

House File 2082 - Introduced

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A BILL FOR

1 An Act relating to animal agriculture, by providing for a
2 public hearing conducted by the board of supervisors in
3 a county where a structure associated with a confinement
4 feeding operation is proposed to be constructed, including
5 expanded, and including effective date provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 459.303, subsection 2, Code 2018, is
2 amended to read as follows:

3 2. a. The department shall issue a construction permit upon
4 approval of an application.

5 b. The department shall approve the application if the
6 application is submitted to the county board of supervisors in
7 the county where the proposed confinement feeding operation
8 structure is to be located as required pursuant to section
9 459.304, and the application meets the requirements of this
10 chapter.

11 c. The application must include the name of at least one
12 project manager actively involved in making all major decisions
13 regarding the siting and construction of each confinement
14 feeding operation structure described in the application.
15 If a county board of supervisors conducts a public hearing
16 concerning the application, the department shall not approve
17 the application if the board submits credible evidence
18 that a project manager did not attend or participate in the
19 public hearing as required in section 459.304. A rebuttable
20 presumption exists that a qualified project manager attended
21 and participated at the public hearing.

22 d. If a county submits an approved recommendation pursuant
23 to a construction evaluation resolution filed with the
24 department, the application must also achieve a satisfactory
25 rating produced by the master matrix used by the board or
26 department under [section 459.304](#). The department shall approve
27 the application regardless of whether the applicant is required
28 to be issued a construction permit.

29 Sec. 2. Section 459.304, subsection 2, paragraph b, Code
30 2018, is amended to read as follows:

31 b. (1) The board may hold a public hearing to receive
32 public comments regarding the application.

33 (2) If a public hearing is held, the board may require the
34 applicant to select a project manager named in the application
35 pursuant to section 459.303 to attend and participate in the

1 public hearing. The participation must include explaining the
2 application, stating a position regarding the application, and
3 providing informed responses to questions by the board and
4 the public regarding the application. The board may submit
5 evidence to the department that a project manager did not
6 attend or participate in the public hearing.

7 (3) ~~The county board of supervisors~~ may submit comments
8 by the board, and the public, and the project manager to the
9 department as provided in this section, including but not
10 limited to all of the following:

11 ~~(1)~~ (a) The existence of an object or location not included
12 in the application that benefits from a separation distance
13 requirement as provided in section 459.202 or 459.204 or
14 459.310.

15 ~~(2)~~ (b) The suitability of soils and the hydrology of the
16 site where construction of a confinement feeding operation
17 structure is proposed.

18 ~~(3)~~ (c) The availability of land for the application of
19 manure originating from the confinement feeding operation.

20 ~~(4)~~ (d) Whether the construction of a proposed confinement
21 feeding operation structure will impede drainage through
22 established tile lines, laterals, or other improvements which
23 are constructed to facilitate the drainage of land not owned by
24 the person applying for the construction permit.

25 Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate
26 importance, takes effect upon enactment.

27 EXPLANATION

28 The inclusion of this explanation does not constitute agreement with
29 the explanation's substance by the members of the general assembly.

30 GENERAL. This bill amends provisions in the "Animal
31 Agriculture Compliance Act" (Code chapter 459) which currently
32 requires that when the department of natural resources (DNR)
33 receives an application for a permit to construct (including
34 expand) a structure which is to be part of a confinement
35 feeding operation sometimes referred to as a "concentrated

1 animal feeding operation" (CAFO), it must deliver the
2 application to the board of supervisors (board) in the county
3 where the structure is proposed to be located. Currently, the
4 board may become involved in the application approval process
5 by conducting a public hearing and submitting comments from its
6 members and the public to DNR within 30 days from the date DNR
7 received the application (Code sections 459.303 and 459.304).

8 BILL'S PROVISIONS. The bill requires that the application
9 include the name of one or more project managers responsible
10 for siting and constructing the CAFO structure. The board may
11 require the applicant to select a project manager named in the
12 application to attend the public hearing and participate by
13 explaining the application, stating a position regarding the
14 application, and answering questions. The project manager's
15 comments may be submitted to DNR with the other comments. It
16 is presumed that the project manager attended and participated
17 in the public hearing. The board may submit evidence that a
18 project manager did not attend or participate in the public
19 hearing. If the board satisfies DNR that these requirements
20 were not satisfied, DNR cannot approve the application.

21 BACKGROUND — PERMIT REQUIREMENTS. DNR's responsibility to
22 approve or disapprove a permit application and a board's right
23 to review and evaluate the application is based on several
24 factors: (1) a CAFO's capacity (1,000 or more animal units
25 or AUs) or (2) the construction of an unformed manure storage
26 structure. A special exemption applies to a CAFO owned by
27 a research college (Code section 459.303). As part of the
28 process, the permit application must be filed with DNR and the
29 board in the county where the construction is to occur. The
30 board may hold a public hearing to receive public comments
31 regarding the application and forward its comments and public
32 comments to DNR prior to the agency's decision to approve
33 or disapprove the application. The board is required to
34 publish a notice of a scheduled public hearing in a newspaper
35 having a general circulation in the county. The notice must

1 provide relevant information about the applicant, the proposed
2 construction, and the time and place of the public hearing
3 (Code section 459.304).

4 BACKGROUND — TERMS — CAFOs. Code chapter 459 includes
5 a number of defined terms (Code section 459.102). An animal
6 feeding operation refers to any area in which animals are
7 confined and fed and maintained for 45 days or more in any
8 12-month period. A CAFO is a type of animal feeding operation
9 that includes a totally roofed building where confined animals
10 are maintained (as compared to an open feedlot). An unformed
11 manure storage structure has walls and a bottom composed of
12 earth or nondurable materials as compared with a formed manure
13 storage structure often constructed of concrete. Confined
14 animals are limited to cattle, swine, horses, sheep, chickens,
15 turkeys, or fish. In calculating AUs, a special equivalency
16 factor is assigned for each classification of confined animal.
17 For example, each butcher or breeding swine weighing more than
18 55 pounds has an equivalency factor of 0.4 AUs. For purposes
19 of calculating the permit threshold for a CAFO maintaining such
20 swine the AU capacity must equal a minimum of 2,500 ($1,000 \div$
21 $0.4 = 2,500$).

22 EFFECTIVE DATE. The bill, if enacted, would take effect upon
23 that date.