

**Senate File 2270 - Introduced**

SENATE FILE 2270

BY STAED, QUIRMBACH, and BENNETT

**A BILL FOR**

- 1 An Act regulating animal feeding operations, including rulemaking
- 2 requirements, and making penalties applicable.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 455B.173, subsection 2, Code 2026, is  
2 amended to read as follows:

3 2. Establish, modify, or repeal water quality standards,  
4 pretreatment standards, and effluent standards in accordance with  
5 the provisions of this chapter and chapters 459, 459A, and 459B.

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

11 b. (1) If the federal environmental protection agency has  
12 promulgated an effluent standard or pretreatment standard  
13 pursuant to section 301, 306, or 307 of the federal Water  
14 Pollution Control Act, a pretreatment or effluent standard  
15 adopted pursuant to this section shall not be more stringent  
16 than the federal effluent or pretreatment standard for such  
17 source. This section ~~may~~ does not preclude the establishment  
18 of a more restrictive effluent limitation in the permit for  
19 a particular point source if the more restrictive effluent  
20 limitation is necessary to meet water quality standards, the  
21 establishment of an effluent standard for a source or class of  
22 sources for which the federal environmental protection agency  
23 has not promulgated standards pursuant to section 301, 306, or  
24 307 of the federal Water Pollution Control Act. Except as  
25 required by federal law or regulation, the commission shall not  
26 adopt an effluent standard more stringent with respect to any  
27 pollutant than is necessary to reduce the concentration of that  
28 pollutant in the effluent to the level due to natural causes,  
29 including the mineral and chemical characteristics of the land,  
30 existing in the water of the state to which the effluent is  
31 discharged. Notwithstanding any other provision of this part  
32 1 of subchapter III ~~or chapter 459, subchapter III,~~ any new  
33 source, the construction of which was commenced after October  
34 18, 1972, and which was constructed as to meet all applicable  
35 standards of performance for the new source or any more stringent

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

8 (2) Rules adopted to implement subparagraph (1) are not  
9 subject to section 17A.7, subsection 2 or 3.

10 ~~c. Rules adopted to implement this subsection are not subject~~  
11 ~~to section 17A.7, subsection 2 or 3~~ Paragraph "b" shall not  
12 preclude the commission from adopting rules under sections  
13 459.311 and 459A.410 that provide more restrictive effluent  
14 limitations than required by the federal environmental protection  
15 agency pursuant to section 301, 306, or 307 of the federal Water  
16 Pollution Control Act.

17 Sec. 2. Section 459.103, Code 2026, is amended to read as  
18 follows:

19 **459.103 General authority — commission and department.**

20 1. The commission shall establish by rule adopted pursuant  
21 to chapter 17A, requirements relating to the construction,  
22 including expansion, or operation of animal feeding operations,  
23 including related animal feeding operation structures. The  
24 requirements shall include but are not limited to minimum  
25 manure control, the issuance of permits, and departmental  
26 investigations, inspections, and testing. The commission shall  
27 establish by rule adopted pursuant to chapter 17A requirements  
28 relating to the storage, treatment, and application of manure  
29 and other effluent originating from animal feeding operations as  
30 necessary to preserve and enhance water quality in this state.

31 2. Any provision referring generally to compliance with  
32 the requirements of this chapter as applied to animal feeding  
33 operations also includes compliance with requirements in rules  
34 adopted by the commission pursuant to this section, orders issued  
35 by the department as authorized under this chapter, and the terms

1 and conditions applicable to licenses, certifications, permits,  
2 or ~~manure management~~ plans required under subchapter III, chapter  
3 459A, and chapter 459B. However, for purposes of approving or  
4 disapproving an application for a construction permit as provided  
5 in section 459.304, conditions for the approval of an application  
6 based on results produced by a master matrix are not requirements  
7 of this chapter until the department approves or disapproves an  
8 application based on those results.

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

11 Sec. 3. Section 459.311, subsection 2, Code 2026, is amended  
12 to read as follows:

13 2. a. Notwithstanding subsection 1, a confinement feeding  
14 operation that is a concentrated animal feeding operation  
15 as defined in 40 C.F.R. §122.23(b) shall comply with  
16 applicable national pollutant discharge elimination system permit  
17 requirements as provided in the federal Water Pollution Control  
18 Act, 33 U.S.C. ch. 26, as amended, and 40 C.F.R. pts. 122 and  
19 412, pursuant to rules that shall be adopted by the commission.  
20 ~~Any rules adopted pursuant to this subsection shall be no more~~  
21 ~~stringent than requirements under the federal Water Pollution~~  
22 ~~Control Act, 33 U.S.C. ch. 26, as amended, and 40 C.F.R. pts. 122~~  
23 ~~and 412.~~

24 b. The applicable national pollutant discharge elimination  
25 system permit requirements described in paragraph "a" are minimum  
26 standards. The commission shall adopt rules that provide  
27 more restrictive requirements as necessary to regulate the  
28 storage, treatment, and application of manure and other effluent  
29 originating from a confinement feeding operation in a manner that  
30 ensures waters of the state attain water quality standards.

31 Sec. 4. Section 459A.104, subsection 4, Code 2026, is amended  
32 by striking the subsection.

33 Sec. 5. Section 459A.401, subsection 2, Code 2026, is amended  
34 to read as follows:

35 2. a. Notwithstanding subsection 1, an open feedlot

1 operation that is a concentrated animal feeding operation shall  
2 comply with applicable NPDES permit requirements as provided in  
3 the federal Water Pollution Control Act, pursuant to rules that  
4 shall be adopted by the commission. ~~Any rules adopted pursuant~~  
5 ~~to this subsection shall be no more stringent than requirements~~  
6 ~~under the federal Act.~~

7 b. The applicable NPDES permit requirements described in  
8 paragraph "a" are minimum standards. The commission shall adopt  
9 rules that provide more restrictive requirements as necessary to  
10 regulate the storage, treatment, and application of manure and  
11 other effluent originating from an open feedlot operation in a  
12 manner that ensures waters of the state attain water quality  
13 standards.

14 EXPLANATION

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

17 BACKGROUND. An animal feeding operation (AFO) is regulated  
18 under several Code chapters, including Code chapter 455B,  
19 subchapter III, governing water quality, and Code chapter 459,  
20 subchapter III, governing all AFOs, which includes provisions  
21 regulating confinement feeding operations, and Code chapter  
22 459A, which includes selected provisions regulating open feedlot  
23 operations. The Code chapters are administered and enforced by  
24 the department of natural resources under the oversight of the  
25 environmental protection commission (EPC) (Code chapter 455A).

26 BACKGROUND — ANIMAL FEEDING OPERATIONS. An AFO is an area in  
27 which agricultural animals are confined for 45 days or more in  
28 any 12-month period, and all associated structures used for the  
29 storage of manure. A confinement feeding operation maintains  
30 animals in roofed buildings and stores liquid manure in a formed  
31 or unformed structure (see Code section 459.102). An open  
32 feedlot operation is an unroofed or partially roofed facility  
33 without crop, vegetation, or forage growth or residue cover  
34 (Code section 459A.102). Manure from an open feedlot operation  
35 includes solids and effluent that are usually not stored in a

1 structure associated with a confinement feeding operation.

2 BACKGROUND — STATE AND FEDERAL LAW. Both Code chapters 459  
3 and 459A regulate the application of manure and other effluent  
4 originating from an operation, including application close to  
5 water sources. AFOs are also regulated under federal law by the  
6 United States environmental protection agency, which administers  
7 and enforces the national pollutant discharge elimination system  
8 program (NPDES program) pursuant to the federal Water Pollution  
9 Control Act of 1972 (33 U.S.C. ch. 26, as amended, and 40  
10 C.F.R. pts. 122 and 412). EPA contracts with DNR to administer  
11 and enforce the NPDES program. Under the NPDES program, AFOs are  
12 referred to as concentrated animal feeding operations (CAFOs).  
13 The purpose of both state and federal regulation is to prevent  
14 manure or effluent from contaminating groundwater and surface  
15 water. In compliance with federal law, manure from a CAFO cannot  
16 be disposed of or discharged in a manner that will cause surface  
17 water or groundwater pollution (Code section 459.311). However,  
18 in all cases involving the disposal of manure and effluent  
19 originating from an AFO, rules adopted by the EPC can be no more  
20 stringent than federal law (Code sections 455B.173, 459.311, and  
21 459A.401).

22 BILL'S PROVISIONS. This bill eliminates provisions that  
23 prevent EPC rules regulating manure or effluent originating from  
24 an AFO from being more stringent than federal law. The bill  
25 provides that the NPDES program establishes minimum requirements.  
26 The EPC is required to adopt rules that provide more restrictive  
27 requirements as necessary to regulate the storage, treatment,  
28 and application of manure and other effluent originating from  
29 an AFO in a manner that preserves and enhances water quality in  
30 the state. The bill also eliminates provisions that exempt EPC  
31 rules regulating AFOs from being subject to the ordinary periodic  
32 comprehensive administrative review of agency rules (Code section  
33 17A.7(2) or (3)).

34 APPLICABLE PENALTIES. A person who is in violation of the  
35 bill's provisions is subject to a civil penalty under Code

1 chapter 459 or 459A. A person who violates Code chapter 459,  
2 subchapter III, is subject to the administrative assessment of  
3 a civil penalty of up to \$10,000 for each day of a violation  
4 (Code section 459.603 referring to Code section 455B.109) or  
5 the judicial assessment of a civil penalty of up to \$5,000 for  
6 each day of a violation (Code section 459.603 referring to Code  
7 section 455B.191). A person who violates Code chapter 459A is  
8 subject to the same judicial assessment (Code section 459A.502  
9 referring to Code section 455B.191).

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