

House File 987 - Introduced

HOUSE FILE 987
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 322)

A BILL FOR

1 An Act providing for the processing of organic material into
2 renewable fuel and digestate, providing fees, and providing
3 penalties.

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

unofficial

DIVISION I

COMMUNITY ANAEROBIC DIGESTER SYSTEMS

Section 1. NEW SECTION. **458.101 Short title.**

This chapter shall be known and may be cited as the "Community Anaerobic Digester System Act".

Sec. 2. NEW SECTION. **458.102 Definitions.**

For purposes of this chapter, unless the context otherwise requires:

1. a. "Agricultural animal" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species; farm deer as defined in section 170.1; ostriches, rheas, or emus; turkeys, chickens, domestic geese or ducks, or other domestic fowl; or fish or other aquatic organisms confined in private waters for human consumption.

b. "Agricultural animal" includes an animal that is part of an animal feeding operation.

2. a. (1) "Anaerobic digester system" means a digester processing structure used to effectuate the digestion process.

(2) "Anaerobic digester system" may also include any of the following:

(a) A liquid digester storage structure.

(b) A dry digester manure stockpile.

(c) A dry digester feedstock stockpile.

(d) A liquid digestate storage structure.

(e) A dry digestate stockpile.

b. "Anaerobic digester system" includes other related structures, pipes, and equipment used in the digestion process.

3. "Animal feeding operation" means the same as defined in section 459.102.

4. "Animal feeding operation structure" means the same as defined in section 459.102.

5. "Commercial enterprise" means the same as defined in section 459.102.

6. "Community anaerobic digester system" means an anaerobic digester system that is not identified with an animal feeding

1 operation as provided in section 458.104.

2 7. "Confinement feeding operation structure" means the same
3 as defined in section 459.102.

4 8. "Covered" means organic or inorganic material has been
5 placed upon a digester structure used to store any of the
6 following:

7 a. Digester manure.

8 b. Digester feedstock.

9 c. Digestate.

10 9. "Critical public area" means the same as defined in
11 section 459.102.

12 10. "Department" means the department of natural resources
13 created pursuant to section 455A.2.

14 11. "Designated area" means the same as defined in section
15 459.102.

16 12. "Designated object or location" means any of the
17 following:

18 a. A commercial enterprise.

19 b. A bona fide religious institution.

20 c. An educational institution.

21 d. A public use area.

22 13. "Designated wetland" means the same as defined in section
23 459.102.

24 14. "Digestate" means the dry or liquid nutrient-rich
25 material that remains after the digestion process is effectuated.

26 15. a. "Digester feedstock" means organic material, other
27 than digester manure, originating on-farm or off-farm that is
28 used to effectuate the digestion process as part of an anaerobic
29 digester system.

30 b. "Digester feedstock" includes either of the following:

31 (1) Dry digester feedstock.

32 (2) Liquid digester feedstock.

33 16. a. "Digester manure" means manure originating on-farm
34 that is used to effectuate the digestion process as part of an
35 anaerobic digester system.

- 1 *b. "Digester manure" includes either of the following:*
2 (1) Dry digester manure.
3 (2) Liquid digester manure.
- 4 17. "*Digester processing structure*" means a structure that
5 effectuates the digestion process.
- 6 18. "*Digester stockpile*" means any of the following:
7 *a. A dry digester manure stockpile.*
8 *b. A dry digester feedstock stockpile.*
9 *c. A dry digestate stockpile.*
- 10 19. "*Digester structure*" means any of the following:
11 *a. A liquid digester storage structure.*
12 *b. A digester processing structure.*
13 *c. A liquid digestate storage structure.*
- 14 20. "*Digestion process*" means primarily processing digester
15 manure, and may include processing digester feedstock, by
16 employing environmental conditions including bacteria to break
17 down organic matter in the absence of oxygen, if used for
18 producing, collecting, and utilizing a biogas and digestate.
- 19 21. "*Dry bedded confinement feeding operation*" means the same
20 as defined in section 459B.102.
- 21 22. "*Dry digestate*" means digestate that meets the dry
22 classification requirements in section 458.107.
- 23 23. "*Dry digestate stockpile*" means dry digestate originating
24 from a community anaerobic digester system and stored as part
25 of the community anaerobic digester system outside a digester
26 structure or on-farm outside any other structure.
- 27 24. "*Dry digester feedstock*" means a digester feedstock that
28 meets the dry classification requirements in section 458.107.
- 29 25. "*Dry digester feedstock stockpile*" means dry digester
30 feedstock stored outside a digester structure.
- 31 26. "*Dry digester manure*" means digester manure that meets
32 the dry classification requirement in section 458.107.
- 33 27. "*Dry digester manure stockpile*" means dry digester manure
34 stored as part of a community anaerobic digester system outside a
35 digester structure.

- 1 28. "Dry digester stockpile" means either of the following:
2 a. A dry digester feedstock stockpile.
3 b. A dry digester manure stockpile.
- 4 29. "Educational institution" means the same as defined in
5 section 459.102.
- 6 30. "Effluent" means the same as defined in section 459A.102.
- 7 31. "Federal Water Pollution Control Act" means the federal
8 Water Pollution Control Act of 1972, 33 U.S.C. ch. 26, as
9 amended, and 40 C.F.R. pts. 122 and 412.
- 10 32. "Frozen ground" means the same as defined in section
11 459.102.
- 12 33. "High-quality water resource" means the same as defined
13 in section 459.102.
- 14 34. "Karst terrain" means the same as defined in section
15 459.102.
- 16 35. "Liquid digestate" means digestate other than dry
17 digestate.
- 18 36. "Liquid digestate storage structure" means a structure
19 used to store liquid digestate.
- 20 37. "Liquid digester feedstock" means digester feedstock
21 other than dry digester feedstock.
- 22 38. "Liquid digester feedstock storage structure" means a
23 structure used to store liquid digester feedstock or dry digester
24 feedstock before undergoing a digestion process as effectuated by
25 a digester processing structure.
- 26 39. "Liquid digester manure" means digester manure other than
27 dry digester manure.
- 28 40. "Liquid digester manure storage structure" means a manure
29 storage structure used to store liquid digester manure or
30 dry digester manure before undergoing a digestion process as
31 effectuated by a digester processing structure.
- 32 41. "Liquid digester storage structure" means a structure
33 used to store digester manure or digester feedstock, or both,
34 before undergoing a digestion process as effectuated by a
35 digester processing structure.

1 42. "Major water source" means the same as defined in section
2 459.102.

3 43. "Manure" means the same as defined in section 459.102.

4 44. "Manure management plan" means a manure management plan,
5 including an updated manure management plan, as provided in
6 section 459.312.

7 45. "Manure storage structure" means the same as defined in
8 section 459.102.

9 46. "Nutrient management plan" means a nutrient management
10 plan or an updated nutrient management plan as provided in
11 section 459A.208.

12 47. "Off-farm" means real property that is not on-farm.

13 48. "On-farm" means real property used to produce raw
14 agricultural commodities, including agricultural animals; crops
15 such as corn, grain sorghum, oats, soybeans, or wheat; hay or
16 straw; milk; or wool.

17 49. "Open feedlot operation" means the same as defined in
18 section 459A.102.

19 50. "Professional engineer" means the same as defined in
20 section 459.102.

21 51. "Religious institution" means the same as defined in
22 section 459.102.

23 52. "Research college" means the same as defined in section
24 459A.102.

25 53. "Snow covered ground" means the same as defined in
26 section 459.102.

27 54. "Water of the state" means the same as defined in section
28 455B.171.

29 55. "Water source" means the same as defined in section
30 459.102.

31 **Sec. 3. NEW SECTION. 458.103 Special terms — community**
32 **anaerobic digester systems and on-farm operations.**

33 1. a. A community anaerobic digester system must be
34 off-farm.

35 b. An animal feeding operation must be on-farm.

1 2. This chapter does not apply to any of the following:

2 a. A confinement feeding operation structure regulated under
3 chapter 459 regardless of whether manure originating from the
4 confinement feeding operation structure is stored or processed as
5 part of a community anaerobic digester system.

6 b. An open feedlot operation structure regulated under
7 chapter 459A regardless of whether effluent originating from the
8 open feedlot operation structure is stored or processed as part
9 of a community anaerobic digester system.

10 c. A dry bedded confinement feeding operation structure
11 regulated under chapter 459B regardless of whether manure
12 originating from the dry bedded confinement feeding operation
13 structure is stored or processed as part of a community anaerobic
14 digester system.

15 Sec. 4. NEW SECTION. **458.104 Special terms — community**
16 **anaerobic digester systems not identified with animal feeding**
17 **operation.**

18 1. a. An anaerobic digester system receiving digester manure
19 from an animal feeding operation is a community anaerobic
20 digester system only if the anaerobic digester system is not
21 identified with that animal feeding operation or any other animal
22 feeding operation, including a confinement feeding operation,
23 open feedlot operation, or dry bedded confinement feeding
24 operation.

25 b. An anaerobic digester system is identified with an animal
26 feeding operation by being both of the following:

27 (1) Under common ownership or management.

28 (2) Adjacent.

29 2. An anaerobic digester system and an animal feeding
30 operation structure are deemed adjacent if the closest digester
31 structure is separated from the closest animal feeding operation
32 structure by less than one thousand two hundred fifty feet.

33 3. a. An anaerobic digester system and an animal feeding
34 operation are under common ownership if a person holds an
35 interest in the anaerobic digester system and the animal feeding

1 operation as any of the following:

2 (1) A sole proprietor.

3 (2) A joint tenant or tenant in common.

4 (3) A holder of a majority equity interest in a business
5 association as defined in section 202B.102, including but not
6 limited to a shareholder, partner, member, or beneficiary.

7 b. An interest in the anaerobic digester system and animal
8 feeding operation which is held directly or indirectly by the
9 person's spouse or dependent child shall be attributed to the
10 person.

11 4. a. An anaerobic digester system and animal feeding
12 operation are under common management if a person has significant
13 control of the management of the day-to-day operations of the
14 anaerobic digester system and animal feeding operation.

15 b. Common management does not include control over a contract
16 livestock facility by a contractor, as those terms are defined in
17 section 202.1.

18 Sec. 5. NEW SECTION. **458.105 Special terms — multiple**
19 **anaerobic digester systems.**

20 1. A community anaerobic digester system and another
21 anaerobic digester system are deemed to be a single community
22 anaerobic digester system if the community anaerobic digester
23 system and the other anaerobic digester system are both of the
24 following:

25 a. Under common ownership or management.

26 b. Adjacent.

27 2. A community anaerobic digester system and another
28 anaerobic digester system are deemed adjacent if the closest
29 digester structure of the community anaerobic digester system
30 is separated from the closest digester structure of the other
31 anaerobic digester system by less than one thousand two hundred
32 fifty feet.

33 3. a. A community anaerobic digester system and another
34 anaerobic digester system are under common ownership if a person
35 holds an interest in the community anaerobic digester system and

1 the other anaerobic digester system as any of the following:

2 (1) A sole proprietor.

3 (2) A joint tenant or tenant in common.

4 (3) A holder of a majority equity interest in a business
5 association as defined in section 202B.102, including but not
6 limited to a shareholder, partner, member, or beneficiary.

7 b. An interest in the community anaerobic digester system
8 and other anaerobic digester system which is held directly or
9 indirectly by the person's spouse or dependent child shall be
10 attributed to the person.

11 4. A community anaerobic digester system and other anaerobic
12 digester system are under common management if a person
13 has significant control of the management of the day-to-day
14 operations of the community anaerobic digester system and the
15 other anaerobic digester system.

16 Sec. 6. NEW SECTION. **458.106 Special terms — digester**
17 **structures.**

18 1. Except as otherwise provide in this chapter, a digester
19 structure that is constructed or may be constructed as part of
20 a community anaerobic digester system is regulated under this
21 chapter.

22 2. A digester structure must be covered.

23 3. A digester structure is constructed when any of the
24 following occur:

25 a. Excavation is conducted for a proposed digester structure
26 or proposed expansion of an existing digester structure,
27 including excavation for the footings of the digester structure.

28 b. Forms for concrete are installed for a proposed digester
29 structure or the proposed expansion of an existing digester
30 structure.

31 c. Piping for the movement of manure is installed for a
32 proposed digester structure or the proposed expansion of an
33 existing digester structure.

34 Sec. 7. NEW SECTION. **458.107 Special terms — manure and**
35 **digestates.**

1 1. Except as otherwise provided in this chapter, the term
2 "manure" includes effluent if used as part of the digestion
3 process using digester manure as part of a community anaerobic
4 digester system.

5 2. Digester manure, digester feedstock, or digestate is
6 classified as dry only if all of the following apply:

7 a. The digester manure, digester feedstock, or digestate does
8 not flow perceptibly under pressure.

9 b. The digester manure, digester feedstock, or digestate is
10 not capable of being transported through a mechanical pumping
11 device designed to move a liquid.

12 c. The constituent molecules of the digester manure, digester
13 feedstock, or digestate do not flow freely among themselves but
14 may show a tendency to separate under stress.

15 3. A digester processing structure must process digester
16 manure as its primary source. The digester processing structure
17 may also process any of the following:

18 a. A quantity of digester feedstock as its secondary source.

19 b. An ancillary quantity of an inorganic material, including
20 a catalyst, used to best effectuate the digestion process. The
21 department shall adopt rules listing allowable materials by name
22 and, if necessary, the maximum allowed quantity. The department
23 may also approve the allowable materials and quantity upon
24 request of the owner or manager of the anaerobic digester system.
25 The inorganic material allowed over time must be nonhazardous to
26 the public and environment.

27 4. a. Except as provided in paragraph "b", digester manure
28 shall not be regulated as manure.

29 b. If digester manure and digester feedstock are combined,
30 the digester feedstock shall be regulated as digester manure.

31 5. a. Except as provided in paragraph "b", a digestate shall
32 not be regulated as manure.

33 b. (1) If digestate is removed from a digester processing
34 structure and at any time is combined with manure, the digestate
35 shall be regulated as manure under chapter 459 and chapter 459B,

1 as applicable.

2 (2) If a digestate is removed from a digester processing
3 structure and at any time is combined with effluent, the
4 digestate shall be regulated as effluent under chapter 459A.

5 Sec. 8. NEW SECTION. **458.108 Separation distance**
6 **measurements.**

7 1. Except as provided in subsection 2, all separation
8 distances between two items described in this chapter shall be
9 measured in feet from their closest points, as provided by rules
10 adopted by the department.

11 2. The distance between a public thoroughfare and a community
12 anaerobic digester system shall be measured from that portion
13 of the public thoroughfare's right-of-way that is closest to the
14 community anaerobic digester system.

15 Sec. 9. NEW SECTION. **458.109 Stockpiling dry digester**
16 **manure, dry digester feedstock, or dry digestate.**

17 A person may stockpile dry digester manure, dry digester
18 feedstock, or dry digestate, so long as the person stockpiles
19 the dry digester manure, dry digester feedstock, or dry digestate
20 in compliance with restrictions applicable to stockpiling as
21 provided in subchapter III.

22 Sec. 10. NEW SECTION. **458.111 Purpose.**

23 The purpose of this chapter is to promote the community-based
24 production of the following:

25 1. Biogas as a renewable organic source of energy with low
26 carbon emissions.

27 2. A digestate as a rich source of renewable nutrients for
28 application on land for on-farm use to produce this state's
29 crops.

30 Sec. 11. NEW SECTION. **458.112 Scope.**

31 This chapter is limited to regulating the following:

32 1. The off-farm storage or processing of digester manure or
33 digester feedstock as part of a community anaerobic digester
34 system. Digester manure or digester feedstock shall not be
35 transferred from a community anaerobic digester system except

1 under the terms of a waiver granted by the department.

2 2. The storage or use of a digestate originating from a
3 community anaerobic digester system.

4 Sec. 12. NEW SECTION. **458.113 General authority.**

5 1. The department shall adopt rules as necessary to
6 administer and enforce the provisions of this chapter.

7 2. Any provision referring generally to compliance with the
8 requirements of this chapter as applied to community anaerobic
9 digester systems includes compliance with requirements of rules
10 adopted by the department pursuant to this chapter, orders issued
11 by the department as authorized under this chapter, and the terms
12 and conditions applicable to permits or plans required in this
13 chapter.

14 3. If there is a conflict between a provision of this chapter
15 and a provision regulating a community anaerobic digester system
16 in another chapter, the provisions of this chapter shall prevail.

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

19 Sec. 13. NEW SECTION. **458.114 Administration — forms and
20 other documents.**

21 1. The department shall adopt and promulgate forms required
22 to be completed in order to comply with the provisions of this
23 chapter.

24 2. The department shall provide for procedures for the
25 access, receipt, filing, processing, and return of documents
26 described in this chapter in an electronic format, including but
27 not limited to the transmission of documents over the internet.
28 The department shall provide for authentication of the documents
29 that may include electronic signatures as provided in chapter
30 554D.

31 3. The department shall, to every extent feasible, provide
32 for the processing of documents required under the provisions
33 of this chapter using electronic systems, including programming,
34 necessary to ensure the completeness and accuracy of the
35 documents in accordance with the requirements of this chapter.

1 Sec. 14. NEW SECTION. **458.201 Digester manure and digester**
2 **feedstock — required storage.**

3 A person receiving digester manure or digester feedstock at
4 a community anaerobic digester system must store the digester
5 manure or digester feedstock as follows:

6 1. Liquid digester manure or liquid digester feedstock must
7 be stored in a liquid digester storage structure.

8 2. Dry digester manure must be stored in any of the
9 following:

10 a. A dry digester stockpile.

11 b. A liquid digester storage structure.

12 3. Dry digester feedstock originating on-farm must be stored
13 in any of the following:

14 a. A dry digester stockpile.

15 b. A liquid digester storage structure.

16 4. Dry digester feedstock originating off-farm must be stored
17 in a liquid digester storage structure.

18 Sec. 15. NEW SECTION. **458.202 Digestate — required**
19 **storage.**

20 1. A person processing digester manure or digester feedstock
21 at a community anaerobic digester system must store the digestate
22 as follows:

23 a. Liquid digestate must be stored in a liquid digestate
24 storage structure.

25 b. Dry digestate must be stored in any of the following:

26 (1) A dry digestate feedstock stockpile.

27 (2) A liquid digestate storage structure.

28 2. A person removing digestate from a community anaerobic
29 digester system must store the digestate in a manner that
30 complies with section 459.311.

31 Sec. 16. NEW SECTION. **458.211 Digester structures —**
32 **construction permits — application process.**

33 1. Except as provided in section 458.217, a construction
34 permit must be issued to an owner of an existing or proposed
35 community anaerobic digester system prior to the construction

1 of a digester structure, including a liquid digester storage
2 structure, a digester processing structure, or a liquid digestate
3 storage structure, as provided by rules adopted by the department
4 pursuant to this chapter. The department may adopt rules
5 providing separate requirements for each type of digester
6 structure, including a liquid digester manure storage structure
7 and a liquid digester feedstock storage structure.

8 2. The department shall not approve an application for a
9 permit to construct or expand a digester structure if the total
10 liquid capacity of all existing and proposed digester structures
11 would exceed one million five hundred thousand gallons.

12 3. The department's decision to approve a permit for the
13 construction of a digester structure shall be based on whether
14 the application is submitted according to procedures required by
15 the department and the application meets standards established by
16 this subchapter and rules adopted by the department.

17 4. Construction of a digester structure shall not begin
18 until the department first approves the application and issues a
19 construction permit.

20 5. The department shall approve an application for a
21 construction permit regardless of whether the applicant is
22 required to be issued a construction permit.

23 6. Prior to submitting an application for a construction
24 permit, the applicant may submit a conceptual design and site
25 investigation report to the department for review and comment.

26 7. The department shall approve or disapprove an application
27 for a construction permit within sixty days after receiving the
28 permit application. However, the applicant may deliver a notice
29 requesting a continuance. Upon receipt of a notice, the time
30 required for the department to act upon the application shall
31 be suspended for the period provided in the notice, but for
32 not more than thirty days after the department's receipt of
33 the notice. The applicant may submit more than one notice.
34 However, the department may provide that an application is
35 terminated if no action is required by the department for one

1 year following delivery of the application to the department.
2 The department may also provide for a continuance when it
3 considers the application. The department shall provide notice
4 to the applicant of the continuance. The time required for the
5 department to act upon the application shall be suspended for
6 the period provided in the notice, but for not more than thirty
7 days. However, the department shall not provide for more than
8 one continuance.

9 Sec. 17. NEW SECTION. **458.212 Digester structures —**
10 **construction permits — contents of application.**

11 An application for a construction permit as required in
12 section 458.211 must include all of the following information:

13 1. The name and contact information of the owner and manager
14 of the anaerobic digester system.

15 2. The type and description of the proposed new or expanded
16 digester structure, whether it is designed as a liquid digester
17 storage structure, including a liquid digester manure storage
18 structure or liquid digester feedstock storage structure or both,
19 a digester processing structure, or a liquid digestate storage
20 structure.

21 3. The size and liquid capacity of the digester structure.

22 4. Whether the digester structure is formed or unformed.

23 5. Whether the digester structure is to be constructed on
24 land that is any of the following:

25 a. A critical public area.

26 b. A designated area.

27 c. A designated wetland.

28 d. Karst terrain.

29 e. In a one hundred year floodplain.

30 6. Information including but not limited to maps, drawings,
31 and aerial photos that clearly show the location of all of the
32 following:

33 a. The location of any neighboring proposed or existing
34 community anaerobic digester system, and any other proposed or
35 existing digester structures.

1 b. The location of any animal feeding operation structure
2 existing in proximity to the construction site.

3 c. A public water supply system as defined in section
4 455B.171 or a drinking water well which is located within a
5 distance from the proposed construction site as prescribed by
6 rules adopted by the department.

7 7. An engineering report, construction plans, and
8 specifications prepared by a professional engineer. The
9 professional engineer must certify that the construction of
10 the digester structure complies with the construction design
11 standards required in this subchapter.

12 8. A plan for maintaining digester records for inspection by
13 the department as required in section 458.324.

14 9. Any other information determined relevant by the
15 department as provided by rules adopted by the department.

16 Sec. 18. NEW SECTION. **458.213 Digester structures —**
17 **construction permits — application fee.**

18 A person submitting an application for a construction permit
19 as provided in section 458.211 must submit to the department a
20 construction permit application fee as part of the application.
21 The fee shall not exceed one thousand dollars. Moneys collected
22 by the department from the payment of construction permit
23 application fees shall be deposited in the general fund of the
24 state.

25 Sec. 19. NEW SECTION. **458.217 Digester structures —**
26 **construction permits — exception.**

27 A person is not required to be issued a permit to construct
28 a digester structure if the anaerobic digester system is
29 owned by a research college conducting research activities
30 involving the digestion process, including associated liquid
31 digester manure storage or stockpiling, digester feedstock
32 storage or stockpiling, digestate storage, or the application of
33 a digestate.

34 Sec. 20. NEW SECTION. **458.221 General construction design**
35 **standards — formed liquid digester structures.**

1 1. The department shall adopt rules establishing construction
2 design standards for a formed digester structure, including
3 a formed liquid digester storage structure, a formed digester
4 processing structure, and a formed liquid digestate storage
5 structure. The department may adopt rules providing separate
6 regulations for each type of formed digester structure, including
7 a formed liquid digester manure storage structure and a formed
8 liquid digester feedstock storage structure.

9 2. The construction design standards shall be based, to
10 every extent possible, upon uniform standards such as available
11 standards promulgated by ASTM (American society for testing and
12 materials) international.

13 3. The construction design standards for concrete must
14 provide for all of the following:

15 a. The concrete's minimum compressive strength calculated on
16 a pounds-per-square-inch basis.

17 b. The use of reinforcement, including but not limited to
18 the grade, amount, and location of steel rebar, fiberglass, or
19 similar materials set in the concrete, or the use of exterior
20 braces to support joints.

21 c. The depth of footings.

22 d. The thickness of the footings, the floor, and walls.

23 **Sec. 21. NEW SECTION. 458.222 Special construction**
24 **restrictions — formed digester structures.**

25 The department shall adopt rules providing for upgraded
26 construction design standards for a formed digester structure
27 constructed on karst terrain or an area that drains into a
28 known sinkhole as is necessary to ensure that a formed digester
29 structure does not pollute groundwater sources.

30 **Sec. 22. NEW SECTION. 458.225 General construction design**
31 **standards — unformed digester structures — inspections.**

32 1. The department shall adopt rules establishing construction
33 design standards for an unformed digester structure, including an
34 unformed liquid digester storage structure, an unformed digester
35 processing structure, and an unformed liquid digestate storage

1 structure. The department may adopt rules providing separate
2 regulations for each type of formed digester structure, including
3 an unformed liquid digester manure storage structure and an
4 unformed liquid digester feedstock storage structure.

5 2. The construction design standards for an unformed digester
6 structure, established by rules adopted by the department,
7 must account for special design characteristics applicable to
8 an unformed digester storage structure, an unformed digester
9 processing structure, or an unformed liquid digestate storage
10 structure. The construction design standards must account for
11 all of the following:

12 a. The lining of the unformed digester structure must be
13 constructed with materials deemed suitable by rules adopted by
14 the department in order to minimize liquid seepage loss through
15 the lining's seal.

16 b. The structure must be constructed with materials deemed
17 suitable by rules adopted by the department in order to control
18 erosion on the unformed digester structure's berm, side slopes,
19 and base.

20 c. The unformed digester structure must be constructed to
21 minimize the seepage of a liquid into near-surface water sources.

22 d. The top of the floor of the unformed digester structure's
23 liner must be above the groundwater table as determined by
24 the department. If the groundwater table is less than two
25 feet below the top of the liner's floor, the unformed digester
26 structure must be installed with a synthetic liner. If the
27 department allows an unformed digester structure to be located
28 at a site by permanently lowering the groundwater table, the
29 department shall confirm that the proposed system meets standards
30 necessary to ensure that the unformed digester structure does not
31 pollute groundwater sources. If the department allows drain tile
32 installed to lower a groundwater table to remain where located,
33 the department shall require that a device be installed to allow
34 monitoring of the water in the drain tile line. The department
35 shall also require the installation of a device to allow shutoff

1 of the drain tile lines, if the drain tile lines do not have
2 a surface outlet accessible on the property where the digester
3 structure is located.

4 3. a. The department shall conduct a routine inspection of
5 each unformed digester structure at least once each year. A
6 routine inspection conducted pursuant to this subsection shall
7 be limited to a visual inspection of the site where the unformed
8 digester structure is located. The department shall inspect the
9 site at a reasonable time after providing at least twenty-four
10 hours' notice to the person owning or managing the anaerobic
11 digester system. The visual inspection must include but is not
12 limited to determining whether any of the following exist:

13 (1) An adequate freeboard level.

14 (2) The seepage of a liquid from the unformed digester
15 structure.

16 (3) Erosion.

17 (4) Inadequate cover.

18 (5) The presence of an opening allowing liquid to drain from
19 the unformed digester structure.

20 b. Paragraph "a" does not restrict the department from
21 conducting an inspection of an anaerobic digester system which is
22 not routine.

23 Sec. 23. NEW SECTION. **458.226 Special construction**
24 **restrictions — unformed digester structures.**

25 1. Except as provided in subsection 2, a person shall not
26 construct an unformed digester structure on karst terrain.

27 2. A person may construct an unformed digester structure on
28 karst terrain if there is a twenty-five-foot vertical separation
29 distance between the bottom of the unformed digester structure
30 and underlying limestone, dolomite, or other soluble rock.

31 Sec. 24. NEW SECTION. **458.227 Restrictions — unformed**
32 **digester structures.**

33 1. A person shall not construct an unformed digester
34 structure in an area that drains into a known sinkhole.

35 2. A person shall not construct or expand an unformed liquid

1 digester structure within an agricultural drainage well area as
2 provided in section 460.205.

3 Sec. 25. NEW SECTION. **458.301 Minimum air quality**
4 **separation distance requirements — digester structures.**

5 1. Except as provided in section 458.302, a person shall
6 not construct or expand a digester structure if the digester
7 structure is located within two thousand five hundred feet from
8 any of the following:

9 a. A residence not owned by the owner of the community
10 anaerobic digester system.

11 b. A designated object or location.

12 2. Except as provided in section 458.302, a person shall
13 not construct or expand a digester structure if the digester
14 structure is within one hundred feet of a public thoroughfare.

15 Sec. 26. NEW SECTION. **458.302 Air quality separation**
16 **distance requirements — digester structures — exemptions.**

17 A separation distance requirement provided in section 458.301
18 does not apply to any of the following:

19 1. a. A digester structure that is constructed or expanded,
20 if the titleholder of the land benefiting from the separation
21 distance requirement executes a written waiver with the
22 titleholder of the land where the digester structure is
23 located. If a digester structure is constructed or expanded
24 within the separation distance required between a digester
25 structure and a public thoroughfare, the state or a political
26 subdivision constructing or maintaining the public thoroughfare
27 benefiting from the distance separation requirement may execute
28 a written waiver with the titleholder of the land where the
29 digester structure is located. The digester structure shall be
30 constructed or expanded under such terms and conditions that the
31 parties negotiate.

32 b. A written waiver under this subsection becomes effective
33 only upon the recording of the waiver in the office of the
34 recorder of deeds of the county in which the benefited land
35 is located. The filed waiver shall preclude enforcement by

1 the state of this part as it relates to a separation distance
2 requirement between the digester structure and the location or
3 object benefiting from the separation distance requirement.

4 2. a. A digester structure that is constructed or expanded
5 within any distance from a residence or a designated object
6 or location, if the residence or designated object or location
7 was constructed or expanded after the date that the community
8 anaerobic digester system was established.

9 b. The date that a community anaerobic digester system is
10 established is the date on which the community anaerobic digester
11 system commenced operating. A change in ownership or expansion
12 of the community anaerobic digester system does not change the
13 established date of the community anaerobic digester system.

14 Sec. 27. NEW SECTION. **458.303 Minimum air quality**
15 **separation distance requirements — stockpiling dry digester**
16 **manure, dry digester feedstock, or dry digestate.**

17 1. Except as provided in subsection 2, a person shall not
18 stockpile dry digester manure, dry digester feedstock, or dry
19 digestate on land that is located within one thousand two hundred
20 fifty feet of any of the following:

21 a. A residence not owned by the titleholder of the land.

22 b. A designated object or location.

23 2. A person may stockpile dry digester manure within a
24 separation distance required in subsection 1 if the titleholder
25 of the land benefiting from the separation distance requirement
26 executes a written waiver with the titleholder of the land where
27 the stockpile is located.

28 Sec. 28. NEW SECTION. **458.304 Minimum air quality**
29 **separation distance requirements — application of liquid**
30 **digestate.**

31 1. Except as provided in subsection 2, a person shall not
32 apply liquid digestate on land located within seven hundred fifty
33 feet of any of the following:

34 a. A residence not owned by the titleholder of the land.

35 b. A designated object or location.

1 2. A person may apply liquid digestate on land within a
2 separation distance required in subsection 1 if any of the
3 following apply:

4 a. The liquid digestate is injected into the soil or
5 incorporated within the soil not later than twenty-four hours
6 from the original application, as provided by rules adopted by
7 the department.

8 b. The titleholder of the land benefiting from the separation
9 distance requirement executes a written waiver with the
10 titleholder of the land where the liquid digestate is applied.

11 c. The liquid digestate is applied by spray irrigation
12 equipment using a center pivot mechanism as provided by rules
13 adopted by the department, if all of the following apply:

14 (1) The spray irrigation equipment uses hoses which apply the
15 liquid digestate in a downward direction at a height of not more
16 than nine feet above the soil.

17 (2) The spray irrigation equipment disperses liquid digestate
18 through an orifice at a maximum pressure of not more than
19 twenty-five pounds per square inch.

20 (3) The liquid digestate is not applied within two hundred
21 fifty feet from a residence not owned by the titleholder of the
22 land, or designated object or location.

23 Sec. 29. NEW SECTION. **458.311 Water quality — minimum**
24 **requirements for digester manure control.**

25 The delivery of digester manure by an animal feeding operation
26 for processing by an anaerobic digester system in a manner that
27 complies with this part constitutes manure disposal satisfying
28 the requirements of section 459.311.

29 Sec. 30. NEW SECTION. **458.312 Water quality — duty of**
30 **removal.**

31 The owner of a digester structure that is part of an anaerobic
32 digester system that discontinues use shall remove all material
33 from the digester structure within six months following the date
34 that the anaerobic digester system is discontinued.

35 Sec. 31. NEW SECTION. **458.313 Water quality —**

1 **restrictions.**

2 1. A person shall not construct or expand an unformed
3 digester structure within an agricultural drainage well area as
4 provided in section 460.205.

5 2. A person shall not construct a digester structure on land
6 that is part of a one hundred year floodplain as designated by
7 rules adopted by the department.

8 Sec. 32. NEW SECTION. **458.315 Water quality — separation**
9 **distance requirements — digester structures.**

10 1. Except as provided in subsection 2, all of the following
11 apply:

12 a. A person shall not construct or expand a digester
13 structure closer than five hundred feet away from the surface
14 intake of an agricultural drainage well. A digester structure
15 shall not be constructed closer than one thousand feet from a
16 wellhead, cistern of an agricultural drainage well, or known
17 sinkhole. However, the department may adopt rules requiring an
18 increased separation distance under this paragraph in order to
19 protect the integrity of a water of the state. The increased
20 separation distance shall not be more than two thousand feet.
21 If the department exercises its discretion to increase the
22 separation distance requirement, the department shall not approve
23 an application for a permit under subchapter II to construct a
24 digester structure within that separation distance.

25 b. A digester structure shall not be constructed if the
26 digester structure as constructed is closer than any of the
27 following:

28 (1) Five hundred feet away from a water source other than a
29 major water source.

30 (2) One thousand feet away from a major water source.

31 (3) Two thousand five hundred feet away from a designated
32 wetland.

33 c. (1) A water source, other than a major water source,
34 shall not be constructed, expanded, or diverted, if the water
35 source as constructed, expanded, or diverted is closer than five

1 hundred feet away from a community anaerobic digester system.

2 (2) A major water source shall not be constructed, expanded,
3 or diverted if the major water source as constructed, expanded,
4 or diverted is closer than one thousand feet from a digester
5 structure.

6 (3) A designated wetland shall not be established, if the
7 designated wetland is closer than two thousand five hundred feet
8 away from a digester structure.

9 2. A separation distance required in subsection 1 does not
10 apply to any of the following:

11 a. A farm pond or privately owned lake, as those terms are
12 defined in section 462A.2.

13 b. A digester structure with a secondary containment
14 barrier. The department shall adopt rules providing for
15 the construction and use of a secondary containment barrier,
16 including construction design standards.

17 Sec. 33. NEW SECTION. **458.316 Water quality — general**
18 **requirements for stockpiling dry digester manure, dry digester**
19 **feedstock, or dry digestate.**

20 1. A person stockpiling dry manure, dry digester feedstock,
21 or dry digestate shall comply with applicable requirements of the
22 national pollutant discharge elimination system pursuant to the
23 federal Water Pollution Control Act.

24 2. A person shall remove stockpiled dry manure, dry digester
25 feedstock, or dry digestate within six months after the dry
26 manure, dry digester feedstock, or dry digestate is stockpiled.

27 Sec. 34. NEW SECTION. **458.317 Water quality — separation**
28 **distances for stockpiling dry digester manure, dry digester**
29 **feedstock, or dry digestate.**

30 1. a. Except as provided in paragraph "b", a person shall
31 not stockpile dry digester manure, dry digester feedstock, or
32 dry digestate closer than the following distances to a designated
33 area:

34 (1) Four hundred feet from a designated area other than a
35 high-quality water resource.

1 (2) Eight hundred feet from a high-quality water resource.

2 b. A person may apply dry digester manure, dry digester
3 feedstock, or dry digestate that is maintained in a manner that
4 will not allow precipitation-induced runoff to drain from the dry
5 digestate to the designated area.

6 2. a. Except as provided in paragraph "b", a person shall
7 not stockpile dry digester manure, dry digester feedstock, or dry
8 digestate within two hundred feet from a terrace tile inlet or
9 surface tile inlet.

10 b. A person may apply dry digester manure, dry digester
11 feedstock, or dry digestate that is maintained in a manner that
12 will not allow precipitation-induced runoff to drain from the dry
13 digestate to the terrace tile inlet or surface tile inlet.

14 3. A person shall not stockpile dry digester manure, dry
15 digester feedstock, or dry digestate in a grassed waterway, where
16 water pools on the soil surface, or in any location where surface
17 water will enter the stockpiled dry digester manure, dry digester
18 feedstock, or dry digestate.

19 4. a. Except as provided in paragraph "b", a person shall
20 not stockpile dry digester manure, dry digester feedstock, or dry
21 digestate on land having a slope of more than three percent.

22 b. A person may stockpile dry digester manure, dry digester
23 feedstock, or dry digestate on land having a slope described
24 in paragraph "a" if the person uses methods, structures, or
25 practices implemented to contain the stockpiled dry digester
26 manure, dry digester feedstock, or dry digestate, including but
27 not limited to using hay bales, silt fences, temporary earthen
28 berms, or other effective measures, and to prevent or diminish
29 precipitation-induced runoff from the stockpiled dry digester
30 manure, dry digester feedstock, or dry digestate.

31 Sec. 35. NEW SECTION. **458.318 Water quality — special**
32 **requirements for stockpiling dry digester manure, dry digester**
33 **feedstock, or dry digestate on karst terrain or in alluvial**
34 **aquifer.**

35 A person may stockpile dry digester manure, dry digester

1 feedstock, or dry digestate on karst terrain or in an alluvial
2 aquifer in compliance with all of the following:

3 1. The person must stockpile the dry digester manure, dry
4 digester feedstock, or dry digestate at a location where there
5 is a vertical separation distance of at least five feet
6 between the bottom of the stockpiled dry digester manure,
7 dry digester feedstock, or dry digestate and the underlying
8 limestone, dolomite, or other soluble rock in karst terrain or
9 the underlying sand and gravel aquifer in an alluvial aquifer
10 area.

11 2. The dry digestate must be stockpiled on reinforced
12 concrete at least five inches thick.

13 Sec. 36. NEW SECTION. **458.321 Water quality — applying**
14 **digester manure or digester feedstock.**

15 1. Except as provided in subsection 2, a person shall not
16 apply digester manure or digester feedstock on land that is
17 on-farm or off-farm.

18 2. A person may apply digester manure or digester feedstock
19 on-farm or off-farm according to the terms of a waiver issued by
20 the department.

21 Sec. 37. NEW SECTION. **458.322 Water quality — applying**
22 **digestate on snow covered or frozen ground.**

23 A person may apply digestate on snow covered or frozen
24 ground except to the extent otherwise provided by applicable
25 requirements for digester manure in this chapter, section
26 459.313A, or the national pollutant discharge elimination system
27 pursuant to the federal Water Pollution Control Act.

28 Sec. 38. NEW SECTION. **458.323 Digestate management**
29 **supplement.**

30 If digestate is applied on land subject to a manure management
31 plan or a nutrient management plan, the manure management plan
32 or nutrient management plan must be attached with a digestate
33 management supplement. The digestate management supplement must
34 include all of the following:

35 1. Calculations necessary to determine the land area required

1 for the application of the digestate and manure from a
2 confinement feeding operation or effluent from an open feedlot
3 operation.

4 2. The nutrient concentrations of the digestate.

5 Sec. 39. NEW SECTION. **458.324 Records.**

6 1. The owner or manager of a community anaerobic digester
7 system must maintain and update digester management records
8 regarding operations of a community anaerobic digester system.

9 2. The digester management records must include information
10 required by the department which may include the following:

11 a. The digester manure, digester feedstock, and inorganic
12 materials subject to processing.

13 b. The location of dry digester manure stockpiles, dry
14 digester feedstock stockpiles, and dry digestate stockpiles
15 located on the community anaerobic digester system.

16 c. The types of digester feedstock used.

17 d. The types of biogas processed, the storage of biogas, and
18 method of transporting the biogas.

19 e. An estimate of the volume or weight capacity of digester
20 manure or digester feedstock stored and processed.

21 f. On-farm or off-farm use of the digestate, including the
22 manure management plan or nutrient management plan that includes
23 a digestate management supplement as required in section 458.323.

24 3. The department shall adopt rules for the inspection of
25 digester management records during normal business hours.

26 4. Chapter 22 does not apply to digester management records,
27 which shall be kept confidential by the department and its agents
28 and employees. The contents of the records are not subject to
29 disclosure except as follows:

30 a. Upon waiver by the person owning or managing the community
31 anaerobic digester system.

32 b. In an action or administrative proceeding commenced under
33 this chapter. Any hearing related to the action or proceeding
34 shall be closed.

35 c. When required by subpoena or court order.

1 Sec. 40. NEW SECTION. **458.401 General.**

2 The department and the attorney general shall enforce the
3 provisions of this chapter in the same manner as provided in
4 chapter 455B, subchapter I, unless otherwise provided in this
5 chapter.

6 Sec. 41. NEW SECTION. **458.402 Violations — civil**
7 **penalty.**

8 1. A person who violates a provision in subchapter III, part
9 1, shall be subject to the same penalty as provided in section
10 459.602, and a person who violates any other provision of this
11 chapter shall be subject to the same penalty as provided in
12 section 459.603.

13 2. Any collected civil penalty and interest on a civil
14 penalty shall be credited to the Iowa nutrient research fund
15 created in section 466B.46.

16 Sec. 42. CODE EDITOR DIRECTIVE.

17 1. The Code editor is directed to create subchapters and
18 parts in chapter 458 as follows:

19 a. Subchapter I shall include sections 458.101 through
20 458.200.

21 (1) Part 1 shall include sections 458.101 through 458.110.

22 (2) Part 2 shall include sections 458.111 through 458.200.

23 b. Subchapter II shall include sections 458.201 through
24 458.300.

25 (1) Part 1 shall include sections 458.201 through 458.210.

26 (2) Part 2 shall include sections 458.211 through 458.220.

27 (3) Part 3 shall include sections 458.221 through 458.300.

28 c. Subchapter III shall include sections 458.301 through
29 458.400.

30 (1) Part 1 shall include sections 458.301 through 458.310.

31 (2) Part 2 shall include sections 458.311 through 458.400.

32 d. Subchapter IV shall include sections 458.401 and 458.402.

33 2. The Code editor is directed to correct internal references
34 in the Code and in any enacted legislation as necessary due to
35 enactment of this section.

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DIVISION II
COORDINATING PROVISIONS

Sec. 43. Section 455A.4, subsection 1, paragraph b, Code 2025, is amended to read as follows:

b. Provide overall supervision, direction, and coordination of functions to be administered by the administrators under chapters 321G, 321I, 455B, 455C, 456A, 456B, 457A, 458, 458A, 459, 459A, 459B, 461A, 462A, 462B, 464A, 465C, 473, 481A, 481B, 483A, 484A, and 484B.

Sec. 44. Section 455B.103, subsection 4, unnumbered paragraph 1, Code 2025, is amended to read as follows:

Conduct investigations of complaints received directly or referred by the commission created in section 455A.6 or other investigations deemed necessary. While conducting an investigation, the director may enter at any reasonable time in and upon any private or public property to investigate any actual or possible violation of this chapter, chapter 458, chapter 459, chapter 459A, chapter 459B, or the rules or standards adopted under this chapter, chapter 458, chapter 459, chapter 459A, or chapter 459B. However, the owner or person in charge shall be notified.

Sec. 45. Section 455B.112, Code 2025, is amended to read as follows:

455B.112 Actions by attorney general.

In addition to the duty to commence legal proceedings at the request of the director or commission under this chapter; chapter 458; chapter 459, subchapters I, II, III, IV, and VI; chapter 459A; or chapter 459B, the attorney general may institute civil or criminal proceedings, including an action for injunction, to enforce the provisions of this chapter; chapter 458; chapter 459, subchapters I, II, III, IV, and VI; chapter 459A; or chapter 459B, including orders or permits issued or rules adopted under this chapter; chapter 458; chapter 459, subchapters I, II, III, IV, and VI; chapter 459A; or chapter 459B.

Sec. 46. Section 455B.113, subsection 1, Code 2025, is

1 amended to read as follows:

2 1. The director shall certify laboratories which perform
3 laboratory analyses of samples required to be submitted by the
4 department by this chapter; chapter 458; chapter 459, subchapters
5 I, II, III, IV, and VI; or chapter 459A, or by rules adopted
6 in accordance with this chapter; chapter 458; chapter 459,
7 subchapters I, II, III, IV, and VI; or chapter 459A, or by
8 permits or orders issued under this chapter; chapter 458; chapter
9 459, subchapters I, II, III, IV, and VI; or chapter 459A.

10 Sec. 47. Section 455B.115, Code 2025, is amended to read as
11 follows:

12 **455B.115 Analysis by certified laboratory required.**

13 Laboratory analysis of samples as required by this chapter;
14 chapter 458; chapter 459, subchapters I, II, III, IV, and VI; or
15 chapter 459A; or by rules adopted, or by permits or orders issued
16 pursuant to this chapter; chapter 458; chapter 459, subchapters
17 I, II, III, IV, and VI; or chapter 459A shall be conducted by
18 a laboratory certified by the director as having the necessary
19 competence, equipment, and capabilities to perform the analysis.
20 Analytical results from laboratories not certificated shall not
21 be accepted by the director.

22 Sec. 48. Section 455B.174, subsections 1 and 3, Code 2025,
23 are amended to read as follows:

24 1. Conduct investigations of alleged water pollution or of
25 alleged violations of this part 1 of subchapter III_T; chapter
26 458; chapter 459, subchapter III_T; chapter 459A_T; or chapter
27 459B_T; or any rule adopted or any permit issued pursuant to
28 this part 1 of subchapter III_T; chapter 458; chapter 459,
29 subchapter III_T; chapter 459A_T; or chapter 459B_T; upon written
30 request of any state agency, political subdivision, local board
31 of health, twenty-five residents of the state, as directed by the
32 department, or as may be necessary to accomplish the purposes
33 of this part 1 of subchapter III_T; chapter 458; chapter 459,
34 subchapter III_T; chapter 459A_T; or chapter 459B.

35 3. Take any action or actions allowed by law which, in

1 the director's judgment, are necessary to enforce or secure
 2 compliance with the provisions of this part 1 of subchapter III
 3 ~~or~~; chapter 458; chapter 459, subchapter III~~;~~i; or of any rule or
 4 standard established or permit issued pursuant to this part 1 of
 5 subchapter III ~~or~~; chapter 458; or chapter 459, subchapter III.

6 Sec. 49. Section 455B.175, subsection 1, unnumbered paragraph
 7 1, Code 2025, is amended to read as follows:

8 If there is substantial evidence that any person has violated
 9 or is violating any provision of, or any rule or standard
 10 established or permit issued pursuant to, this part 1 of
 11 subchapter III~~;~~i; chapter 458; chapter 459, subchapter III~~;~~i;
 12 chapter 459A~~;~~i; or chapter 459B~~;~~i; then one of the following may
 13 apply:

14 Sec. 50. Section 455B.182, Code 2025, is amended to read as
 15 follows:

16 **455B.182 Failure constitutes contempt.**

17 Failure to obey any order issued by the department with
 18 reference to a violation of this part 1 of subchapter III;
 19 chapter 458; chapter 459, subchapter III; chapter 459A; chapter
 20 459B; or any rule promulgated or permit issued pursuant thereto
 21 shall constitute prima facie evidence of contempt. In such
 22 event the department may certify to the district court of the
 23 county in which such alleged disobedience occurred the fact of
 24 such failure. The district court after notice, as prescribed
 25 by the court, to the parties in interest shall then proceed to
 26 hear the matter and if it finds that the order was lawful and
 27 reasonable, it shall order the party to comply with the order.
 28 If the person fails to comply with the court order, that person
 29 shall be guilty of contempt and shall be fined not to exceed five
 30 hundred dollars for each day that the person fails to comply with
 31 the court order. The penalties provided in this section shall
 32 be considered as additional to any penalty which may be imposed
 33 under the law relative to nuisances or any other statute relating
 34 to the pollution of any waters of the state or related to public
 35 water supply systems and a conviction under this section shall

1 not be a bar to prosecution under any other penal statute.

2 Sec. 51. Section 455B.185, Code 2025, is amended to read as
3 follows:

4 **455B.185 Data from departments.**

5 The commission and the director may request and receive from
6 any department, division, board, bureau, commission, public body,
7 or agency of the state, or of any political subdivision thereof,
8 or from any organization, incorporated or unincorporated, which
9 has for its object the control or use of any of the water
10 resources of the state, such assistance and data as will
11 enable the commission or the director to properly carry out
12 their activities and effectuate the purposes of this part 1
13 of subchapter III; chapter 458; chapter 459, subchapter III;
14 chapter 459A; or chapter 459B. The department shall reimburse
15 such agencies for special expense resulting from expenditures not
16 normally a part of the operating expenses of any such agency.

17 Sec. 52. NEW SECTION. **459.104 Digestates.**

18 This chapter does not apply to digestate processed at a
19 community anaerobic digester system as regulated in chapter 458,
20 unless the digestate is combined with manure.

21 Sec. 53. NEW SECTION. **459.312B Digestate management
22 supplement attached to nutrient management plan.**

23 If digestate is applied on land subject to a manure management
24 plan pursuant to section 459.312, the manure management plan must
25 be attached with a digestate management supplement as provided in
26 section 458.323.

27 Sec. 54. NEW SECTION. **459A.106 Digestates.**

28 This chapter does not apply to digestate processed at a
29 community anaerobic digester system as regulated in chapter 458
30 unless the digestate is combined with effluent.

31 Sec. 55. NEW SECTION. **459A.208A Digestate management
32 supplement attached to nutrient management plan.**

33 If digestate is applied on land subject to a nutrient
34 management plan pursuant to section 459A.208, the nutrient
35 management plan must be attached with a digestate management

1 supplement as provided in section 458.323.

2 Sec. 56. NEW SECTION. **459B.105 Digestates.**

3 This chapter does not apply to digestates processed at a
4 community anaerobic digester system as regulated in chapter 458.

5 EXPLANATION

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

8 GENERAL. This bill provides for the regulation of a community
9 anaerobic digester system (system) by the department of natural
10 resources (DNR) which must include a digester processing
11 structure that primarily processes manure but may also process
12 other organic feedstocks. The system produces a biogas which
13 is a source of renewable fuel and a digestate which is a
14 nutrient-rich material that may be applied to cropland.

15 TERMINOLOGY. The bill provides for the regulation of off-farm
16 systems. "On-farm" refers to real property used to produce
17 agricultural animals or crops as compared to "off-farm" which
18 refers to real property other than on-farm. Once manure or
19 feedstock is received by the system, the manure is referred to
20 as digester manure and the feedstock is referred to as digester
21 feedstock. The off-farm system receives on-farm manure and
22 either on-farm or off-farm feedstock. The digester manure or
23 digester feedstock is subject to storage requirements. Different
24 regulations apply to digester feedstock or digester manure that
25 is dry or liquid. Digester manure or digester feedstock is
26 classified as dry only if the digester manure or digester
27 feedstock does not flow perceptibly under pressure, is not
28 capable of being transported through a mechanical pumping device
29 designed to move a liquid, and consists of molecules that do not
30 flow freely among themselves. Generally, liquid digester manure
31 and liquid digester feedstock must be stored in a liquid digester
32 storage structure. Dry digester manure or dry digester feedstock
33 must be stored as a dry digester stockpile or in a liquid
34 digester storage structure. The digester manure or digester
35 feedstock is used by a digester processing structure to produce

1 biogas and a digestate. A digester processing structure must
2 process manure as its primary source. Digestate is also referred
3 to as dry or liquid based on the same criteria used for digester
4 manure and digester feedstock. Liquid digestate is stored in a
5 liquid digestate storage structure and dry digestate is stored
6 as a stockpile or in a liquid digestate storage structure.
7 The scope of the bill is limited to the off-farm construction,
8 including expansion, of digester structures on the site of
9 the system, the off-farm stockpiling of dry digester manure or
10 feedstock on the site of the system, the off-farm storage and
11 stockpiling of digestate on the site of the system, the removal
12 of the digestate from the off-farm site of the system, and the
13 on-farm storage and application of the removed digestate. Any
14 reference in the bill to a digester structure means a covered
15 liquid digester storage structure, a covered digester processing
16 structure, or a covered liquid digestate storage structure. Any
17 reference to a digester stockpile refers to a dry digester manure
18 or feedstock stockpile or a dry digestate stockpile.

19 REGULATION. The bill provides that a system cannot be
20 identified with an animal feeding operation where animals are
21 confined and fed and maintained for 45 days or more in any
22 12-month period. Identification occurs only if the system and
23 the animal feeding operation are both (1) under common ownership
24 or management and (2) adjacent.

25 CONSTRUCTION. The bill provides that a construction permit
26 must be issued by DNR prior to the construction of a digester
27 structure. The requirements for a permit are based on permit
28 requirements for the construction of manure storage structures.
29 The application must include an engineering report, construction
30 plans, and specifications prepared by a professional engineer.
31 The bill provides for an application fee not to exceed \$1,000.
32 The bill also provides for construction design standards for a
33 formed or unformed digester structure. The construction design
34 standards must be based on uniform standards such as available
35 standards promulgated by ASTM (American society for testing and

1 materials) international. The design standards for unformed
2 digester feedstock storage structures must account for the use of
3 linings and erosion controls.

4 SEPARATION DISTANCE REQUIREMENTS — AIR QUALITY. The bill
5 provides separation distance requirements as part of air quality
6 and water quality standards. Generally, the separation distance
7 requirements for air quality apply between a digester structure
8 and either a residence not owned by the owner of the system or
9 a designated object or location (commercial enterprise, bona fide
10 religious institution, educational institution, public use area,
11 or public thoroughfare). Other separation distances apply to the
12 stockpiling of dry digester manure or feedstock, or digestate
13 and those same designated objects or locations. The bill also
14 provides separation distance requirements for air quality that
15 apply between the digestate application site and the designated
16 object or location. The separation distance requirements for air
17 quality also provide for certain exceptions, including a waiver
18 by a person benefiting from the separation distance.

19 SEPARATION DISTANCE REQUIREMENTS — WATER QUALITY. The bill
20 provides a number of separation distance requirements between
21 a digester structure and certain sources of water, including
22 an agricultural drainage well, known sinkhole, lake, river,
23 reservoir, creek, stream, or ditch. The bill provides separation
24 distance requirements between digestate stockpiles and water
25 sources, with exceptions that apply if measures are taken to
26 reduce runoff. Special restrictions are placed on a stockpile
27 located in karst terrain. The bill restricts the application of
28 digestate on snow covered or frozen ground.

29 DIGESTATE MANAGEMENT. The bill provides that if digestate
30 is applied on land subject to a manure management plan or
31 nutrient management plan, such plan must be attached with a
32 second document referred to as a digestate management supplement.
33 The digestate management supplement must include information
34 necessary to determine the land area required for the application
35 of the digestate and the nutrient concentrations of the

1 digestate. Finally, the bill requires the owner or manager of
2 the system to maintain records regarding the system's operation.

3 CIVIL PENALTIES. A person who violates an air quality
4 regulation or water quality regulation is subject to a civil
5 penalty based on a schedule established by DNR rule. The
6 civil penalty cannot exceed \$10,000 per violation. The civil
7 penalty for a water quality violation may also be subject to a
8 judicial civil penalty not to exceed \$5,000 for each day of such
9 violation.

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