

House File 368 - Introduced

HOUSE FILE 368

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A BILL FOR

1 An Act relating to water quality standards, including by
2 providing for the regulation of animal feeding operations,
3 providing penalties, and making penalties applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. Section 455B.173, subsection 2, Code 2025, is
2 amended to read as follows:

3 2. Establish, modify, or repeal water quality standards,
4 pretreatment standards, and effluent standards in accordance with
5 the provisions of this chapter.

6 a. The effluent standards may provide for maintaining the
7 existing quality of the water of the state that is a navigable
8 water of the United States under the federal Water Pollution
9 Control Act where the quality thereof exceeds the requirements of
10 the water quality standards.

11 ~~b. If the federal environmental protection agency has~~
12 ~~promulgated an effluent standard or pretreatment standard~~
13 ~~pursuant to section 301, 306, or 307 of the federal Water~~
14 ~~Pollution Control Act, a pretreatment or effluent standard~~
15 ~~adopted pursuant to this section shall not be more stringent than~~
16 ~~the federal effluent or pretreatment standard for such source.~~
17 This section ~~may~~ does not preclude the establishment of a more
18 restrictive effluent limitation in the permit for a particular
19 point source than the federal effluent or pretreatment standard
20 for such source if the more restrictive effluent limitation is
21 necessary to meet water quality standards, or the establishment
22 of an effluent standard for a source or class of sources
23 for which the federal environmental protection agency has not
24 promulgated standards pursuant to section 301, 306, or 307 of the
25 federal Water Pollution Control Act.

26 c. Except as required by federal law or regulation, the
27 commission shall not adopt an effluent standard more stringent
28 with respect to any pollutant than is necessary to reduce
29 the concentration of that pollutant in the effluent to the
30 level due to natural causes, including the mineral and chemical
31 characteristics of the land, existing in the water of the state
32 to which the effluent is discharged.

33 d. Notwithstanding any other provision of this part 1 of
34 subchapter III or chapter 459, subchapter III, any new source,
35 the construction of which was commenced after October 18, 1972,

1 and which was constructed as to meet all applicable standards
2 of performance for the new source or any more stringent effluent
3 limitation required to meet water quality standards, shall not
4 be subject to any more stringent effluent limitations during
5 a ten-year period beginning on the date of completion of
6 construction or during the period of depreciation or amortization
7 of the pollution control equipment for the facility for the
8 purposes of section 167 or 169 or both sections of the Internal
9 Revenue Code, whichever period ends first.

10 ~~e.~~ e. Rules adopted to implement this subsection are not
11 subject to section 17A.7, subsection 2 or 3.

12 Sec. 2. Section 459.102, subsection 5, Code 2025, is amended
13 by striking the subsection and inserting in lieu thereof the
14 following:

15 5. "*Animal feeding operation*" means a lot or facility where
16 all of the following conditions are met:

17 a. Animals have been, are, or will be stabled or confined and
18 fed or maintained for a total of forty-five days or more in any
19 twelve-month period.

20 b. Crops, vegetation, forage growth, or post-harvest residues
21 are not sustained in the normal growing season over any portion
22 of the lot or facility.

23 Sec. 3. Section 459.102, Code 2025, is amended by adding the
24 following new subsections:

25 NEW SUBSECTION. 14A. "*Concentrated animal feeding operation*"
26 means the same as defined in 40 C.F.R. §122.23.

27 NEW SUBSECTION. 28A. "*Effluent*" means a water-carried
28 pollutant discharged from a concentrated animal feeding
29 operation, including but not limited to manure, bedding, compost,
30 litter, feed losses, other materials commingled with manure, open
31 feedlot effluent or animal truck wash effluent as those terms are
32 defined in section 459A.102, and process wastewater.

33 NEW SUBSECTION. 30A. "*Federal Water Pollution Control Act*"
34 means the federal Water Pollution Control Act of 1972, 33 U.S.C.
35 ch. 26, as amended, and 40 C.F.R. pts. 122 and 412.

1 NEW SUBSECTION. 35A. "Large concentrated animal feeding
2 operation" means the same as defined in 40 C.F.R. §122.23.

3 NEW SUBSECTION. 41A. "Medium animal feeding operation" means
4 the same as "medium concentrated animal feeding operation" as
5 defined in 40 C.F.R. §122.23.

6 NEW SUBSECTION. 41B. "NPDES permit" means a permit issued by
7 the department in administering the NPDES permit program.

8 NEW SUBSECTION. 41C. "NPDES permit program" means the
9 national pollutant discharge elimination system (NPDES) permit
10 program pursuant to the federal Water Pollution Control Act.

11 NEW SUBSECTION. 52A. "Small concentrated animal feeding
12 operation" means the same as defined in 40 C.F.R. §122.23.

13 Sec. 4. Section 459.103, Code 2025, is amended to read as
14 follows:

15 **459.103 General authority — commission and department.**

16 1. The commission shall establish by rule adopted pursuant
17 to chapter 17A, requirements relating to the construction,
18 including expansion, or operation of animal feeding operations,
19 including related animal feeding operation structures. The
20 requirements shall include but are not limited to minimum manure
21 control, the issuance of construction permits, and departmental
22 investigations, inspections, and testing. The commission shall
23 establish by rule adopted pursuant to chapter 17A requirements
24 relating to the storage, treatment, and application of manure and
25 other effluent originating from animal feeding operations.

26 2. Any provision referring generally to compliance with
27 the requirements of this chapter as applied to animal feeding
28 operations also includes compliance with requirements in rules
29 adopted by the commission pursuant to this section, orders issued
30 by the department as authorized under this chapter, and the
31 terms and conditions applicable to licenses, certifications,
32 permits, or manure management plans required under subchapter
33 III. ~~However, for purposes of approving or disapproving an~~
34 ~~application for a construction permit as provided in section~~
35 ~~459.304, conditions for the approval of an application based~~

~~1 on results produced by a master matrix are not requirements of
2 this chapter until the department approves or disapproves an
3 application based on those results.~~

4 3. Rules adopted to implement this chapter are not subject to
5 section 17A.7, subsection 2 or 3.

6 Sec. 5. Section 459.301, Code 2025, is amended by adding the
7 following new subsection:

8 NEW SUBSECTION. 4A. For purposes of determining compliance
9 with the rules adopted by the commission to implement and
10 administer the NPDES permit program, the department shall count
11 all animals according to type as used to determine whether an
12 animal feeding operation is a small concentrated animal feeding
13 operation, medium animal feeding operation, or large concentrated
14 animal feeding operation.

15 Sec. 6. NEW SECTION. **459.301A Federal law — NPDES permit**
16 **program.**

17 1. This subchapter establishes minimum requirements for
18 managing animal feeding operations to protect water quality.
19 The commission shall establish by rule adopted pursuant to
20 chapter 17A requirements relating to the implementation and
21 administration of the NPDES permit program, including the
22 issuance of NPDES permits in accordance with the requirements of
23 this subchapter and the federal Water Pollution Control Act.

24 2. a. The commission shall establish permitting requirements
25 under the NPDES permit program by rule adopted pursuant to
26 chapter 17A governing an animal feeding operation that is a
27 medium animal feeding operation or large concentrated animal
28 feeding operation.

29 b. At a minimum, the rules shall require that a medium animal
30 feeding operation and large concentrated animal feeding operation
31 are issued an NPDES permit.

32 3. a. NPDES permit conditions adopted by commission rule
33 applying to a medium animal feeding operation under this section
34 may exceed any applicable federal standard applying to that
35 medium animal feeding operation, including under the federal

1 Water Pollution Control Act.

2 **b.** NPDES permit conditions adopted by commission rule
3 applying to a large concentrated animal feeding operation under
4 this section may exceed any applicable federal standard applying
5 to that large concentrated animal feeding operation, including
6 under the federal Water Pollution Control Act.

7 **4.** NPDES permit conditions adopted by commission rule
8 applying to a medium animal feeding operation or a large
9 concentrated animal feeding operation must require that the owner
10 or operator of such concentrated animal feeding operation do all
11 of the following:

12 **a.** Conduct representative effluent monitoring, including
13 monitoring for pollutants originating from the concentrated
14 animal feeding operation that are discharged to navigable waters
15 through groundwater.

16 **b.** Report data collected from monitoring for pollutants
17 described in paragraph "a" to the department each ninety days.
18 The department shall publish the data on its internet site.

19 Sec. 7. Section 459.311, Code 2025, is amended to read as
20 follows:

21 **459.311 Minimum requirements for manure control.**

22 1. a. A confinement feeding operation shall retain all
23 manure produced by the operation between periods of manure
24 disposal.

25 b. For purposes of this section, dry manure may be retained
26 by stockpiling as provided in this subchapter. The stockpiled
27 manure shall be deemed part of the confinement feeding operation
28 where the manure originated.

29 c. A confinement feeding operation shall not discharge manure
30 directly into water of the state or into a tile line that
31 discharges directly into water of the state.

32 2. ~~Notwithstanding subsection 1, a~~ A confinement feeding
33 operation that is a concentrated animal feeding operation as
34 ~~defined in 40 C.F.R. §122.23(b)~~ shall comply with applicable
35 rules adopted by the commission to implement and administer the

1 national pollutant discharge elimination system permit program
 2 requirements as provided in the federal Water Pollution Control
 3 Act, 33 U.S.C. ch. 26, as amended, and 40 C.F.R. pts. 122 and
 4 412, pursuant to rules that shall be adopted by the commission.
 5 Any rules adopted pursuant to this subsection shall be no more
 6 stringent than requirements under the federal Water Pollution
 7 Control Act, 33 U.S.C. ch. 26, as amended, and 40 C.F.R. pts. 122
 8 and 412 section 459.301A. The commission shall adopt separate
 9 requirements for confinement feeding operations, open feedlot
 10 operations, and animal truck wash facilities as provided in
 11 chapter 459A.

12 3. Manure from an animal feeding operation shall be disposed
 13 of in a manner ~~which will~~ that does not cause surface water
 14 or groundwater pollution. Disposal in accordance with the
 15 provisions of state law, including this chapter, rules adopted
 16 pursuant to the provisions of state law, including this chapter,
 17 guidelines adopted pursuant to this chapter, and section 459.314,
 18 shall be deemed as compliance with this requirement.

19 4. ~~The department may require that the owner of a confinement~~
 20 ~~feeding operation shall~~ install and operate a water pollution
 21 monitoring system as part of an ~~unformed manure storage structure~~
 22 the confinement feeding operation.

23 a. The monitoring system shall record data regarding the type
 24 and quantity of effluent originating from a confinement feeding
 25 operation that is discharged to the groundwater or a surface
 26 water source.

27 b. The owner or operator of the confinement feeding operation
 28 shall report the data to the department each ninety days. The
 29 department shall publish the data on its internet site. The
 30 department shall submit a monitoring report to the United States
 31 environmental protection agency at least each twelve months that
 32 includes the data and a summary of the department's monitoring
 33 progress.

34 5. The owner of the confinement feeding operation ~~which~~ that
 35 discontinues the use of the operation shall remove all manure

1 from related confinement feeding operation structures used to
2 store manure, by a date specified in an order issued to the
3 operation by the department, or six months following the date
4 that the confinement feeding operation is discontinued, whichever
5 is earlier.

6 Sec. 8. Section 459A.102, subsections 11 and 24, Code 2025,
7 are amended to read as follows:

8 11. "Concentrated animal feeding operation" means the same as
9 defined in ~~40 C.F.R. §122.23~~ section 459.102.

10 24. "NPDES permit" means ~~a permit issued by the department~~
11 ~~under the national pollutant discharge elimination system~~
12 ~~pursuant to the federal Water Pollution Control Act of 1972, 33~~
13 ~~U.S.C. ch. 26, as amended, and 40 C.F.R. pts. 122 and 412~~ the
14 same as defined in section 459.102.

15 Sec. 9. Section 459A.401, subsection 2, Code 2025, is amended
16 to read as follows:

17 2. Notwithstanding subsection 1, an open feedlot operation
18 that is a medium animal feeding operation or a large concentrated
19 animal feeding operation shall comply with applicable rules
20 adopted by the commission implementing and administering the
21 NPDES permit requirements program for those types of concentrated
22 animal feeding operations as provided in ~~the federal Water~~
23 ~~Pollution Control Act, pursuant to rules that shall be adopted~~
24 ~~by the commission section 459.301A. Any rules adopted pursuant~~
25 ~~to this subsection shall be no more stringent than requirements~~
26 ~~under the federal Act.~~

27 Sec. 10. Section 459A.502, Code 2025, is amended to read as
28 follows:

29 **459A.502 Violations — civil penalty.**

30 1. a. A Except as provided in paragraph "b", a person who
31 violates this chapter shall be subject to a civil penalty which
32 shall be established, assessed, and collected in the same manner
33 as provided in section 455B.191.

34 b. A person who violates a provision regulating an open
35 feedlot operation is subject to a civil penalty which shall

1 be established, assessed, and collected in the same manner as
2 provided in section 455B.109 or 455B.191.

3 2. Any ~~collected~~ civil penalty and interest on a civil
4 penalty collected under this section shall be credited to the
5 Iowa nutrient research fund created in section 466B.46.

6 3. A person shall not be subject to a penalty under this
7 section and a penalty under section 459.603 for the same
8 violation.

9 EXPLANATION

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

12 BACKGROUND — STATE LAW. This bill amends provisions
13 regulating animal feeding operations (AFOs) in which agricultural
14 animals are confined and fed and maintained for 45 days or more
15 in any 12-month period, and includes all structures used for the
16 storage of manure from animals in the operation and the discharge
17 of manure or effluent originating from the AFO (Code chapters
18 459 and 459A). The regulations are administered and enforced
19 by the department of natural resources (DNR) including the
20 environmental protection commission (EPC). State law recognizes
21 several types of AFOs, including confinement feeding operations
22 (CFOs) in which animals are housed (confined) under roof (Code
23 chapter 459). Special provisions govern open feedlots where
24 animals are kept in unroofed or partially roofed structures (Code
25 chapter 459A). In both cases, natural vegetation is not available
26 to feed the animals. In Iowa, a CFO is subject to both air
27 and water protection statutes and rules. Under water quality
28 regulations, the owner or operator of an AFO may be required to
29 obtain authorization from DNR to do business. The authorization
30 takes the form of a construction permit for a CFO (Code section
31 459.304) or an open feedlot operation (Code section 459A.205)
32 or a manure management plan for a CFO (Code section 459.312)
33 or nutrient management plan for an open feedlot operation (Code
34 section 459A.208). The EPC may by rule require the owner or
35 operator of a CFO to install a water pollution monitoring system

1 as part of an unformed (dirt or clay) manure storage structure
2 (Code section 459.311). The level of regulation sometimes
3 depends upon a formula that calculates the degree to which the
4 AFO presents a threat to water quality measured by: (1) the type
5 of animals maintained and (2) the number of animals maintained.
6 For example, a construction permit is required for a CFO that
7 has an animal unit capacity (AUC) of at least 1,000 animal
8 units (AUs) (Code section 459.303) and each head of butcher or
9 breeding swine weighing more than 55 pounds is assigned a special
10 equivalency factor of 0.4 animal units (Code section 459.102)
11 (0.4 AU x 1,000 AUC = 400 head of such swine).

12 BACKGROUND — FEDERAL LAW. AFOs are also regulated under
13 federal law by the environmental protection agency (EPA)
14 that administers and enforces the national pollutant discharge
15 elimination system (NPDES) program pursuant to the federal Water
16 Pollution Control Act of 1972 (33 U.S.C. ch. 26, as amended,
17 and 40 C.F.R. pts. 122 and 412). EPA contracts with DNR to
18 administer and enforce the NPDES program. Under the NPDES
19 program, AFOs are referred to as concentrated animal feeding
20 operations (CAFOs). A CAFO is classified by its own formula
21 that also factors the type and number of animals kept. The
22 regulations apply to large, medium, and small CAFOs. For
23 example, a small CAFO includes less than 750 head of swine
24 weighing 55 or more pounds, a medium CAFO includes between 750
25 and 2,499 head, and a large CAFO includes 2,500 or more head.

26 BACKGROUND — STATE AND FEDERAL REGULATION. The purpose of
27 both state and federal regulation is to prevent manure or
28 effluent from contaminating groundwater and surface water.
29 In compliance with federal law, manure from a CAFO cannot
30 be disposed (discharged) in a manner that will cause surface
31 water or groundwater pollution (Code section 459.311). A CAFO
32 must retain all manure between periods of disposal (i.e., land
33 application). An open feedlot must install structures that
34 filter manure and effluent runoff (Code section 459A.401).
35 However, in all cases involving the treatment of wastewater, and

1 the discharge of manure and effluent originating from an AFO,
2 rules adopted by the EPC can be no more stringent than federal
3 law (Code sections 455B.173, 459.311, and 459A.401).

4 BILL'S PROVISIONS. The bill rewrites the definition of an
5 animal feeding operation based on federal law. It changes the
6 term "medium concentrated animal feeding operation" to "medium
7 animal feeding operation" without changing the meaning. The
8 bill eliminates the provision that prevents EPC rules regulating
9 wastewater, or manure or effluent originating from an AFO, from
10 being more stringent than federal law. The bill provides that
11 statutes regulating AFOs are minimum requirements, and that
12 the EPC is to adopt permitting requirements by rule under the
13 NPDES program, including for those AFOs classified as medium
14 and large CAFOs under federal law. The EPC rules may exceed
15 applicable federal standards applying to a medium or large
16 CAFO. In addition, the owner or operator of a medium or large
17 CAFO must conduct effluent monitoring of pollutants discharged to
18 navigable waters through the groundwater. The owner or operator
19 must report the collected data to DNR which must publish it on
20 its internet site and submit an annual report to the EPA.

21 CIVIL PENALTIES. Compliance with a statutory regulation
22 includes compliance with a rule adopted by DNR (Code section
23 459.103). A person violating a water quality regulation under
24 Code chapter 459 is subject to the administrative assessment of
25 a civil penalty by DNR of not more than \$10,000 or a judicial
26 assessment of a civil penalty of \$5,000 (Code sections 455B.109,
27 455B.191, and 459.603). Currently, a person violating a water
28 quality regulation applying to an open feedlot is subject to
29 the judicially assessed civil penalty (Code section 459A.502).
30 The bill also provides that the person is subject to the
31 administratively assessed civil penalty.