

House File 2419 - Introduced

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BY CROKEN and LEVIN

A BILL FOR

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

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
5 with the provisions of this chapter and chapters 459, 459A, and
6 459B.

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

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

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

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

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

19 Sec. 2. Section 459.103, Code 2026, is amended to read as
20 follows:

21 **459.103 General authority — commission and department.**

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

34 2. Any provision referring generally to compliance with
35 the requirements of **this chapter** as applied to animal feeding

1 operations also includes compliance with requirements in
 2 rules adopted by the commission pursuant to [this section](#),
 3 orders issued by the department as authorized under this
 4 chapter, and the terms and conditions applicable to licenses,
 5 certifications, permits, or ~~manure management~~ plans required
 6 under [subchapter III](#), chapter 459A, and chapter 459B. However,
 7 for purposes of approving or disapproving an application for a
 8 construction permit as provided in [section 459.304](#), conditions
 9 for the approval of an application based on results produced
 10 by a master matrix are not requirements of [this chapter](#) until
 11 the department approves or disapproves an application based on
 12 those results.

13 ~~3. Rules adopted to implement [this chapter](#) are not subject~~
 14 ~~to [section 17A.7, subsection 2 or 3](#).~~

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

17 2. a. Notwithstanding [subsection 1](#), a confinement feeding
 18 operation that is a concentrated animal feeding operation as
 19 defined in [40 C.F.R. §122.23\(b\)](#) shall comply with applicable
 20 national pollutant discharge elimination system permit
 21 requirements as provided in the federal Water Pollution Control
 22 Act, 33 U.S.C. ch. 26, as amended, and 40 C.F.R. pts. 122 and
 23 412, pursuant to rules that shall be adopted by the commission.
 24 ~~Any rules adopted pursuant to this subsection shall be no more~~
 25 ~~stringent than requirements under the federal Water Pollution~~
 26 ~~Control Act, 33 U.S.C. ch. 26, as amended, and 40 C.F.R. pts.~~
 27 ~~122 and 412.~~

28 b. The applicable national pollutant discharge elimination
 29 system permit requirements described in paragraph "a" are
 30 minimum water quality standards. The commission shall adopt
 31 rules that provide more restrictive requirements as necessary
 32 to regulate the storage, treatment, and application of manure
 33 and other effluent originating from a confinement feeding
 34 operation.

35 Sec. 4. Section 459A.104, subsection 4, Code 2026, is

1 amended by striking the subsection.

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

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

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

17 EXPLANATION

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

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

30 BACKGROUND — ANIMAL FEEDING OPERATIONS. An AFO is an area
31 in which agricultural animals are confined for 45 days or more
32 in any 12-month period, and all associated structures used
33 for the storage of manure. A confinement feeding operation
34 maintains animals in roofed buildings and stores liquid manure
35 in a formed or unformed structure (see Code section 459.102).

1 An open feedlot operation is an unroofed or partially roofed
2 facility without crop, vegetation, or forage growth or residue
3 cover (Code section 459A.102). Manure from an open feedlot
4 operation includes solids and effluent that are usually not
5 stored in a structure associated with a confinement feeding
6 operation.

7 BACKGROUND — STATE AND FEDERAL LAW. Both Code chapters 459
8 and 459A regulate the application of manure and other effluent
9 originating from an operation, including application close
10 to water sources. AFOs are also regulated under federal law
11 by the United States environmental protection agency, which
12 administers and enforces the national pollutant discharge
13 elimination system program (NPDES program) pursuant to the
14 federal Water Pollution Control Act of 1972 (33 U.S.C. ch. 26,
15 as amended, and 40 C.F.R. pts. 122 and 412). EPA contracts
16 with DNR to administer and enforce the NPDES program. Under
17 the NPDES program, AFOs are referred to as concentrated animal
18 feeding operations (CAFOs). The purpose of both state and
19 federal regulation is to prevent manure or effluent from
20 contaminating groundwater and surface water. In compliance
21 with federal law, manure from a CAFO cannot be disposed of
22 or discharged in a manner that will cause surface water or
23 groundwater pollution (Code section 459.311). However, in all
24 cases involving the disposal of manure and effluent originating
25 from an AFO, rules adopted by the EPC can be no more stringent
26 than federal law (Code sections 455B.173, 459.311, and
27 459A.401).

28 BILL'S PROVISIONS. This bill eliminates provisions that
29 prevent EPC rules regulating manure or effluent originating
30 from an AFO from being more stringent than federal law. The
31 bill provides that the NPDES program establishes minimum
32 requirements. The EPC is required to adopt rules that provide
33 more restrictive requirements as necessary to regulate the
34 storage, treatment, and application of manure and other
35 effluent originating from an AFO in a manner that preserves and

1 enhances water quality in the state. The bill also eliminates
2 provisions that exempt EPC rules regulating AFOs from being
3 subject to the ordinary periodic comprehensive administrative
4 review of agency rules (Code section 17A.7(2) or (3)).

5 APPLICABLE PENALTIES. A person who is in violation of the
6 bill's provisions is subject to a civil penalty under Code
7 chapter 459 or 459A. A person who violates Code chapter 459,
8 subchapter III, is subject to the administrative assessment of
9 a civil penalty of up to \$10,000 for each day of a violation
10 (Code section 459.603 referring to Code section 455B.109) or
11 the judicial assessment of a civil penalty of up to \$5,000 for
12 each day of a violation (Code section 459.603 referring to Code
13 section 455B.191). A person who violates Code chapter 459A is
14 subject to the same judicial assessment (Code section 459A.502
15 referring to Code section 455B.191).