

House Study Bill 323 - Introduced

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

A BILL FOR

1 An Act relating to animal feeding operations, by providing for
2 the regulation of anaerobic digester systems, providing fees,
3 making penalties applicable, and including effective date and
4 applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. Section 459.102, subsection 2, Code 2025, is
2 amended by striking the subsection.

3 Sec. 2. NEW SECTION. **459.104 Purpose.**

4 The purpose of this chapter, together with chapters 459A
5 and 459B, is to regulate animal agriculture, including but not
6 limited to the storage, application, and processing of organic
7 materials, including manure, originating from animal feeding
8 operations.

9 Sec. 3. Section 459.201, Code 2025, is amended by adding the
10 following new subsection:

11 NEW SUBSECTION. 6. "*Anaerobic digester system*" means the
12 same as defined in section 459.701.

13 Sec. 4. NEW SECTION. **459.701 Definitions.**

14 For purposes of this subchapter, unless the context otherwise
15 requires:

16 1. a. (1) "*Anaerobic digester system*" means a digester
17 processing structure to effectuate the digestion process.

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

20 (a) A dry digester feedstock stockpile.

21 (b) A digester feedstock storage structure.

22 (c) A dry digestate stockpile.

23 (d) A liquid digestate storage structure.

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

26 2. "*Digestate*" means the dry or liquid nutrient-rich material
27 that remains after the digestion process is effectuated.

28 3. a. "*Digester feedstock*" means organic material, other
29 than manure, derived from an on-farm source or nonfarm source
30 that is used to effectuate the digestion process as part of an
31 anaerobic digester system.

32 b. "*Digester feedstock*" includes the following:

33 (1) Dry digester feedstock.

34 (2) Liquid digester feedstock.

35 4. "*Digester feedstock storage structure*" means a structure

1 used to store digester feedstock before undergoing a digestion
2 process as effectuated by an anaerobic digester system.

3 5. "*Digester processing structure*" means a structure that
4 effectuates the digestion process.

5 6. "*Digester stockpile*" means any of the following:

6 a. A dry digester feedstock stockpile.

7 b. A dry digestate stockpile.

8 7. "*Digester structure*" means any of the following:

9 a. A digester feedstock storage structure.

10 b. A digester processing structure.

11 c. A liquid digestate storage structure.

12 8. "*Digestion process*" means primarily processing manure,
13 and may include processing digester feedstock, by employing
14 environmental conditions including bacteria to break down its
15 organic matter in the absence of oxygen, if used for producing,
16 collecting, and utilizing a biogas and digestate.

17 9. "*Dry digestate*" means digestate that meets the dry
18 classification requirements in section 459.707.

19 10. "*Dry digestate stockpile*" means dry digestate stored
20 outside a digester structure.

21 11. "*Dry digester feedstock*" means a digester feedstock that
22 meets the dry classification requirements in section 459.707.

23 12. "*Dry digester feedstock stockpile*" means dry digester
24 feedstock stored outside a digester structure.

25 13. "*Liquid digestate*" means digestate other than dry
26 digestate.

27 14. "*Liquid digestate storage structure*" means a structure
28 used to store liquid digestate.

29 15. "*Liquid digester feedstock*" means digester feedstock
30 other than dry digester feedstock.

31 16. "*Nonfarm*" means real property that is not on-farm.

32 17. "*On-farm*" means real property used to produce raw
33 agricultural commodities, including agricultural animals; crops
34 such as corn, grain sorghum, oats, soybeans, or wheat; hay or
35 straw; milk; or wool.

1 Sec. 5. NEW SECTION. **459.702 Scope.**

2 1. This subchapter is limited to the regulation of on-farm
3 construction, including expansion, of structures, the on-farm use
4 of stockpiles, and the on-farm application of digestates.

5 2. If there is a conflict between the provisions of this
6 subchapter and another subchapter, the provisions of this
7 subchapter shall prevail.

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

10 Sec. 6. NEW SECTION. **459.703 Administration — departmental**
11 **authority.**

12 1. The department shall establish by rule adopted pursuant
13 to chapter 17A requirements relating to the construction,
14 including expansion, or operation of on-farm anaerobic digester
15 systems, including on-farm digester structures, on-farm digester
16 stockpiles, and the on-farm application of digestates produced
17 from on-farm anaerobic digester systems.

18 2. The department shall adopt and promulgate forms required
19 to be completed in order to comply with this subchapter including
20 forms for documents that the department shall make available on
21 the internet.

22 3. The department may provide separate application forms for
23 constructing each type of digester structure regulated under this
24 subchapter, including a digester feedstock storage structure, a
25 digester processing structure, and a liquid digestate storage
26 structure. For administrative efficiency, the department shall
27 provide a single application form that combines the three
28 applications together. An application fee shall be based on the
29 number of digester structures to be constructed or expanded as
30 stated in an application.

31 Sec. 7. NEW SECTION. **459.704 Minimum requirements for**
32 **manure control — water quality.**

33 The delivery of manure by an animal feeding operation
34 for processing by an anaerobic digester system in a manner
35 that complies with this subchapter constitutes manure disposal

1 satisfying the requirements of section 459.311.

2 Sec. 8. NEW SECTION. **459.705 Special terms — anaerobic**
3 **digester systems.**

4 1. a. An anaerobic digester system must be identified with
5 an animal feeding operation.

6 b. An anaerobic digester system receiving manure from an
7 animal feeding operation is identified with the animal feeding
8 operation if the anaerobic digester system and the animal feeding
9 operation are either of the following:

10 (1) Under common ownership or management.

11 (2) Adjacent.

12 c. An anaerobic digester system and an animal feeding
13 operation shall be subject to an enforcement action arising from
14 the facts of a violation only if the anaerobic digester system
15 is identified with the animal feeding operation pursuant to both
16 subparagraphs (1) and (2) of paragraph "b".

17 2. An anaerobic digester system and an animal feeding
18 operation structure are deemed adjacent if the closest digester
19 structure is separated from the closest animal feeding operation
20 structure by less than one thousand two hundred fifty feet.

21 3. a. An anaerobic digester system and an animal feeding
22 operation are under common ownership if a person holds an
23 interest in the anaerobic digester system and the animal feeding
24 operation as any of the following:

25 (1) A sole proprietor.

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

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

30 b. An interest in the anaerobic digester system and animal
31 feeding operation which is held directly or indirectly by the
32 person's spouse or dependent child shall be attributed to the
33 person.

34 4. a. An anaerobic digester system and animal feeding
35 operation are under common management if a person has significant

1 control of the management of the day-to-day operations of the
2 community anaerobic digester system and animal feeding operation.

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

6 Sec. 9. NEW SECTION. **459.706 Special terms — digester**
7 **structures.**

8 1. A digester structure that is used as a manure storage
9 structure and that is not subject to a digestion process shall
10 be conclusively presumed to be a manure storage structure.

11 2. Any digester structure must be covered. Notwithstanding
12 section 459.102, subsection 19, a cover must include organic or
13 inorganic material placed upon a digester structure as provided
14 by rules adopted by the department.

15 3. A digester structure is constructed when any of the
16 following occur:

17 a. Excavation is conducted for a proposed digester structure
18 or proposed expansion of an existing digester structure,
19 including excavation for the footings of the digester structure.

20 b. Forms for concrete are installed for a proposed digester
21 structure or the proposed expansion of an existing digester
22 structure.

23 c. Piping for the movement of manure is installed between
24 an animal feeding operation structure and a digester structure
25 proposed to be constructed or expanded.

26 4. a. This subchapter does not apply to a confinement
27 feeding operation structure regardless of whether manure
28 originating from the confinement feeding operation structure is
29 received by a digester processing structure.

30 b. This subchapter does not apply to an open feedlot
31 operation structure regulated under chapter 459A regardless of
32 whether effluent originating from the open feedlot operation
33 structure is received by a digester processing structure.

34 c. Placing a cover over a manure storage structure does not
35 constitute construction or expansion of a digester structure.

1 Sec. 10. NEW SECTION. **459.707 Special terms — manure and**
2 **digestates.**

3 For purposes of this subchapter, all of the following apply:

4 1. The term "manure" includes "effluent" as defined in
5 section 459A.102.

6 2. Digester feedstock or digestate is classified as dry only
7 if all of the following apply:

8 a. The digester feedstock or digestate does not flow
9 perceptibly under pressure.

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

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

16 3. A digester processing structure is limited to processing
17 manure as its primary source. The digester processing structure
18 may also process any of the following:

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

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

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

30 b. If a digestate is removed from a digester processing
31 structure and at any time is combined with manure, the digestate
32 shall be regulated as manure under this chapter, chapter 459A,
33 and chapter 459B, as applicable.

34 Sec. 11. NEW SECTION. **459.711 Digester structures —**
35 **construction permits.**

1 1. a. Except as provided in paragraph "b", a construction
2 permit must be issued prior to the construction of a digester
3 structure, including a digester feedstock storage structure, a
4 digester processing structure, and a liquid digestate storage
5 structure, as provided by rules adopted by the department
6 pursuant to this subchapter.

7 b. A person is not required to be issued a permit to
8 construct a digester structure if the anaerobic digester system
9 is owned by a research college as defined in section 459.318
10 conducting research activities.

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

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

19 4. The applicant for a construction permit must be the owner
20 of the anaerobic digester system and the person responsible for
21 the construction and operation of the anaerobic digester system.

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

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

28 7. An application for a construction permit must include all
29 of the following information:

30 a. The name and contact information of the owner and manager
31 of the anaerobic digester system identified with an animal
32 feeding operation under section 459.705 and the owner and manager
33 of the identified animal feeding operation.

34 b. Whether the digester structure is formed or unformed.

35 c. Information including but not limited to maps, drawings,

1 and aerial photos that clearly show the location of all of the
2 following:

3 (1) The location of the proposed or existing anaerobic
4 digester system, and any other proposed or existing digester
5 structures or digester stockpiles.

6 (2) The location of any proposed or existing animal feeding
7 operation structure that is part of the identified animal feeding
8 operation.

9 (3) 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 digester structure as prescribed by
12 rules adopted by the department.

13 d. An engineering report, construction plans, and
14 specifications prepared by a professional engineer or the natural
15 resources conservation service of the United States department
16 of agriculture. The professional engineer must certify that
17 the construction of the digester structure complies with the
18 construction design standards required in this subchapter.

19 8. The department must approve or disapprove an application
20 for a construction permit within sixty days following the
21 applicant's delivery of the application to the department.
22 However, the applicant may deliver a notice requesting a
23 continuance. Upon receipt of a notice, the time required for
24 the department to act upon the application shall be suspended
25 for the period provided in the notice of continuance, but for
26 not more than thirty days after the department's receipt of
27 the notice. The applicant may submit more than one notice.
28 However, the department may provide that an application is
29 terminated if no action is required by the department for one
30 year following delivery of the application to the department.
31 The department may also provide for a continuance when it
32 considers the application. The department shall provide notice
33 to the applicant of the continuance. The time required for the
34 department to act upon the application shall be suspended for the
35 period provided in the notice of continuance, but for not more

1 than thirty days. However, the department shall not provide for
2 more than one continuance.

3 Sec. 12. NEW SECTION. **459.712 Digester feedstock storage**
4 **structure — required storage.**

5 A person processing digester feedstock as part of an anaerobic
6 digester system must store the digester feedstock as follows:

7 1. Nonfarm digester feedstock must be stored in a liquid
8 digestate storage structure.

9 2. a. On-farm digester feedstock that is liquid must be
10 stored in a liquid digestate storage structure.

11 b. On-farm digester feedstock that is dry must be stored in
12 any of the following:

13 (1) A liquid digestate storage structure.

14 (2) A dry digestate feedstock stockpile.

15 3. A person may store digester feedstock in a permitted
16 covered manure storage structure according to rules adopted by
17 the department.

18 Sec. 13. NEW SECTION. **459.713 Digester feedstock storage**
19 **structure — construction permit.**

20 1. In addition to the applicable requirements in section
21 459.711, an application for a permit to construct a digester
22 feedstock storage structure must include all of the following
23 information:

24 a. A description of the type and amount of digester feedstock
25 to be stored in the digester feedstock storage structure.

26 b. The storage capacity of the digester feedstock storage
27 structure.

28 c. A description of the digester processing structure used to
29 process the received manure and digester feedstock.

30 d. Any other information determined relevant by the
31 department as provided by rules adopted by the department.

32 2. The applicant must submit a construction permit
33 application fee as part of the application. The fee shall
34 not exceed two hundred fifty dollars. Moneys collected by the
35 department from the payment of fees under this section shall be

1 deposited in the general fund of the state.

2 Sec. 14. NEW SECTION. **459.714 Digester processing structure**
3 **— construction permit.**

4 1. In addition to the applicable requirements in section
5 459.711, an application for a permit to construct a digester
6 processing structure must include all of the following:

7 a. A description of the type and amount of digester feedstock
8 that is capable of being processed in the digester processing
9 structure at any one time.

10 b. The processing capacity of the digester processing
11 structure.

12 c. Unless an anaerobic digester system and animal feeding
13 operation are under common ownership or management as described
14 in section 459.705, a description of the responsibilities of each
15 of the following:

16 (1) For an anaerobic digester system, the terms of an
17 agreement to receive manure from the animal feeding operation
18 with which the anaerobic digester system is identified under
19 section 459.705.

20 (2) For an animal feeding operation with which the anaerobic
21 digester system is identified under section 459.705, the terms of
22 an agreement to deliver manure to the anaerobic digester system.

23 d. (1) If digestate is to be applied to land subject to
24 a manure management plan, a copy of the plan and digestate
25 management supplement as required in section 459.733.

26 (2) If digestate is to be applied to land subject to a
27 nutrient management plan, a copy of the plan and digestate
28 management supplement as required in section 459.733.

29 e. Any other information determined relevant by the
30 department as provided by rules adopted by the department.

31 2. The application must include a plan for maintaining
32 records regarding all of the following as provided by rules
33 adopted by the department:

34 a. (1) The manure, digester feedstock, and inorganic
35 materials subject to processing.

1 (2) The digestate and biogas processed.

2 b. Procedures for the departmental inspection of the records.

3 3. The applicant must submit a construction permit

4 application fee as part of the application. The fee shall

5 not exceed two hundred fifty dollars. Moneys collected by the

6 department from the payment of fees under this section shall be

7 deposited in the general fund of the state.

8 Sec. 15. NEW SECTION. **459.715 Digestate — required**

9 **storage.**

10 A person processing manure or digester feedstock as part of
11 an anaerobic digester system must store the produced digestate as
12 follows:

13 1. Liquid digestate must be stored in a liquid digestate
14 storage structure.

15 2. Dry digestate must be stored in any of the following:

16 a. A liquid digestate storage structure.

17 b. A dry digestate feedstock stockpile.

18 Sec. 16. NEW SECTION. **459.716 Liquid digestate storage**

19 **structure — construction permit.**

20 1. In addition to the applicable requirements in section
21 459.711, an application for a permit to construct a liquid
22 digestate storage structure must include all of the following
23 information:

24 a. A description of the type and amount of digestate to be
25 stored in the liquid digestate storage structure.

26 b. The storage capacity of the liquid digestate storage
27 structure.

28 c. Any other information determined relevant by the
29 department as provided by rules adopted by the department.

30 2. The applicant must submit a construction permit

31 application fee as part of the application. The fee shall

32 not exceed two hundred fifty dollars. Moneys collected by the

33 department from the payment of fees under this section shall be

34 deposited in the general fund of the state.

35 Sec. 17. NEW SECTION. **459.717 Construction design standards**

1 — **formed digester structures.**

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

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

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

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

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

20 c. The depth of footings.

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

22 Sec. 18. NEW SECTION. **459.718 Special construction**
23 **restrictions — formed digester structures.**

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

29 Sec. 19. NEW SECTION. **459.719 Construction design standards**
30 **— unformed digester structures — inspections.**

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

1 separate regulations for each type of digester structure.

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

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

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

17 c. The unformed digester structure must be constructed to
18 minimize seepage into near-surface water sources.

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

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

10 (1) An adequate freeboard level.

11 (2) The seepage of a liquid from the unformed digester
12 structure.

13 (3) Erosion.

14 (4) Inadequate cover.

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

17 b. Paragraph "a" does not restrict the department from
18 conducting an inspection of an anaerobic digester system which is
19 not routine.

20 Sec. 20. NEW SECTION. **459.720 Special construction**
21 **restrictions — unformed digester structures.**

22 1. a. Except as provided in paragraph "b", a person shall
23 not construct an unformed digester structure on karst terrain.

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

28 2. A person shall not construct an unformed digester
29 structure in an area that drains into a known sinkhole.

30 3. A person shall not construct or expand an unformed manure
31 storage structure within an agricultural drainage well area as
32 provided in section 460.205.

33 Sec. 21. NEW SECTION. **459.721 Duty of removal.**

34 The owner of a digester structure that is part of an anaerobic
35 digester system that discontinues use shall remove all material

1 from the digester structure within six months following the date
2 that the anaerobic digester system is discontinued.

3 Sec. 22. NEW SECTION. **459.731 Distance requirements for**
4 **digester structures — air quality.**

5 A separation distance requirement applies between a digester
6 structure that is part of the anaerobic digester system and an
7 object or location described in section 459.202 as follows:

8 1. The anaerobic digester system and its identified
9 confinement feeding operation as provided in section 459.705
10 shall be deemed to be a single confinement feeding operation, and
11 the digester structure shall be deemed to be a manure storage
12 structure that is part of the identified confinement feeding
13 operation.

14 2. The separation distance shall be determined according
15 to the date that the digester structure was constructed or
16 expanded according to the relevant table in section 459.202,
17 subsections 1 through 5, subject to section 459.202, subsection
18 6, and subject to provisions allowing the expansion of prior
19 constructed confinement feeding operations under section 459.203
20 and exceptions to separation distance requirements in section
21 459.205.

22 Sec. 23. NEW SECTION. **459.732 Distance requirements for**
23 **digester structures — water quality.**

24 The same separation distance requirements and exceptions
25 to those separation distance requirements that apply to a
26 confinement feeding operation structure and an object or location
27 for which separation is required in section 459.310 apply to a
28 digester structure and that same object or location.

29 Sec. 24. NEW SECTION. **459.733 Digestate management — water**
30 **quality.**

31 If digestate is applied on land subject to a manure management
32 plan pursuant to section 459.312 or a nutrient management plan
33 pursuant to section 459A.208, the manure management plan or
34 nutrient management plan must be attached with a digestate
35 management supplement. The digestate management supplement must

1 include all of the following:

2 1. Calculations necessary to determine the land area required
3 for the application of the digestate and manure from a
4 confinement feeding operation or effluent from an open feedlot
5 operation.

6 2. The nutrient concentrations of the digestate.

7 Sec. 25. NEW SECTION. **459.734 Stockpiling dry digester**
8 **feedstock or dry digestate — air quality.**

9 1. A person may stockpile dry digester feedstocks or dry
10 digestate subject to this section.

11 2. a. Except as provided in paragraph "b", the person shall
12 not stockpile dry digester feedstock or dry digestate within one
13 thousand two hundred fifty feet from a residence not owned by
14 the titleholder of the land, a commercial enterprise, a bona fide
15 religious institution, an educational institution, or a public
16 use area.

17 b. The person may stockpile dry digester feedstock or dry
18 digestate within a separation distance required between the
19 stockpiled dry digestate and an object or location for which
20 separation is required under paragraph "a", if the titleholder
21 of the land benefiting from the separation distance requirement
22 executes a written waiver with the titleholder of the land where
23 the dry digester feedstock or dry digestate is stockpiled.

24 Sec. 26. NEW SECTION. **459.735 Stockpiling dry digestate —**
25 **water quality.**

26 A person may stockpile dry digestate subject to this section.

27 1. The person stockpiling dry digestate shall comply with
28 applicable requirements of the national pollutant discharge
29 elimination system pursuant to the federal Water Pollution
30 Control Act, 33 U.S.C. ch. 26, as amended, and 40 C.F.R. pts. 122
31 and 412.

32 2. a. The person shall not stockpile the dry digestate
33 within the following distances to a designated area unless the
34 dry digestate is maintained in a manner that will not allow
35 precipitation-induced runoff to drain from the dry digestate to

1 the designated area:

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

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

5 b. The person shall not stockpile dry digestate within two
6 hundred feet from a terrace tile inlet or surface tile inlet
7 unless the dry digestate is maintained in a manner that will
8 not allow precipitation-induced runoff to drain from the dry
9 digestate to the terrace tile inlet or surface tile inlet.

10 c. The person shall not stockpile dry digestate in a grassed
11 waterway, where water pools on the soil surface, or in any
12 location where surface water will enter the stockpiled dry
13 digestate.

14 d. The person shall not stockpile dry digestate on land
15 having a slope of more than three percent unless methods,
16 structures, or practices are implemented to contain the
17 stockpiled dry digestate, including but not limited to using hay
18 bales, silt fences, temporary earthen berms, or other effective
19 measures, and to prevent or diminish precipitation-induced runoff
20 from the stockpiled dry digestate.

21 3. A person shall remove stockpiled dry digestate and apply
22 it in the same manner as manure under subchapter III, including
23 but not limited to section 459.311, within six months after the
24 dry digestate is stockpiled.

25 Sec. 27. NEW SECTION. **459.736 Stockpiling dry digestate —**
26 **special requirements — water quality.**

27 A person may stockpile dry digestate on karst terrain or in an
28 alluvial aquifer in compliance with the following:

29 1. The person must stockpile the dry digestate at a location
30 where there is a vertical separation distance of at least five
31 feet between the bottom of the stockpiled dry digestate and the
32 underlying limestone, dolomite, or other soluble rock in karst
33 terrain or the underlying sand and gravel aquifer in an alluvial
34 aquifer area.

35 2. The dry digestate must be stockpiled on reinforced

1 concrete at least five inches thick.

2 Sec. 28. NEW SECTION. **459.737 Applying dry digestate on**
3 **snow-covered or frozen ground — water quality.**

4 A person may apply digestate on snow-covered or frozen
5 ground, except to the extent otherwise provided by applicable
6 requirements for manure in this chapter, including section
7 459.313A, or the national pollutant discharge elimination system
8 pursuant to the federal Water Pollution Control Act, 33
9 U.S.C. ch. 26, as amended, and 40 C.F.R. pts. 122 and 412.

10 Sec. 29. NEW SECTION. **459.811 Anaerobic digester systems —**
11 **violations.**

12 A person who violates section 459.731 or 459.734 shall be
13 subject to the same penalty as provided in section 459.602, and
14 a person who violates any other provision of subchapter VII shall
15 be subject to the same penalty as provided in section 459.603.
16 Any civil penalty and interest on a civil penalty collected under
17 this section shall be credited to the Iowa nutrient research fund
18 created in section 466B.46.

19 Sec. 30. NEW SECTION. **459A.209 Digestate application**
20 **supplement to nutrient management plan.**

21 If digestate is applied on land subject to a nutrient
22 management plan pursuant to section 459A.208, the nutrient
23 management plan must be attached with a digestate management
24 supplement as provided in section 459.733.

25 Sec. 31. CODE EDITOR DIRECTIVES.

26 1. The Code editor is directed to create new parts in new
27 subchapter VII of chapter 459 as follows:

- 28 a. Part 1 shall include sections 459.701 through 459.710.
29 b. Part 2 shall include sections 459.711 through 459.730.
30 c. Part 3 shall include sections 459.731 through 459.737.

31 2. The Code editor is directed to make the following
32 transfers to new subchapter VIII of chapter 459:

- 33 a. Section 459.601 to section 459.801.
34 b. Section 459.602 to section 459.802.
35 c. Section 459.603 to section 459.803.

1 d. Section 459.604 to section 459.804.

2 e. Section 459.605 to section 459.805.

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

6 Sec. 32. EFFECTIVE DATE. This Act, being deemed of immediate
7 importance, takes effect upon enactment.

8 Sec. 33. CONTINUED APPLICABILITY OF REGULATORY PRACTICE.

9 1. Notwithstanding the provisions of this Act, on and after
10 the effective date of this Act the department of natural
11 resources shall regulate activities related to the construction,
12 expansion, and operation of anaerobic digester systems, including
13 the storage and use of materials including manure and digester
14 feedstock in the digestion process, the processing of digestates,
15 and the storage and application of digestates, in substantially
16 the same manner as the department regulated those activities on
17 March 1, 2025.

18 2. This section is repealed on the publication date of the
19 edition of the Iowa administrative bulletin that includes a
20 statement by the director of the department of natural resources
21 that all rules required to effectively administer and enforce the
22 provisions of this Act have been adopted. The department shall
23 forward a copy of the statement to the Iowa Code editor prior to
24 its publication in the Iowa administrative bulletin.

25 EXPLANATION

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

28 GENERAL. This bill provides for the regulation of animal
29 feeding operations by the department of natural resources (DNR),
30 including the storage and application of manure originating from
31 such operations (Code chapter 459). An animal feeding operation
32 is an area or building in which agricultural animals (cattle,
33 swine, horses, sheep, chickens, turkeys, or fish) are confined
34 for 45 days or more in any 12-month period, and all associated
35 structures used for the storage of manure. A confinement feeding

1 operation is an animal feeding operation in which animals are
2 confined to areas which are totally roofed. Another form of
3 animal feeding operation is an open feedlot operation which
4 confines animals without a roof or a partial roof regulated by
5 DNR (Code chapter 459A) and a dry bedded confinement feeding
6 operation which confines animals in so-called hooped buildings
7 (Code chapter 459B).

8 BACKGROUND — REGULATORY REQUIREMENTS. Regulatory requirements
9 that apply to an animal feeding operation include a number
10 of requirements governing associated structures including a
11 confinement building housing agricultural animals, and various
12 types of structures storing manure which may be made of material
13 like concrete (formed) or that are primarily earthen (unformed)
14 and which may or may not be covered. The regulations apply
15 to manure in both a solid and liquid state. The regulations
16 also apply to certain manure storage structures, including a
17 storage structure that is anaerobic, meaning liquid manure is
18 stored in a manner that utilizes bacteria to break down organic
19 matter in the absence of oxygen. This process creates a biogas
20 which is a type of renewable fuel as well as a digestate
21 which is a source of nutrients for application on cropland.
22 Code chapter 459 includes a number of subchapters, including
23 those that regulate air quality and water quality. In both
24 cases, the regulations require separation distance requirements
25 between an animal feeding operation structure, including a manure
26 storage structure, and certain objects and locations. For
27 purposes of air quality regulations, these objects or locations
28 include a residence, commercial enterprise, a bona fide religious
29 institution, an educational institution, a public use area,
30 or a public road. Air quality regulations impose greater
31 separation distance requirements based on the date of initial
32 construction and size of the confinement feeding operation. Air
33 quality regulations also impose separation distance requirements
34 between those locations where manure is applied or stockpiled
35 and those same objects or locations. Water quality regulations

1 include requirements for the issuance of construction permits,
2 and construction design standards for manure storage structures.
3 Water quality requirements also impose separation distances
4 between animal feeding operation structures or dry manure
5 stockpiles and certain water sources. A person applying manure
6 originating from an animal feeding operation must file a plan
7 with DNR that demonstrates how manure is to be applied in a
8 manner that preserves water quality. For confinement feeding
9 operations, the plan is referred to as a manure management plan
10 (MMP) and for open feedlots the plan is referred to as a nutrient
11 management plan (NMP).

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

19 BILL'S PROVISIONS — GENERAL. The bill provides for the
20 regulation of an anaerobic digester system which must include
21 a digester processing structure that primarily processes manure
22 but may also process other organic feedstocks, referred to as
23 digester feedstock. The structure is used to produce a biogas
24 which is a source of renewable fuel and a digestate which is a
25 nutrient-rich material that may be applied to cropland in a dry
26 or liquid state.

27 BILL'S PROVISIONS — ANAEROBIC DIGESTER SYSTEM. An anaerobic
28 digester system is comprised of three steps. The first step
29 involves the storing of organic material (manure and other
30 organic feedstock) in a dry or liquid state awaiting digestion.
31 Manure is stored in a manure storage structure unless it is dry
32 and temporarily stored as a stockpile. Liquid digester feedstock
33 is stored in a digester feedstock storage structure. All nonfarm
34 digester feedstock must be stored in a digester feedstock storage
35 structure. The second step involves digesting the organic

1 material in a structure designed for that purpose. The third
2 step involves storing and applying the processed organic material
3 referred to as digestate. Dry digestate may be stockpiled
4 and liquid digestate must be contained in a liquid digestate
5 storage structure. The scope of the bill is limited to the
6 on-farm construction, including expansion, of these structures,
7 the on-farm use of stockpiles, and the on-farm application of
8 digestates.

9 BILL'S PROVISIONS — TERMINOLOGY. The bill provides that an
10 anaerobic digester system must be identified with an animal
11 feeding operation. Identification occurs only if the anaerobic
12 digester system and the animal feeding operation are either
13 (1) under common ownership or management or (2) adjacent.
14 In order for an enforcement action to proceed against the
15 anaerobic digester system and its identified animal feeding
16 operation for the same violation, the anaerobic digester system
17 and the identified animal feeding operation must be under common
18 ownership or management and be adjacent. Any reference in the
19 bill to a digester structure means a covered digester feedstock
20 storage structure, a covered digester processing structure, or
21 a covered liquid digestate storage structure. Any reference
22 to a digester stockpile refers to a dry digester feedstock
23 stockpile or a dry digestate stockpile. Any reference to manure
24 includes manure stored and discharged from a confinement feeding
25 operation and effluent stored and discharged from an open feeding
26 operation structure. A digester feedstock or digestate is
27 classified as dry only if digester feedstock or digestate does
28 not flow perceptibly under pressure, is not capable of being
29 transported through a mechanical pumping device designed to move
30 a liquid, and consists of molecules that do not flow freely among
31 themselves. A digester processing structure must process manure
32 as its primary source. A digestate is not to be regulated as
33 manure, unless it is combined with manure.

34 BILL'S PROVISIONS — CONSTRUCTION OF STRUCTURES. The bill
35 provides that a construction permit must be issued by DNR prior

1 to the construction of a digester structure. The requirements
2 are based on construction permit requirements for manure storage
3 structures. The application must include an engineering report,
4 construction plans, and specifications prepared by a professional
5 engineer or the natural resources conservation service of the
6 United States department of agriculture. An application for
7 a digester feedstock storage structure must include information
8 regarding its capacity and the digester feedstock to be stored.
9 An application for the digester processing structure must
10 include information regarding the ownership or management of its
11 identified animal feeding operation, and the legal relationship
12 between the two entities. It must also include information
13 regarding how digestate is to be applied, and how records are
14 to be maintained for DNR inspection. The bill also provides for
15 construction design standards for a formed or unformed digester
16 structure. The construction design standards must be based on
17 uniform standards such as available standards promulgated by
18 ASTM (American society for testing and materials) international.
19 The design standards for unformed digester feedstock storage
20 structures must account for the use of linings and erosion
21 controls.

22 BILL'S PROVISIONS — AIR QUALITY — SEPARATION DISTANCE
23 REQUIREMENTS. The bill provides separation distance requirements
24 as part of air quality and water quality standards. For air
25 quality standards, the separation distance requirements assume
26 the anaerobic digester system and the identified confinement
27 feeding operation are part of a single confinement feeding
28 operation. The separation distance is determined according to
29 the date that the digester structure was constructed or expanded
30 subject to provisions allowing the expansion of prior constructed
31 confinement feeding operations and exceptions to those separation
32 distance requirements.

33 BILL'S PROVISIONS — WATER QUALITY — MANURE MANAGEMENT. The
34 bill provides that if digestate is applied on land subject to an
35 MMP or NMP, such plan must be attached with a second document

1 referred to as a digestate management supplement. The digestate
2 management supplement must include information necessary to
3 determine the land area required for the application of the
4 digestate and the nutrient concentrations of the digestate.

5 BILL'S PROVISIONS — WATER QUALITY — SEPARATION DISTANCE
6 REQUIREMENTS. The bill provides that the separation distance
7 requirements and exceptions to those separation distance
8 requirements that apply to a confinement feeding operation
9 structure and an object or location also apply to a digester
10 structure and that same object or location. The bill allows
11 a person to stockpile dry digester feedstocks or dry digestate
12 in the same manner as manure, subject to the same separation
13 distance requirements as manure. The bill requires that a person
14 must remove stockpiled dry digestate and apply it in the same
15 manner as manure.

16 BILL'S PROVISIONS — WATER QUALITY — SPECIAL
17 REQUIREMENTS. The bill includes special requirements for
18 stockpiling dry digestate on certain karst terrain that are
19 the same as requirements for stockpiling dry manure. The bill
20 also provides for applying dry digestate on snow-covered or
21 frozen ground in compliance with state and federal water quality
22 standards.

23 BILL'S PROVISIONS — CIVIL PENALTIES. The bill's provisions
24 that require separation distances between a digester structure
25 or a digester stockpile and a residence, commercial enterprise,
26 bona fide religious institution, or educational institution are
27 subject to a civil penalty for a violation of air quality
28 regulations. All other provisions of the bill are subject to a
29 civil penalty for a violation of water quality regulations.

30 BILL'S PROVISIONS — EFFECTIVE DATE. The bill takes effect
31 upon enactment.

32 BILL'S PROVISIONS — APPLICABILITY OF REGULATORY PRACTICE. The
33 bill requires DNR to regulate activities related to the
34 construction, expansion, and operation of anaerobic digester
35 systems in substantially the same manner DNR regulated those

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1 activities on March 1, 2025, until the director of DNR publishes
2 a statement in the Iowa administrative bulletin stating that
3 all rules required to effectively administer and enforce the
4 provisions of the bill have been adopted.

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