

Senate Study Bill 3152 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
NATURAL RESOURCES AND
ENVIRONMENT BILL BY
CHAIRPERSON SWEENEY)

A BILL FOR

1 An Act relating to open feedlot operations, by providing
2 for the validity of nutrient management plans and updates
3 when classified as pending further action, and including
4 effective date provisions.

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

1 Section 1. Section 459A.102, subsection 25, Code 2024, is
2 amended to read as follows:

3 25. *"Nutrient management plan"* or *"plan"* means a ~~plan which~~
4 complete document, including as part of an NPDES permit,
5 subject to approval by the department, that provides for the
6 management of open feedlot effluent, or animal truck wash
7 effluent, including the application of effluent, as provided in
8 section 459A.208.

9 Sec. 2. Section 459A.102, Code 2024, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 25A. *"Nutrient management plan update"* or
12 *"plan update"* means a document, if required for approval by the
13 department, that contains changes to the last approved nutrient
14 management plan.

15 Sec. 3. Section 459A.208, Code 2024, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 3A. A nutrient management plan or nutrient
18 management plan update for an open feedlot operation is valid
19 pending further action as provided in section 459A.209.

20 Sec. 4. NEW SECTION. 459A.209 **Nutrient management plan**
21 **valid pending further action — open feedlot operations.**

22 1. For an open feedlot operation, a nutrient management plan
23 or nutrient management plan update is valid pending further
24 action during any of the following periods:

25 a. When the department has not yet notified the owner
26 whether the department has decided to approve or disapprove a
27 plan or plan update. The plan or plan update remains valid
28 until the department takes further action by notifying the
29 owner that it has decided to approve or disapprove the plan or
30 plan update, subject to paragraph "c".

31 b. When the department has notified the owner in error that
32 it has decided to approve a plan or plan update. The plan or
33 plan update remains valid until the department takes further
34 action by notifying the owner that it has decided to disapprove
35 the plan or plan update, subject to paragraph "c".

1 c. When the department has notified the owner that it has
2 decided to disapprove a plan or plan update, and the owner
3 takes further action by objecting to the department's decision.
4 The plan or plan update remains valid until the earliest of any
5 of the following:

6 (1) The date after which the owner may no longer commence a
7 contested case proceeding regarding the department's decision
8 as provided in section 17A.12.

9 (2) The date after which the owner may no longer file a
10 petition in district court seeking judicial review of the
11 department's final decision as provided in section 17A.19.

12 (3) The date after which the owner may no longer obtain a
13 review of any final judgment of district court regarding the
14 department's final decision as provided in section 17A.20.

15 2. This subsection shall not be construed to interfere with
16 a continuance granted by the department acting under state law,
17 the presiding officer acting in a contested case under chapter
18 17A, or a judicial officer acting in a judicial proceeding.

19 Sec. 5. EFFECTIVE DATE. This Act, being deemed of immediate
20 importance, takes effect upon enactment.

21

EXPLANATION

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

24 BACKGROUND. This bill amends Code chapter 459A, which
25 authorizes the department of natural resources (DNR) to
26 regulate open feedlot operations, and which supplements
27 provisions in Code chapter 459 that authorize DNR to regulate
28 all animal feeding operations where animals are maintained
29 for 45 days or more in any 12-month period, if there is no
30 supporting crop, vegetation, or forage growth (Code sections
31 459.102 and 459A.102). An open feedlot operation (operation)
32 is an unroofed or partially roofed area. Specifically, Code
33 chapter 459A regulates effluent originating from the operation
34 which includes manure and precipitation-induced runoff,
35 liquids, solids, and process wastewater (567 IAC 65.112).

1 The owner of an operation (owner) may also be required to
2 file a nutrient management plan (NMP) comparable to a manure
3 management plan under Code section 459.312. An NMP refers to
4 the original, complete document or the next complete version
5 of the document subject to DNR approval. It may also refer
6 to an annual update to the complete document as required by
7 DNR. An NMP and update must be kept on site as part of the
8 owner's records. An NMP estimates effluent volume or weight
9 produced from the operation and addresses agronomic rates of
10 application in part based on nitrogen use and a phosphorus
11 index. Effluent cannot be removed from a structure that is
12 part of an operation that requires an NMP without DNR approving
13 the NMP or providing a waiver (Code section 459A.208). An NMP
14 is required for an operation having an animal unit capacity
15 of at least 1,000 animal units (AUC). For example, an NMP is
16 required for an operation maintaining 1,000 head of feeder
17 cattle (1,000 head x 1.0 AU per head = 1,000 AUC) (Code section
18 459A.102 referring to Code section 459.102). An NMP is also
19 required for an operation requiring a construction permit (Code
20 section 459A.205) or a permit issued by DNR under the national
21 pollutant discharge elimination system (NPDES) pursuant to the
22 federal Water Pollution Control Act. DNR has 60 days from
23 the date that it receives an NMP to approve or disapprove the
24 document (Code section 459.201A). An owner must submit a
25 complete NMP for DNR approval once every five years (567 IAC
26 65.112).

27 BILL'S PROVISIONS. The bill provides that an NMP (original
28 or next complete version) or update subject to DNR approval is
29 valid pending further action. Further action is limited to
30 three circumstances. The first circumstance is when DNR has
31 not notified the owner of its decision to approve or disapprove
32 an NMP or update. In that case, the NMP remains valid until DNR
33 notifies the owner of its decision. The second circumstance
34 is when DNR notifies the owner of its approval of an NMP or
35 update but the notice is in error. In that case, the NMP

1 remains valid until DNR notifies the owner of the error. The
2 third circumstance is when DNR has notified the owner that it
3 has decided to disapprove the NMP or update, and the owner
4 objects to the DNR's decision. In that case, the NMP remains
5 valid until the owner has exhausted administrative remedies and
6 judicial review. Finally, the bill provides that it is not to
7 be construed to interfere with a continuance granted by DNR, a
8 presiding officer in an administrative hearing, or a judge in
9 a judicial proceeding.

10 EFFECTIVE DATE. The bill takes effect upon enactment.