

House File 143 - Introduced

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BY STAED, HUNTER, LENSING,
KURTH, McCONKEY, ANDERSON,
HEDDENS, STECKMAN, DONAHUE,
MASCHER, and OLDSON

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 2019, 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 2019, 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 BILL PROVISIONS. 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 (operation), it must deliver the application

1 to the board of supervisors (board) in the county where
2 the structure is proposed to be located. The bill requires
3 that the application include the name of one or more project
4 managers responsible for siting and constructing the structure.
5 The board may require the applicant to select a project
6 manager named in the application to attend the public hearing
7 and participate by explaining the application, stating a
8 position regarding the application, and answering questions.
9 The project manager's comments may be submitted to DNR with
10 the other comments. It is presumed that the project manager
11 attended and participated in the public hearing. The board
12 may submit evidence that a project manager did not attend or
13 participate in the public hearing. If the board satisfies DNR
14 that these requirements were not satisfied, DNR cannot approve
15 the application.

16 BACKGROUND — PERMIT REQUIREMENTS. DNR's responsibility
17 to approve or disapprove a permit application and a board's
18 right to review and evaluate the application is based on
19 several factors including: (1) an operation's capacity and (2)
20 the construction of an unformed manure storage structure. A
21 special exemption applies to an operation owned by a research
22 college (Code section 459.303). As part of the process, the
23 permit application must be filed with DNR and the board in
24 the county where the construction is to occur. The board may
25 hold a public hearing to receive public comments regarding the
26 application and forward its comments and public comments to
27 DNR prior to the agency's decision to approve or disapprove
28 the application. The board is required to publish a notice
29 of a scheduled public hearing in a newspaper having a general
30 circulation in the county. The notice must provide relevant
31 information about the applicant, the proposed construction,
32 and the time and place of the public hearing (Code section
33 459.304).

34 EFFECTIVE DATE. The bill takes effect upon enactment.