

House Study Bill 322 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON WAYS
AND MEANS BILL BY CHAIRPERSON
KAUFMANN)

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

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

25 (1) 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 (2) Forms for concrete are installed for a proposed digester
29 structure or the proposed expansion of an existing digester
30 structure.

31 (3) Piping for the movement of digester manure is installed
32 between an animal feeding operation structure and a digester
33 structure proposed to be constructed or expanded.

34 b. Placing a cover over a digester structure does not
35 constitute construction or expansion of the digester structure.

1 Sec. 7. NEW SECTION. **458.107 Special terms — manure and**
2 **digestates.**

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

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

9 a. The digester manure, digester feedstock, or digestate does
10 not flow perceptibly under pressure.

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

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

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

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

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

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

31 b. If digester manure and digester feedstock are combined,
32 the digester feedstock shall be regulated as digester manure.

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

35 b. (1) If digestate is removed from a digester processing

1 structure and at any time is combined with manure, the digestate
2 shall be regulated as manure under chapter 459 and chapter 459B,
3 as applicable.

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

7 Sec. 8. NEW SECTION. **458.108 Separation distance**
8 **measurements.**

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

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

17 Sec. 9. NEW SECTION. **458.109 Stockpiling dry digester**
18 **manure, dry digester feedstock, or dry digestate.**

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

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

25 The purpose of this chapter is to promote the community-based
26 production of the following:

27 1. Biogas as a renewable organic source of energy with low
28 carbon emissions.

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

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

33 This chapter is limited to regulating the following:

34 1. The off-farm storage or processing of digester manure or
35 digester feedstock as part of a community anaerobic digester

1 system. Digester manure or digester feedstock shall not be
2 transferred from a community anaerobic digester system except
3 under the terms of a waiver granted by the department.

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

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

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

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

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

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

21 Sec. 13. NEW SECTION. **458.114 Administration — forms and
22 other documents.**

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

26 2. The department shall provide for procedures for the
27 access, receipt, filing, processing, and return of documents
28 described in this chapter in an electronic format, including but
29 not limited to the transmission of documents over the internet.
30 The department shall provide for authentication of the documents
31 that may include electronic signatures as provided in chapter
32 554D.

33 3. The department shall, to every extent feasible, provide
34 for the processing of documents required under the provisions
35 of this chapter using electronic systems, including programming,

1 necessary to ensure the completeness and accuracy of the
2 documents in accordance with the requirements of this chapter.

3 Sec. 14. NEW SECTION. **458.201 Digester manure and digester**
4 **feedstock — required storage.**

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

8 1. Liquid digester manure or liquid digester feedstock must
9 be stored in a liquid digester storage structure.

10 2. Dry digester manure must be stored in any of the
11 following:

12 a. A dry digester stockpile.

13 b. A liquid digester storage structure.

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

16 a. A dry digester stockpile.

17 b. A liquid digester storage structure.

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

20 Sec. 15. NEW SECTION. **458.202 Digestate — required**
21 **storage.**

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

25 a. Liquid digestate must be stored in a liquid digestate
26 storage structure.

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

28 (1) A dry digestate feedstock stockpile.

29 (2) A liquid digestate storage structure.

30 2. A person removing processed digestate from a community
31 anaerobic digester system must store the digestate as follows:

32 a. Liquid digestate must be stored in the same way as liquid
33 manure after the liquid manure has been removed from a manure
34 storage structure.

35 b. Dry digestate must be stored as a dry digestate stockpile

1 or in a liquid digestate storage structure.

2 Sec. 16. NEW SECTION. **458.211 Digester structures —**
3 **construction permits — application process.**

4 1. Except as provided in section 458.217, a construction
5 permit must be issued to an owner of an existing or proposed
6 community anaerobic digester system prior to the construction
7 of a digester structure, including a liquid digester storage
8 structure, a digester processing structure, or a liquid digestate
9 storage structure, as provided by rules adopted by the department
10 pursuant to this chapter. The department may adopt rules
11 providing separate requirements for each type of digester
12 structure, including a liquid digester manure storage structure
13 and a liquid digester feedstock storage structure.

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

18 3. The department's decision to approve a permit for the
19 construction of a digester structure shall be based on whether
20 the application is submitted according to procedures required by
21 the department and the application meets standards established by
22 this subchapter and rules adopted by the department.

23 4. Construction of a digester structure shall not begin
24 until the department first approves the application and issues a
25 construction permit.

26 5. The department shall approve an application for a
27 construction permit regardless of whether the applicant is
28 required to be issued a construction permit.

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

32 7. The department shall approve or disapprove an application
33 for a construction permit within sixty days after receiving the
34 permit application. However, the applicant may deliver a notice
35 requesting a continuance. Upon receipt of a notice, the time

1 required for the department to act upon the application shall
2 be suspended for the period provided in the notice, but for
3 not more than thirty days after the department's receipt of
4 the notice. The applicant may submit more than one notice.
5 However, the department may provide that an application is
6 terminated if no action is required by the department for one
7 year following delivery of the application to the department.
8 The department may also provide for a continuance when it
9 considers the application. The department shall provide notice
10 to the applicant of the continuance. The time required for the
11 department to act upon the application shall be suspended for
12 the period provided in the notice, but for not more than thirty
13 days. However, the department shall not provide for more than
14 one continuance.

15 Sec. 17. NEW SECTION. **458.212 Digester structures —**
16 **construction permits — contents of application.**

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

- 19 1. The name and contact information of the owner and manager
20 of the anaerobic digester system.
- 21 2. The type and description of the proposed new or expanded
22 digester structure, whether it is designed as a liquid digester
23 storage structure, including a liquid digester manure storage
24 structure or liquid digester feedstock storage structure or both,
25 a digester processing structure, or a liquid digestate storage
26 structure.
- 27 3. The size and liquid capacity of the digester structure.
- 28 4. Whether the digester structure is formed or unformed.
- 29 5. Whether the digester structure is to be constructed on
30 land that is any of the following:
 - 31 a. A critical public area.
 - 32 b. A designated area.
 - 33 c. A designated wetland.
 - 34 d. Karst terrain.
 - 35 e. In a one hundred year floodplain.

1 6. Information including but not limited to maps, drawings,
2 and aerial photos that clearly show the location of all of the
3 following:

4 a. The location of any neighboring proposed or existing
5 community anaerobic digester system, and any other proposed or
6 existing digester structures.

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

9 c. A public water supply system as defined in section
10 455B.171 or a drinking water well which is located within a
11 distance from the proposed construction site as prescribed by
12 rules adopted by the department.

13 7. An engineering report, construction plans, and
14 specifications prepared by a professional engineer. The
15 professional engineer must certify that the construction of
16 the digester structure complies with the construction design
17 standards required in this subchapter.

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

20 9. Any other information determined relevant by the
21 department as provided by rules adopted by the department.

22 Sec. 18. NEW SECTION. **458.213 Digester structures —**
23 **construction permits — application fee.**

24 A person submitting an application for a construction permit
25 as provided in section 458.211 must submit to the department a
26 construction permit application fee as part of the application.
27 The fee shall not exceed one thousand dollars. Moneys collected
28 by the department from the payment of construction permit
29 application fees shall be deposited in the general fund of the
30 state.

31 Sec. 19. NEW SECTION. **458.217 Digester structures —**
32 **construction permits — exception.**

33 A person is not required to be issued a permit to construct
34 a digester structure if the anaerobic digester system is
35 owned by a research college conducting research activities

1 involving the digestion process, including associated liquid
2 digester manure storage or stockpiling, digester feedstock
3 storage or stockpiling, digestate storage, or the application of
4 a digestate.

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

7 1. The department shall adopt rules establishing construction
8 design standards for a formed digester structure, including
9 a formed liquid digester storage structure, a formed digester
10 processing structure, and a formed liquid digestate storage
11 structure. The department may adopt rules providing separate
12 regulations for each type of formed digester structure, including
13 a formed liquid digester manure storage structure and a formed
14 liquid digester feedstock storage structure.

15 2. The construction design standards shall be based, to
16 every extent possible, upon uniform standards such as available
17 standards promulgated by ASTM (American society for testing and
18 materials) international.

19 3. The construction design standards for concrete must
20 provide for all of the following:

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

23 b. The use of reinforcement, including but not limited to
24 the grade, amount, and location of steel rebar, fiberglass, or
25 similar materials set in the concrete, or the use of exterior
26 braces to support joints.

27 c. The depth of footings.

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

29 Sec. 21. NEW SECTION. **458.222 Special construction**
30 **restrictions — formed digester structures.**

31 The department shall adopt rules providing for upgraded
32 construction design standards for a formed digester structure
33 constructed on karst terrain or an area that drains into a
34 known sinkhole as is necessary to ensure that a formed digester
35 structure does not pollute groundwater sources.

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

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

11 2. The construction design standards for an unformed digester
12 structure, established by rules adopted by the department,
13 must account for special design characteristics applicable to
14 an unformed digester storage structure, an unformed digester
15 processing structure, or an unformed liquid digestate storage
16 structure. The construction design standards must account for
17 all of the following:

18 a. The lining of the unformed digester structure must be
19 constructed with materials deemed suitable by rules adopted by
20 the department in order to minimize liquid seepage loss through
21 the lining's seal.

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

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

28 d. The top of the floor of the unformed digester structure's
29 liner must be above the groundwater table as determined by
30 the department. If the groundwater table is less than two
31 feet below the top of the liner's floor, the unformed digester
32 structure must be installed with a synthetic liner. If the
33 department allows an unformed digester structure to be located
34 at a site by permanently lowering the groundwater table, the
35 department shall confirm that the proposed system meets standards

1 necessary to ensure that the unformed digester structure does not
2 pollute groundwater sources. If the department allows drain tile
3 installed to lower a groundwater table to remain where located,
4 the department shall require that a device be installed to allow
5 monitoring of the water in the drain tile line. The department
6 shall also require the installation of a device to allow shutoff
7 of the drain tile lines, if the drain tile lines do not have
8 a surface outlet accessible on the property where the digester
9 structure is located.

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

19 (1) An adequate freeboard level.

20 (2) The seepage of a liquid from the unformed digester
21 structure.

22 (3) Erosion.

23 (4) Inadequate cover.

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

26 b. Paragraph "a" does not restrict the department from
27 conducting an inspection of an anaerobic digester system which is
28 not routine.

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

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

33 2. A person may construct an unformed digester structure on
34 karst terrain if there is a twenty-five-foot vertical separation
35 distance between the bottom of the unformed digester structure

1 and underlying limestone, dolomite, or other soluble rock.

2 Sec. 24. NEW SECTION. **458.227 Restrictions — unformed**
3 **digester structures.**

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

6 2. A person shall not construct or expand an unformed liquid
7 digester structure within an agricultural drainage well area as
8 provided in section 460.205.

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

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

15 a. A residence not owned by the owner of the community
16 anaerobic digester system.

17 b. A designated object or location.

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

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

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

25 1. a. A digester structure that is constructed or expanded,
26 if the titleholder of the land benefiting from the separation
27 distance requirement executes a written waiver with the
28 titleholder of the land where the digester structure is
29 located. If a digester structure is constructed or expanded
30 within the separation distance required between a digester
31 structure and a public thoroughfare, the state or a political
32 subdivision constructing or maintaining the public thoroughfare
33 benefiting from the distance separation requirement may execute
34 a written waiver with the titleholder of the land where the
35 digester structure is located. The digester structure shall be

1 constructed or expanded under such terms and conditions that the
2 parties negotiate.

3 b. A written waiver under this subsection becomes effective
4 only upon the recording of the waiver in the office of the
5 recorder of deeds of the county in which the benefited land
6 is located. The filed waiver shall preclude enforcement by
7 the state of this part as it relates to a separation distance
8 requirement between the digester structure and the location or
9 object benefiting from the separation distance requirement.

10 2. a. A digester structure that is constructed or expanded
11 within any distance from a residence or a designated object
12 or location, if the residence or designated object or location
13 was constructed or expanded after the date that the community
14 anaerobic digester system was established.

15 b. The date that a community anaerobic digester system is
16 established is the date on which the community anaerobic digester
17 system commenced operating. A change in ownership or expansion
18 of the community anaerobic digester system does not change the
19 established date of the community anaerobic digester system.

20 Sec. 27. NEW SECTION. **458.303 Minimum air quality**
21 **separation distance requirements — stockpiling dry digester**
22 **manure, dry digester feedstock, or dry digestate.**

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

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

28 b. A designated object or location.

29 2. A person may stockpile dry digester manure within a
30 separation distance required in subsection 1 if the titleholder
31 of the land benefiting from the separation distance requirement
32 executes a written waiver with the titleholder of the land where
33 the stockpile is located.

34 Sec. 28. NEW SECTION. **458.304 Minimum air quality**
35 **separation distance requirements — application of liquid**

1 **digestate.**

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

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

6 b. A designated object or location.

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

10 a. The liquid digestate is injected into the soil or
11 incorporated within the soil not later than twenty-four hours
12 from the original application, as provided by rules adopted by
13 the department.

14 b. The titleholder of the land benefiting from the separation
15 distance requirement executes a written waiver with the
16 titleholder of the land where the liquid digestate is applied.

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

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

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

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

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

31 The delivery of digester manure by an animal feeding operation
32 for processing by an anaerobic digester system in a manner that
33 complies with this part constitutes manure disposal satisfying
34 the requirements of section 459.311.

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

1 **removal.**

2 The owner of a digester structure that is part of an anaerobic
3 digester system that discontinues use shall remove all material
4 from the digester structure within six months following the date
5 that the anaerobic digester system is discontinued.

6 Sec. 31. NEW SECTION. **458.313 Water quality —**
7 **restrictions.**

8 1. A person shall not construct or expand an unformed
9 digester structure within an agricultural drainage well area as
10 provided in section 460.205.

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

14 Sec. 32. NEW SECTION. **458.315 Water quality — separation**
15 **distance requirements — digester structures.**

16 1. Except as provided in subsection 2, all of the following
17 apply:

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

31 b. A digester structure shall not be constructed if the
32 digester structure as constructed is closer than any of the
33 following:

34 (1) Five hundred feet away from a water source other than a
35 major water source.

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

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

4 c. (1) A water source, other than a major water source,
5 shall not be constructed, expanded, or diverted, if the water
6 source as constructed, expanded, or diverted is closer than five
7 hundred feet away from a community anaerobic digester system.

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

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

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

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

19 b. A digester structure with a secondary containment
20 barrier. The department shall adopt rules providing for
21 the construction and use of a secondary containment barrier,
22 including construction design standards.

23 **Sec. 33. NEW SECTION. 458.316 Water quality — general**
24 **requirements for stockpiling dry digester manure, dry digester**
25 **feedstock, or dry digestate.**

26 1. A person stockpiling dry manure, dry digester feedstock,
27 or dry digestate shall comply with applicable requirements of the
28 national pollutant discharge elimination system pursuant to the
29 federal Water Pollution Control Act.

30 2. A person shall remove stockpiled dry manure, dry digester
31 feedstock, or dry digestate within six months after the dry
32 manure, dry digester feedstock, or dry digestate is stockpiled.

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

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

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

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

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

12 2. a. Except as provided in paragraph "b", a person shall
13 not stockpile dry digester manure, dry digester feedstock, or dry
14 digestate within two hundred feet from a terrace tile inlet or
15 surface tile inlet.

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

20 3. A person shall not stockpile dry digester manure, dry
21 digester feedstock, or dry digestate in a grassed waterway, where
22 water pools on the soil surface, or in any location where surface
23 water will enter the stockpiled dry digester manure, dry digester
24 feedstock, or dry digestate.

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

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

1 manure, dry digester feedstock, or dry digestate.

2 Sec. 35. NEW SECTION. **458.318 Water quality — special**
3 **requirements for stockpiling dry digester manure, dry digester**
4 **feedstock, or dry digestate on karst terrain or in alluvial**
5 **aquifer.**

6 A person may stockpile dry digester manure, dry digester
7 feedstock, or dry digestate on karst terrain or in an alluvial
8 aquifer in compliance with all of the following:

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

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

19 Sec. 36. NEW SECTION. **458.321 Water quality — applying**
20 **digester manure or digester feedstock.**

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

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

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

29 A person may apply digestate on snow covered or frozen
30 ground except to the extent otherwise provided by applicable
31 requirements for digester manure in this chapter, section
32 459.313A, or the national pollutant discharge elimination system
33 pursuant to the federal Water Pollution Control Act.

34 Sec. 38. NEW SECTION. **458.323 Digestate management**
35 **supplement.**

1 If digestate is applied on land subject to a manure management
2 plan or a nutrient management plan, the manure management plan
3 or nutrient management plan must be attached with a digestate
4 management supplement. The digestate management supplement must
5 include all of the following:

6 1. Calculations necessary to determine the land area required
7 for the application of the digestate and manure from a
8 confinement feeding operation or effluent from an open feedlot
9 operation.

10 2. The nutrient concentrations of the digestate.

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

12 1. The owner or manager of a community anaerobic digester
13 system must maintain and update digester management records
14 regarding operations of a community anaerobic digester system.

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

17 a. The digester manure, digester feedstock, and inorganic
18 materials subject to processing.

19 b. The location of dry digester manure stockpiles, dry
20 digester feedstock stockpiles, and dry digestate stockpiles
21 located on the community anaerobic digester system.

22 c. The types of digester feedstock used.

23 d. The types of biogas processed, the storage of biogas, and
24 method of transporting the biogas.

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

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

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

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

1 a. Upon waiver by the person owning or managing the community
2 anaerobic digester system.

3 b. In an action or administrative proceeding commenced under
4 this chapter. Any hearing related to the action or proceeding
5 shall be closed.

6 c. When required by subpoena or court order.

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

8 The department and the attorney general shall enforce the
9 provisions of this chapter in the same manner as provided in
10 chapter 455B, subchapter I, unless otherwise provided in this
11 chapter.

12 Sec. 41. NEW SECTION. **458.402 Violations — civil**
13 **penalty.**

14 1. A person who violates a provision in subchapter III, part
15 1, shall be subject to the same penalty as provided in section
16 459.602, and a person who violates any other provision of this
17 chapter shall be subject to the same penalty as provided in
18 section 459.603.

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

22 Sec. 42. CODE EDITOR DIRECTIVE.

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

25 a. Subchapter I shall include sections 458.101 through
26 458.200.

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

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

29 b. Subchapter II shall include sections 458.201 through
30 458.300.

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

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

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

34 c. Subchapter III shall include sections 458.301 through
35 458.400.

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

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

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

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

7 DIVISION II

8 COORDINATING PROVISIONS

9 Sec. 43. Section 455A.4, subsection 1, paragraph b, Code
10 2025, is amended to read as follows:

11 b. Provide overall supervision, direction, and coordination
12 of functions to be administered by the administrators under
13 chapters 321G, 321I, 455B, 455C, 456A, 456B, 457A, 458, 458A,
14 459, 459A, 459B, 461A, 462A, 462B, 464A, 465C, 473, 481A, 481B,
15 483A, 484A, and 484B.

16 Sec. 44. Section 455B.103, subsection 4, unnumbered paragraph
17 1, Code 2025, is amended to read as follows:

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

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

30 **455B.112 Actions by attorney general.**

31 In addition to the duty to commence legal proceedings at the
32 request of the director or commission under this chapter; chapter
33 458; chapter 459, subchapters I, II, III, IV, and VI; chapter
34 459A; or chapter 459B, the attorney general may institute civil
35 or criminal proceedings, including an action for injunction, to

1 enforce the provisions of this chapter; chapter 458; chapter 459,
2 subchapters I, II, III, IV, and VI; chapter 459A; or chapter
3 459B, including orders or permits issued or rules adopted under
4 this chapter; chapter 458; chapter 459, subchapters I, II, III,
5 IV, and VI; chapter 459A; or chapter 459B.

6 Sec. 46. Section 455B.113, subsection 1, Code 2025, is
7 amended to read as follows:

8 1. The director shall certify laboratories which perform
9 laboratory analyses of samples required to be submitted by the
10 department by this chapter; chapter 458; chapter 459, subchapters
11 I, II, III, IV, and VI; or chapter 459A, or by rules adopted
12 in accordance with this chapter; chapter 458; chapter 459,
13 subchapters I, II, III, IV, and VI; or chapter 459A, or by
14 permits or orders issued under this chapter; chapter 458; chapter
15 459, subchapters I, II, III, IV, and VI; or chapter 459A.

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

18 **455B.115 Analysis by certified laboratory required.**

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

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

30 1. Conduct investigations of alleged water pollution or of
31 alleged violations of this part 1 of subchapter III₇; chapter
32 458; chapter 459, subchapter III₇_i; chapter 459A₇_i; or chapter
33 459B₇_i; or any rule adopted or any permit issued pursuant to
34 this part 1 of subchapter III₇; chapter 458; chapter 459,
35 subchapter III₇_i; chapter 459A₇_i; or chapter 459B₇_i; upon written

1 request of any state agency, political subdivision, local board
2 of health, twenty-five residents of the state, as directed by the
3 department, or as may be necessary to accomplish the purposes
4 of this part 1 of subchapter III~~;~~; chapter 458; chapter 459,
5 subchapter III~~;~~; chapter 459A~~;~~; or chapter 459B.

6 3. Take any action or actions allowed by law which, in
7 the director's judgment, are necessary to enforce or secure
8 compliance with the provisions of this part 1 of subchapter III
9 ~~or~~; chapter 458; chapter 459, subchapter III~~;~~; or of any rule or
10 standard established or permit issued pursuant to this part 1 of
11 subchapter III ~~or~~; chapter 458; or chapter 459, subchapter III.

12 Sec. 49. Section 455B.175, subsection 1, unnumbered paragraph
13 1, Code 2025, is amended to read as follows:

14 If there is substantial evidence that any person has violated
15 or is violating any provision of, or any rule or standard
16 established or permit issued pursuant to, this part 1 of
17 subchapter III~~;~~; chapter 458; chapter 459, subchapter III~~;~~;
18 chapter 459A~~;~~; or chapter 459B~~;~~; then one of the following may
19 apply:

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

22 **455B.182 Failure constitutes contempt.**

23 Failure to obey any order issued by the department with
24 reference to a violation of this part 1 of subchapter III;
25 chapter 458; chapter 459, subchapter III; chapter 459A; chapter
26 459B; or any rule promulgated or permit issued pursuant thereto
27 shall constitute prima facie evidence of contempt. In such
28 event the department may certify to the district court of the
29 county in which such alleged disobedience occurred the fact of
30 such failure. The district court after notice, as prescribed
31 by the court, to the parties in interest shall then proceed to
32 hear the matter and if it finds that the order was lawful and
33 reasonable, it shall order the party to comply with the order.
34 If the person fails to comply with the court order, that person
35 shall be guilty of contempt and shall be fined not to exceed five

1 hundred dollars for each day that the person fails to comply with
2 the court order. The penalties provided in this section shall
3 be considered as additional to any penalty which may be imposed
4 under the law relative to nuisances or any other statute relating
5 to the pollution of any waters of the state or related to public
6 water supply systems and a conviction under this section shall
7 not be a bar to prosecution under any other penal statute.

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

10 **455B.185 Data from departments.**

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

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

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

27 Sec. 53. NEW SECTION. **459.312B Digestate management
28 supplement attached to nutrient management plan.**

29 If digestate is applied on land subject to a manure management
30 plan pursuant to section 459.312, the manure management plan must
31 be attached with a digestate management supplement as provided in
32 section 458.323.

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

34 This chapter does not apply to digestate processed at a
35 community anaerobic digester system as regulated in chapter 458

1 unless the digestate is combined with effluent.

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

4 If digestate is applied on land subject to a nutrient
5 management plan pursuant to section 459A.208, the nutrient
6 management plan must be attached with a digestate management
7 supplement as provided in section 458.323.

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

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

11 EXPLANATION

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

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

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

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

25 REGULATION. The bill provides that a system cannot be
26 identified with an animal feeding operation where animals are
27 confined and fed and maintained for 45 days or more in any
28 12-month period. Identification occurs only if the system and
29 the animal feeding operation are both (1) under common ownership
30 or management and (2) adjacent.

31 CONSTRUCTION. The bill provides that a construction permit
32 must be issued by DNR prior to the construction of a digester
33 structure. The requirements for a permit are based on permit
34 requirements for the construction of manure storage structures.
35 The application must include an engineering report, construction

1 plans, and specifications prepared by a professional engineer.
2 The bill provides for an application fee not to exceed \$1,000.
3 The bill also provides for construction design standards for a
4 formed or unformed digester structure. The construction design
5 standards must be based on uniform standards such as available
6 standards promulgated by ASTM (American society for testing and
7 materials) international. The design standards for unformed
8 digester feedstock storage structures must account for the use of
9 linings and erosion controls.

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

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

35 DIGESTATE MANAGEMENT. The bill provides that if digestate

1 is applied on land subject to a manure management plan or
2 nutrient management plan, such plan must be attached with a
3 second document referred to as a digestate management supplement.
4 The digestate management supplement must include information
5 necessary to determine the land area required for the application
6 of the digestate and the nutrient concentrations of the
7 digestate. Finally, it requires the owner or manager of the
8 system to maintain records regarding the system's operation.

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

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