
50 8 (12) Participation in the United States department  
50 9 of agriculture natural resource and conservation  
50 10 service program referred to as the "contour buffer  
50 11 strip program": twenty-five points.  
50 12 Sec. 63. 1995 Iowa Acts, chapter 195, section 37,  
50 13 as amended by 1998 Iowa Acts, chapter 1209, section  
50 14 40, is repealed.  
50 15 Sec. 64. INTERIM APPROVAL OF APPLICATIONS FOR  
50 16 CONSTRUCTION PERMITS REPEAL. The section of this  
50 17 Act providing for the interim approval of applications  
50 18 for construction permits by the department of natural  
50 19 resources is repealed March 1, 2003.  
50 20 Sec. 65. INTERIM COUNTY PARTICIPATION REPEAL. The  
50 21 section of this Act providing for interim county  
50 22 participation in the approval of construction permits  
50 23 for confinement feeding operation structures is  
50 24 repealed March 1, 2003, and the rights of applicants'  
50 25 boards of supervisors to contest departmental  
50 26 decisions. However, the provisions of the section  
50 27 shall continue to apply to applications received by a  
50 28 county board of supervisors prior to March 1, 2002.

50 29 DIVISION II  
50 30 DIRECTIONS TO CODE EDITOR,  
50 31 CHANGE THE NAME OF TERMS AND  
50 32 TRANSFER TO NEW TITLE

50 33 Sec. 66. CHANGE OF NAME OF TERMS.  
50 34 1. The Code editor is directed to change the term  
50 35 "animal feeding operation structure" or "an animal  
50 36 feeding operation structure" to "confinement feeding  
50 37 operation structure" or "a confinement feeding  
50 38 operation structure" wherever the term appears in  
50 39 section [455B.161A](#), subsection 2, Code 2001; section  
50 40 [455B.162](#), subsection 3, Code 2001; section [455B.163](#),  
50 41 subsection 3, paragraph "d", Code 2001; section  
50 42 [455B.165](#), subsection 3, paragraph "b", and subsections  
50 43 6 and 8, Code 2001; section [455B.200B](#), subsection 2,  
50 44 Code 2001; and section [455B.202](#), subsection 2,  
50 45 paragraphs "c" and "d", Code 2001.  
50 46 2. The Code editor is directed to change the term  
50 47 "animal feeding operation structures" to "confinement  
50 48 feeding operation structures" wherever the term  
50 49 appears in section [455B.161A](#), subsection 2, paragraph  
50 50 "c", Code 2001; section [455B.200B](#), subsection 2, Code  
51 1 2001; and section [455B.162](#), unnumbered paragraph 1,  
51 2 Code 2001.  
51 3 3. The Code editor is directed to change the term  
51 4 "animal feeding operation" or "an animal feeding  
51 5 operation" to "confinement feeding operation" or "a  
51 6 confinement feeding operation" wherever it appears in  
51 7 section [455B.163](#), unnumbered paragraph 1, Code 2001;  
51 8 section [455B.163](#), subsection 3, paragraph "c", Code  
51 9 2001; section [455B.165](#), subsection 6, Code 2001; and  
51 10 section [455B.205](#), subsection 3, paragraph "b", Code  
51 11 2001.  
51 12 4. The Code editor is directed to change the  
51 13 phrase "confinement feeding operation structure or

51 14 anaerobic lagoon which is part of a confinement  
51 15 feeding operation" to "confinement feeding operation  
51 16 structure" wherever the phrase appears in section  
51 17 455B.191, subsection 7, Code 2001.

51 18 5. The Code editor is directed to change the  
51 19 phrase "an animal feeding operation structure which is  
51 20 part of a confinement feeding operation" to "a  
51 21 confinement feeding operation structure" wherever the  
51 22 phrase appears in section [455B.202](#), subsection 2, Code  
51 23 2001.

51 24 6. The Code editor is directed to change the term  
51 25 "bovine" to "cattle" wherever the term appears in Code  
51 26 section [455B.162](#), Code 2001.

51 27 Sec. 67. DIRECTIONS TO THE CODE EDITOR.

51 28 1. The Code editor is directed to transfer and  
51 29 consolidate provisions concerning animal agriculture  
51 30 into new chapter 456D, consistent with this section  
51 31 and the authority of the Code editor pursuant to  
51 32 chapter 2B. As part of this transfer and  
51 33 consolidation, the Code editor shall divide the  
51 34 chapters into subchapters as follows:

51 35 a. Subchapter 1 shall include a new section  
51 36 stating the following: This chapter shall be known  
51 37 and may be cited as the "Animal Agriculture Compliance  
51 38 Act". Section 455B.161, as amended by this Act, shall  
51 39 be transferred to subchapter 1. Section 455B.171,  
51 40 subsections 7, 33, and 44, shall be transferred and  
51 41 consolidated into section 455B.161 as transferred to  
51 42 subchapter 1. Section 455J.1, subsections 4, 6, and  
51 43 9, shall be transferred and consolidated into section  
51 44 455B.161 as transferred to subchapter 1. Section  
51 45 455B.200B, subsection 6, as enacted by this Act, shall  
51 46 be consolidated into section 455B.161 as transferred  
51 47 to subchapter 1. Section 455B.200, as amended by this  
51 48 Act, shall also be transferred to subchapter 1.

51 49 b. Chapter 455B, division II, part 2, including  
51 50 sections amended or enacted by this Act, with the  
52 1 exception of section 455B.164, shall be transferred to  
52 2 new chapter 456D, as subchapter 2.

52 3 c. Chapter 455B, division III, part 1, subpart A,  
52 4 as enacted in this Act, with the exception of section  
52 5 455B.200, as amended by this Act, and section  
52 6 455B.207, as enacted by this Act, shall be transferred  
52 7 to new chapter 456D, as subchapter 3.

52 8 d. Sections 455B.125 through 455B.127, as enacted  
52 9 by this Act, shall be transferred to new chapter 456D,  
52 10 as subchapter 4.

52 11 e. Chapter 455J, with the exception of section  
52 12 455J.1, shall be transferred to new chapter 456D, as  
52 13 subchapter 5.

52 14 f. Section 455B.110, as amended by this Act, is  
52 15 transferred to new chapter 456D, as subchapter 6.  
52 16 Sections 455B.167, and 455B.207, as enacted by this  
52 17 Act; section [455B.191](#), subsection 7, Code 2001, and  
52 18 section 455B.191, subsection 8, as amended by this  
52 19 Act; and section 455B.104, subsection 2, are  
52 20 transferred as new sections to new subchapter 6.

52 21 2. The Code editor is directed to transfer chapter  
52 22 455I to new chapter 456C. Subchapter 1 shall include  
52 23 section [455I.1](#), subsections 1 through 4 and 6 through  
52 24 13, Code 2001. Subchapter 2 shall include a new  
52 25 section stating the following: As used in this  
52 26 subchapter, unless the context otherwise requires,  
52 27 "department" means the department of natural  
52 28 resources. Subchapter 2 shall include sections 455I.2  
52 29 through 455I.7. Subchapter 3 shall include a new  
52 30 section stating the following: As used in this

52 31 subchapter, unless the context otherwise requires,  
52 32 "department" means the department of agriculture and  
52 33 land stewardship. The Code editor is directed to  
52 34 transfer sections 159.28 through 159.29B, Code 2001,  
52 35 to new chapter 456C, subchapter 3.

52 36 Sec. 68. Section [455B.164](#), Code 2001, is repealed.

52 37 DIVISION III

52 38 RETROACTIVE APPLICABILITY AND EFFECTIVE DATES

52 39 Sec. 69. RETROACTIVE APPLICATION.

52 40 1. If the provisions of this Act would apply to  
52 41 require that a person must be issued a construction  
52 42 permit as provided in section 455B.200A, as amended by  
52 43 this Act, upon the enactment of this Act, for the  
52 44 construction of a confinement feeding operation  
52 45 structure, the requirements of section 455B.200A, as  
52 46 amended by this Act, shall apply retroactively as  
52 47 provided in this section. The provisions of this  
52 48 section shall apply retroactively only if all of the  
52 49 following are satisfied:

52 50 a. An application for a permit to construct the  
53 1 confinement feeding operation structure was submitted  
53 2 to the department on or after April 1, 2002, but prior  
53 3 to the enactment of this Act, regardless of whether  
53 4 the department has approved the application; a manure  
53 5 management plan was submitted to the department  
53 6 without a construction permit as provided in 567 IAC  
53 7 65.16(2) on or after April 1, 2002, but prior to the  
53 8 enactment of this Act regardless of whether the  
53 9 department has approved the manure management plan; or  
53 10 construction of a confinement feeding operation  
53 11 structure has not begun upon the enactment of this Act  
53 12 and the person would otherwise be required to submit a  
53 13 manure management plan prior to the construction of  
53 14 the confinement feeding operation structure as  
53 15 provided in section 455B.203, as amended in this Act.

53 16 b. The department has not received evidence that  
53 17 an applicant or person submitting or required to  
53 18 submit a manure management plan as provided in  
53 19 subsection 2, has incurred commitments based on a  
53 20 reliance of the law as the law existed on March 31,  
53 21 2002. The commitments must constitute a legal  
53 22 obligation for performance by the person to construct  
53 23 a confinement feeding operation structure.

53 24 2. This Act shall not apply retroactively other  
53 25 than as provided in this section. The department  
53 26 shall approve or disapprove a pending construction  
53 27 permit application or manure management plan not  
53 28 subject to subsection 1 and a person may construct a  
53 29 confinement feeding operation structure according to  
53 30 the applicable requirements of the 2001 Code of Iowa  
53 31 and rules adopted by the department and in effect on  
53 32 March 31, 2002.

53 33 3. Until March 1, 2003, the department shall use  
53 34 the interim matrix as provided in this Act in lieu of  
53 35 the master matrix required to be used pursuant to  
53 36 section 455B.200E.

53 37 Sec. 70. EFFECTIVE DATES.

53 38 1. Except as provided in subsections 2 and 3, this  
53 39 Act, being deemed of immediate importance, takes  
53 40 effect upon enactment.

53 41 2. The sections of this Act amending sections  
53 42 455B.162, 455B.163, 455B.204, and 455B.204A, take  
53 43 effect on March 1, 2003. Sections 455B.200C and  
53 44 455B.200E, as enacted in this Act, take effect on  
53 45 March 1, 2003.

53 46 3. Notwithstanding section 455B.203, as amended by  
53 47 this Act, a person shall not be required to submit a

53 48 manure management plan update earlier than March 1,  
53 49 2003. The department shall adopt rules necessary to  
53 50 administer this Act including these sections on and  
54 1 after the enactment of this Act."

54 2 #2. Title page, line 1, by inserting after the  
54 3 word "agriculture" the following: ", providing for  
54 4 fees, providing for penalties, and including  
54 5 retroactive applicability and effective date  
54 6 provisions".

54 7 #3. By renumbering, redesignating, and correcting  
54 8 internal references as necessary.

54 9

54 10

54 11

54 12 COMMITTEE ON [AGRICULTURE](#)

54 13 KLEMME of Plymouth, Chairperson

54 14 [HF 2468.303](#) 79

54 15 da/cf