HOUSE FILE 521
BY STAED

A BILL FOR

1 An Act providing for animal feeding operations, including by
2 providing for the zoning of structures, the regulation of
3 structures and operations, providing for property taxes,
4 making penalties applicable, and including effective date
5 and retroactive applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
Section 1. Section 331.304A, subsection 2, Code 2019, is amended to read as follows:

2. a. A county shall not adopt or enforce county legislation regulating a condition or activity occurring on land used for the production, care, feeding, or housing of animals unless the regulation of the production, care, feeding, or housing of animals is expressly authorized by state law. County legislation adopted in violation of this section is void and unenforceable and any enforcement activity conducted in violation of this section is void. A condition or activity occurring on land used for the production, care, feeding, or housing of animals includes but is not limited to the construction, operation, or management of an animal feeding operation, an animal feeding operation structure, or aerobic structure, and to the storage, handling, or application of manure or egg washwater.

b. Paragraph “a” does not apply to a confinement feeding operations siting ordinance as provided in section 459.305A.

Sec. 2. Section 335.2, Code 2019, is amended to read as follows:

335.2 Farms exempt.

1. Except to the extent required to implement section 335.27, no ordinance adopted under this chapter applies to land, farm houses, farm barns, farm outbuildings or other buildings or structures which are primarily adapted, by reason of nature and area, for use for agricultural purposes, while so used. However, the ordinances may apply to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of any river or stream.

2. Subsection 1 does not apply to a confinement feeding operations siting ordinance as provided in section 459.305A.

Sec. 3. Section 427.1, subsection 19, paragraph e, subparagraph (1), Code 2019, is amended to read as follows:

(1) For the purposes of this subsection, “pollution-control property”: 

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(a) "Pollution-control property" means personal property or improvements to real property, or any portion thereof, used primarily to control or abate pollution of any air or water of this state or used primarily to enhance the quality of any air or water of this state and "recycling property" means personal property or improvements to real property or any portion of the property, used primarily in the manufacturing process and resulting directly in the conversion of waste glass, waste plastic, wastepaper products, waste paperboard, or waste wood products into new raw materials or products composed primarily of recycled material. In the event such property shall also serve other purposes or uses of productive benefit to the owner of the property, only such portion of the assessed valuation thereof as may reasonably be calculated to be necessary for and devoted to the control or abatement of pollution, to the enhancement of the quality of the air or water of this state, or for recycling shall be exempt from taxation under this subsection.

(b) "Pollution-control property" or "recycling property" does not include property used for purposes related to the care and feeding of livestock as defined in section 169C.1, except for property which is eligible for a family farm tax credit as provided in chapter 425A. The exemption calculated for pollution-control property or recycling property used for the purpose of care and feeding of livestock and which is eligible for a family farm tax credit is limited to the first one hundred thousand dollars of the property's assessed value.

Sec. 4. Section 459.102, subsection 14, Code 2019, is amended to read as follows:

14. "Confinement feeding operation" means an animal feeding operation in which animals are confined to areas which are totally or partially roofed.

Sec. 5. Section 459.102, Code 2019, is amended by adding the following new subsections:

NEW SUBSECTION. 17A. "Contract livestock facility" means
1 the same as defined in section 202.1.
2 NEW SUBSECTION. 17B. “Contract producer” means the same as
defined in section 202.1.
3 NEW SUBSECTION. 17C. “Contractor” means the same as defined
in section 202.1.
4 NEW SUBSECTION. 29A. “Formed egg washwater storage
structure” means an egg washwater storage structure that has
walls and a floor constructed of concrete, concrete block,
wood, steel, or similar materials.
5 NEW SUBSECTION. 42A. “Production contract” means the same
as defined in section 202.1.
6 NEW SUBSECTION. 57A. “Unformed egg washwater storage
structure” means an egg washwater storage structure other than
a formed egg washwater storage structure.
7 Sec. 6. Section 459.103, subsection 2, Code 2019, is amended
to read as follows:
8 2. Any provision referring generally to compliance with
9 the requirements of this chapter as applied to animal feeding
10 operations also includes compliance with requirements in
11 rules adopted by the commission pursuant to this section,
12 orders issued by the department as authorized under this
13 chapter, and the terms and conditions applicable to licenses,
certifications, permits, or manure management plans required
14 under subchapter III. However, for purposes of approving
15 or disapproving an application for a construction permit as
16 provided in section 459.304, conditions for the approval of an
17 application based on results produced by a master matrix are
18 not requirements of this chapter until the department approves
19 or disapproves an application based on those results.
20 Sec. 7. NEW SECTION. 459.104 Confinement feeding operations
21 — impaired waters.
22 1. As used in this section, unless the context otherwise
23 requires:
24 a. “Section 303(d) list” means the same as defined in
25 section 455B.171.
b. "Subwatershed" means the same as defined in section 466B.2.

2. a. A person shall not construct, including expand, a confinement feeding operation structure, if the confinement feeding operation structure would be located in a subwatershed that drains into a water body or water segment that has been placed on the department's section 303(d) list, regardless of whether a total maximum daily load for that water body or water segment has been developed.

b. The department shall not file or approve an application for a permit to construct, including expand, a confinement feeding operation structure, if the person could not construct the confinement feeding operation structure under paragraph "a".

3. Subsection 2 does not apply to prevent a person from constructing, including expanding, a confinement feeding operation structure as otherwise provided in this subchapter, if the confinement feeding operation structure is located in a subwatershed that drains into a water body or water segment, and the department does all of the following:

a. Removes the water body or water segment from the section 303(d) list.

b. Determines that the water body or water segment is classified for a primary contact recreational use as provided in 567 IAC 61.3.

4. Nothing in this section shall prohibit a person from completing construction, including expansion, of a confinement feeding operation structure, if prior to the effective date of this Act, the person has begun construction, including expansion, of the confinement feeding operation structure as otherwise allowed under this chapter.

Sec. 8. NEW SECTION. 459.201A Reporting requirement — animals maintained at a confinement feeding operation.

The department may require the owner or operator of a confinement feeding operation to submit one or more animals...
confined reports that contain information regarding the number of animals maintained at the confinement feeding operation in a manner and during a time period that the department determines is relevant. The report shall present the information in a manner that converts the number of animals maintained to equivalent animal units.

Sec. 9. NEW SECTION. 459.301A Reporting requirement — animals maintained at a confinement feeding operation.

The department may require the owner or operator of a confinement feeding operation to submit one or more animals confined reports that contain information regarding the number of animals maintained at the confinement feeding operation in a manner and during a time period that the department determines is relevant. The report shall present the information in a manner that converts the number of animals maintained to equivalent animal units.

Sec. 10. Section 459.303, subsection 1, paragraph a, Code 2019, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (3) A confinement feeding operation structure if constructed or expanded would exist within an area of the state which the department classifies as prone to the formation of sinkholes.

Sec. 11. Section 459.303, subsection 2, Code 2019, is amended by striking the subsection.

Sec. 12. Section 459.303, subsection 3, paragraph b, Code 2019, is amended to read as follows:

b. A manure management plan as provided in section 459.312 and, a manure management plan filing fee as provided in section 459.400, and evidence that a surety bond has been furnished to the department as provided in section 459.312.

Sec. 13. Section 459.303, subsection 3, Code 2019, is amended by adding the following new paragraphs:

NEW PARAGRAPH. e. A statement acknowledging or denying that the applicant and a contractor are parties to a production contract, or are negotiating to be parties to a production contract.
contract. If the statement is an acknowledgment, the application shall include all of the following:

(1) The name and mailing address of the contractor.
(2) Whether the applicant is a contract producer or is negotiating to become a contract producer.
(3) Whether the confinement feeding operation structure if constructed would be part of a confinement feeding operation that may become a contract livestock facility.

NEW PARAGRAPH. f. A brief summary of the application completed on a form prepared by the department in consultation with the Iowa state association of counties. The completed form shall at least include all of the following:

(1) The name and mailing address of the applicant.
(2) The type of animal to be maintained at the confinement feeding operation classified by animal unit, if all proposed confinement feeding operation structures were constructed.
(3) The maximum number of animals and the maximum number of animal units to be maintained at the confinement feeding operation, if all proposed confinement feeding operation structures were constructed.
(4) A brief description of the location, type, and size of each confinement feeding operation structure proposed to be constructed.

NEW PARAGRAPH. g. A list containing the name and last known mailing address of each person holding legal title to land located within two miles of the confinement feeding operation structure proposed to be constructed. The names and mailing addresses may be the same as those shown in the records of the county auditor of the county located within two miles of the confinement feeding operation structure proposed to be constructed.

Sec. 15. Section 459.303, Code 2019, is amended by adding the following new subsection:
NEW SUBSECTION. 4A. If the application is for a permit to expand a confinement feeding operation, the department may require the applicant to submit an animals confined report as described in section 459.301A.

Sec. 16. Section 459.303, subsection 7, Code 2018, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The department shall not issue a permit to a person under this section if a surety bond furnished to the department under section 459.312 has expired, been canceled, been suspended, or been revoked. This paragraph applies to a permit for the construction of a confinement feeding operation structure regardless of whether the confinement feeding operation structure is part of a confinement feeding operation described in the bond.

Sec. 17. NEW SECTION. 459.305A County control of siting.

1. A county may adopt a confinement feeding operations siting ordinance. The purpose of the ordinance is to allow the county board of supervisors to approve or disapprove the location of any construction, including expansion, of a confinement feeding operation within the county.

2. A person shall not construct a confinement feeding operation in a county that has adopted a confinement feeding operations siting ordinance until the county board of supervisors has approved the location of the confinement feeding operation in a manner and according to procedures required in the ordinance.

a. The county board of supervisors may subject its approval to conditions for the construction or operation of the confinement feeding operation or the application of manure originating from the confinement feeding operation.

b. A person required to be issued a permit by the department for the construction of a confinement feeding operation as provided in section 459.303 must be issued such permit prior to obtaining approval by the county board of supervisors.

c. A county board of supervisors may base its approval or
1 disapproval on factors other than factors considered by the
department when approving or disapproving an application to
construct the confinement feeding operation.
3. A county may adopt county legislation necessary to
effectuate the purposes of this section notwithstanding section
331.304A or 335.2.
Sec. 18. Section 459.307, subsection 4, Code 2019, is
amended by striking the subsection.
Sec. 19. Section 459.308, subsection 3, Code 2019, is
amended by striking the subsection.
Sec. 20. NEW SECTION. 459.309 Manure storage structures —
notice of structural failure.
1. The owner or operator of a confinement feeding operation
shall notify the department of the structural failure of a
manure storage structure that is part of the confinement
feeding operation, regardless of whether it is a failure in
design or construction or whether such failure may result in a
violation of section 459.311.
2. The owner or operator of a confinement feeding operation
shall notify the department of a probable immediate structural
failure of a manure storage structure that is part of a
confinement feeding operation, as described in subsection 1.
The determination of a probable immediate structural failure
shall be based on factors established by the department which
may include any of the following:
 a. An observation by the owner or operator of the
confinement feeding operation that the integrity of the
structure has been compromised.
 b. An observation by the owner or operator of the
confinement feeding operation that a discharge from the manure
storage structure appears to have occurred.
 c. A verbal or written report made to the owner or operator
of the confinement feeding operation by a professional engineer
based on the professional engineer’s inspection of the manure
storage structure.
The department shall adopt rules providing notice procedures, including when and how the owner or operator of the confinement feeding operation is required to contact the department. The department may provide for different procedures based on factors established by the department that quantify the level of threat to water quality resulting from a structural failure as described in subsection 1 or a probable immediate structural failure as described in subsection 2. The factors may include but are not limited to any of the following:

(1) The type and size of the confinement feeding operation structure.

(2) The proximity of any discharge or probable immediate discharge to the groundwater, a major water source, or a high-quality water source.

(3) Whether the confinement feeding operation structure is located on karst terrain.

b. The department may provide for different procedures based on whether the structural failure has caused or may cause injury or suffering to an animal maintained in a confinement building that is associated with a manure storage structure.

Sec. 21. NEW SECTION. 459.309 Construction and expansion of animal feeding operation structures — karst terrain or terrain that drains into a known sinkhole.

1. A person shall not construct or expand an animal feeding operation structure on karst terrain or terrain that drains into a known sinkhole.

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

a. The construction of a formed manure storage structure that is constructed to replace an unformed manure storage structure. The formed manure storage structure must be constructed in a manner that complies with upgraded construction design standards necessary to ensure that the structure does not pollute groundwater sources. However, the capacity of all replacement formed manure storage structures
shall not exceed the capacity required to store all manure from the animal feeding operation on the effective date of this Act.

3. The construction of a formed egg washwater storage structure that is constructed to replace an unformed egg washwater storage structure. The formed egg washwater storage structure must be constructed in a manner that complies with upgraded construction design standards necessary to ensure that the structure does not pollute groundwater sources. However, the capacity of all replacement formed egg washwater storage structures shall not exceed the capacity required to store all egg washwater from the animal feeding operation on the effective date of this Act.

3. a. If an unformed manure storage structure was constructed on karst terrain or terrain that drains into a known sinkhole prior to the effective date of this Act, there must be a twenty-five-foot vertical separation distance between the bottom of the unformed manure storage structure and any underlying limestone, dolomite, or other soluble rock. The unformed manure storage structure must have been constructed according to construction design standards necessary to ensure that the structure does not pollute groundwater sources.

3. b. A formed manure storage structure constructed on karst terrain or terrain that drains into a known sinkhole prior to the effective date of this Act, must have been constructed according to construction design standards necessary to ensure that the structure does not pollute groundwater sources.

Sec. 22. NEW SECTION. 459.309B Sinkholes. If the confinement feeding operation structure is to be constructed or expanded within an area of the state which the department classifies as prone to the formation of sinkholes, a statement by a qualified geologist verifying that there is a low probability that a sinkhole if formed would exist within the applicable separation distance between the sinkhole and confinement feeding operation structure as otherwise required pursuant section 459.310.
Sec. 23. Section 459.311D, Code 2019, is amended by striking the section and inserting in lieu thereof the following:

459.311D Stockpiling dry manure on karst terrain or terrain that drains into a known sinkhole.

1. Except as provided in this section, a person shall not stockpile dry manure on karst terrain or in an area that drains into a known sinkhole.

2. A person who stockpiled dry manure on karst terrain or in an area that drains into a known sinkhole prior to the effective date of this Act may continue to stockpile the dry manure at the same location so long as the person complies with all of the following:

   a. There is a vertical separation distance of at least five feet between the bottom of the stockpile and the underlying limestone, dolomite, or other soluble rock.

   b. The dry manure is stockpiled in a qualified stockpile structure.

   c. The person does not expand the volume or weight of dry manure.

   d. A person shall discontinue stockpiling dry manure at that same location on and after July 1, 2027, unless the person obtains a waiver by the department upon such terms and conditions required by the department. The department shall only grant a waiver if the department is satisfied that the stockpiled dry manure does not pollute groundwater sources.

Sec. 24. NEW SECTION. 459.311F Outstanding Iowa waters.

A person shall not construct or expand a confinement feeding operation structure in a watershed with a hydrologic unit code scale 12 or smaller, if the watershed constitutes an outstanding state resource, including waters of exceptional recreational or ecological significance, as designated by the department.

Sec. 25. Section 459.312, subsection 1, paragraph a, subparagraph (1), Code 2019, is amended by striking the subparagraph.
Sec. 26. Section 459.312, Code 2019, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. The department shall not approve an original manure management plan or an updated manure management plan, unless it is accompanied with evidence that a surety bond has been furnished to the department by a surety. However, the department may approve an original manure management plan on the condition that the bond be furnished prior to the date that manure is stored in the manure storage structure described in the manure management plan.

a. The surety must be a business entity organized or formed in this state or otherwise authorized to do business in this state as a surety company and be approved by the department according to criteria established by the department. The bond shall be in the amount of ten million dollars.

b. The bond shall run to the state, and guarantee payment to the state of costs directly attributable to a violation of section 459.311 that causes a discharge of manure from a manure storage structure as described in the manure management plan. The costs shall be limited to any of the following:

(1) The reimbursement of moneys expended by the state, a political subdivision, or an agent of the state or a political subdivision, for reasonable costs of providing for containment or cleanup. The reimbursement may cover costs associated with cleaning up the confinement feeding operation and remediating contamination which originates from the confinement feeding operation, pursuant to sections 455B.381 through 455B.399.

(2) The restoration of wild animal populations or habitat, to the extent that any payment received under the bond is not duplicative of a restitution payment received by the state under section 481A.151.

(3) Payment of a judgment award recovered by a person in a civil action for actual property damages, including reasonable attorney’s fees. The bond shall be open to successive judgment awards caused by the same violation.
c. The total and aggregate liability of the surety for all claims by the state arising from the violation shall be limited to the face of the bond.

d. The bond shall not expire until sixty days after expiration of the manure management plan. The surety shall not cancel the bond without providing for at least forty-five days' notice by certified mail to the department and the owner required to submit the manure management plan. When the department receives a notice of cancellation, and a bond is still required, the department shall automatically suspend the manure management plan if the department does not receive a replacement bond within thirty days of the delivery of the notice of cancellation. If a replacement bond is not furnished to the department within ten days following the suspension, the department shall automatically revoke the manure management plan. In addition, the department shall disapprove all pending permit applications for the construction of a confinement feeding operation structure filed with the department by the owner as provided in section 459.303.

Sec. 27. Section 459.312, subsection 10, Code 2019, is amended by adding the following new paragraph:

NEW PARAGRAPH. 0a. The average number of animal units maintained at the confinement feeding operation during a period established by the department.

Sec. 28. Section 459.319, subsection 2, Code 2019, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. A person who stockpiles dry manure on karst terrain or in an area that drains into a known sinkhole.

Sec. 29. Section 459A.102, subsection 28, Code 2019, is amended to read as follows:

28. "Open feedlot operation" or "operation" means an unroofed or partially roofed animal feeding operation if crop, vegetation, or forage growth or residue cover is not maintained as part of the animal feeding operation during the period that animals are confined in the animal feeding operation and the
animals have unrestricted access to any structure.

Sec. 30. Section 459A.102, Code 2019, is amended by adding the following new subsection:

NEW SUBSECTION. 31A. "Qualified stockpile structure" means the same as defined in section 459.102.

Sec. 31. NEW SECTION. 459A.106 Open feedlot operations and small animal truck wash facilities — impaired waters.

1. As used in this section, unless the context otherwise requires:

a. "Section 303(d) list" means the same as defined in section 455B.171.

b. "Subwatershed" means the same as defined in section 466B.2.

2. a. A person shall not construct, including expand, a structure, if the structure would be located in a subwatershed that drains into a water body or water segment that has been placed on the department's section 303(d) list, regardless of whether a total maximum daily load for that water body or water segment has been developed.

b. The department shall not file or approve an application for a permit to construct, including expand, a structure, if the person could not construct the structure under paragraph "a".

3. Subsection 2 does not apply to prevent a person from constructing, including expanding, a structure as otherwise provided in this subchapter, if the structure is located in a subwatershed that drains into a water body or water segment, and the department does all of the following:

a. Removes the water body or water segment from the section 303(d) list.

b. Determines that the water body or water segment is classified for a primary contact recreational use as provided in 567 IAC 61.3.

4. Nothing in this section shall prohibit a person from completing construction, including expansion, of a structure,
1 if prior to the effective date of this Act, the person has
2 begun construction, including expansion, of the structure as
3 otherwise allowed under this chapter.
4 Sec. 32. NEW SECTION. 459A.107 Outstanding Iowa waters.
5 A person shall not construct or expand a structure in a
6 watershed with a hydrologic unit code scale 12 or smaller,
7 if the watershed constitutes an outstanding state resource,
8 including waters of exceptional recreational or ecological
9 significance, as designated by the department.
10 Sec. 33. NEW SECTION. 459A.107B Sinkholes.
11 If an open feedlot operation structure is to be constructed
12 or expanded within an area of the state which the department
13 classifies as prone to the formation of sinkholes, a statement
14 by a qualified geologist verifying that there is a low
15 probability that a sinkhole if formed would exist within
16 the applicable separation distance between the sinkhole and
17 structure as otherwise required pursuant to section 459.310.
18 Sec. 34. Section 459A.205, subsection 8, paragraph e,
19 subparagraph (2), Code 2019, is amended to read as follows:
20 (2) If an established animal truck wash effluent structure
21 is to be constructed on karst terrain as provided in section
22 459A.406A, the engineering report must establish that the
23 construction complies with the requirements of section
24 459A.404.
25 Sec. 35. Section 459A.403, Code 2019, is amended by adding
26 the following new subsection:
27 NEW SUBSECTION. 3. A person shall not stockpile solids on
28 karst terrain or in an area that drains into a known sinkhole
29 except as provided in section 459A.403A.
30 Sec. 36. NEW SECTION. 459A.403A Stockpiling solids on karst
31 terrain or terrain that drains into a known sinkhole — open
32 feedlots and animal truck wash facility.
33 1. Except as provided in this section, a person shall not
34 stockpile solids on karst terrain or in an area that drains
35 into a known sinkhole.
2. A person who stockpiled solids on karst terrain or in an area that drains into a known sinkhole prior to the effective date of this Act may continue to stockpile the solids at the same location so long as the person complies with all of the following:

   a. There is a vertical separation distance of at least five feet between the bottom of the stockpile and any underlying limestone, dolomite, or other soluble rock.

   b. The solids are stockpiled in a qualified stockpile structure.

   c. The person does not expand the volume or weight of stockpiled solids.

   d. A person stockpiling solids shall remove the solids and apply them in accordance with the provisions of chapter 459, including section 459.311 within six months after the solids are first stockpiled. A person shall discontinue stockpiling the solids at that same location on and after July 1, 2027, unless the person obtains a waiver by the department upon such terms and conditions required by the department. The department shall only grant a waiver if the department is satisfied that the stockpiled solids do not pollute groundwater sources.

   Sec. 37. Section 459A.404, subsection 5, Code 2019, is amended by striking the subsection.

   Sec. 38. NEW SECTION. 459A.406 Construction and expansion of open feedlot operation structures — karst terrain or terrain that drains into a known sinkhole.

   1. A person shall not construct or expand an open feedlot operation structure on karst terrain or terrain that drains into a known sinkhole.

   2. If an open feedlot operation structure was constructed on karst terrain or terrain that drains into a known sinkhole prior to the effective date of this Act, there must be a twenty-five-foot vertical separation distance between the bottom of the open feedlot operation structure and any...
underlying limestone, dolomite, or other soluble rock. The open feedlot operation structure must have been constructed according to construction design standards necessary to ensure the structure does not pollute groundwater sources.

Sec. 39. NEW SECTION. 459A.406A Construction and expansion of animal truck wash effluent structures — karst terrain or terrain that drains into a known sinkhole.

1. A person shall not construct or expand an animal truck wash effluent structure on karst terrain on and after the effective date of this Act.

2. Subsection 1 does not apply to the construction of a formed animal truck wash effluent structure that is constructed to replace an unformed animal truck wash effluent structure on karst terrain or terrain that drains into a known sinkhole. The formed animal truck wash effluent structure must be constructed in a manner that complies with upgraded construction design standards necessary to ensure that the structure does not pollute groundwater sources. However, the capacity of all replacement formed animal truck wash effluent structures shall not exceed the capacity required to store all animal truck wash effluent from the animal truck wash facility on the effective date of this Act.

3. a. If an unformed animal truck wash effluent structure was constructed on karst terrain or terrain that drains into a known sinkhole prior to the effective date of this Act, there must be a twenty-five-foot vertical separation distance between the bottom of the unformed animal truck wash effluent structure and any underlying limestone, dolomite, or other soluble rock. The unformed animal truck wash effluent structure must have been constructed according to construction design standards necessary to ensure the structure does not pollute groundwater sources.

b. A formed animal truck wash effluent structure constructed on karst terrain or terrain that drains into a known sinkhole prior to the effective date of this Act, must have been
1 constructed according to construction design standards
2 necessary to ensure that the structure does not pollute
3 groundwater sources.
4 Sec. 40. Section 459B.201, Code 2019, is amended to read as
5 follows:
6 459B.201 Construction design standards.
7 A person constructing a dry bedded confinement feeding
8 operation structure on karst terrain or in an alluvial aquifer
9 area shall comply with all of the following:
10 1. The person must construct the dry bedded confinement
11 feeding operation structure at a location where there is a
12 vertical separation distance of at least five feet between
13 the bottom of the floor of the dry bedded confinement feeding
14 operation structure and the underlying limestone, dolomite, or
15 other soluble rock in karst terrain or the underlying sand and
16 gravel aquifer in an alluvial aquifer area.
17 2. The person must construct the dry bedded confinement
18 feeding operation structure with a floor consisting of
19 reinforced concrete at least five inches thick.
20 Sec. 41. NEW SECTION. 459B.203 Karst terrain and terrain
21 that drains into a known sinkhole — construction and expansion
22 of dry bedded confinement feeding operation structures.
23 1. A person shall not construct or expand a dry bedded
24 confinement feeding operation structure on karst terrain or
25 terrain that drains into a known sinkhole.
26 2. If a dry bedded confinement feeding operation structure
27 was constructed on karst terrain or terrain that drains into
28 a known sinkhole prior to the effective date of this Act,
29 there must be a five-foot vertical separation distance between
30 the bottom of the dry bedded confinement feeding operation
31 structure and any underlying limestone, dolomite, or other
32 soluble rock. The dry bedded confinement feeding operation
33 structure must have been constructed according to construction
34 design standards necessary to ensure the structure does not
35 pollute groundwater sources.
Sec. 42. Section 459B.307, subsection 1, paragraph e, unnumbered paragraph 1, Code 2019, is amended to read as follows:

The person shall not stockpile dry bedded manure on karst terrain or in an alluvial aquifer area unless the person complies with all of the following:

Sec. 43. Section 459B.307, Code 2019, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A person shall only stockpile dry bedded manure on karst terrain or terrain that drains into a known sinkhole as provided in section 459B.307A.

Sec. 44. NEW SECTION. 459B.307A Stockpiling dry bedded manure on karst terrain or terrain that drains into a known sinkhole.

1. Except as provided in this section, a person shall not stockpile dry bedded manure on karst terrain or in an area that drains into a known sinkhole.

2. A person who stockpiled dry bedded manure on karst terrain or in an area that drains into a known sinkhole prior to the effective date of this Act may continue to stockpile the dry bedded manure at the same location so long as the person complies with all of the following:

a. There is a vertical separation distance of at least five feet between the bottom of the stockpile and any underlying limestone, dolomite, or other soluble rock.

b. The dry bedded manure is stockpiled in a qualified stockpile structure.

c. The person does not expand the volume or weight of stockpiled dry bedded manure.

d. A person stockpiling dry bedded manure shall remove the dry bedded manure and apply it in accordance with the provisions of chapter 459, including section 459.311 within six months after the dry bedded manure is first stockpiled.

A person shall discontinue stockpiling dry bedded manure at that same location on and after July 1, 2027, unless the
1 person obtains a waiver by the department upon such terms and
2 conditions required by the department. The department shall
3 only grant a waiver if the department is satisfied that the
4 stockpiled dry bedded manure does not pollute groundwater
5 sources.
6 Sec. 45. Section 481A.151, subsection 1, Code 2019, is
7 amended to read as follows:
8 1. A person who is liable for polluting a water of this
9 state in violation of state law, including this chapter, shall
10 also be liable to pay restitution to the department for injury
11 caused to a wild animal by the pollution. The amount of the
12 restitution shall also include the department’s administrative
13 costs for investigating the incident.
14 2. The administration of this section shall not result in
15 a duplication of damages collected by the department under
16 section 455B.392, subsection 1, paragraph “a”, subparagraph
17 (3), or section 459.312, subsection 6A.
18 Sec. 46. REPEAL. Sections 459.304 and 459.305, Code 2019,
19 are repealed.
20 Sec. 47. EFFECTIVE DATE. This Act, being deemed of
21 immediate importance, takes effect upon enactment, other than
22 the section of this Act amending section 427.1, which takes
24 Sec. 48. APPLICABILITY. Section 427.1, as amended in this
25 Act, applies to tax years beginning on or after January 1,
26 2020.

EXPLANATION

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

GENERAL. This bill amends a number of provisions relating
1 to animal feeding operations, including confinement feeding
2 operations under Code chapter 459 (“Animal Agriculture
3 Compliance Act”), open feed lot operations and animal truck
4 wash facilities under Code chapter 459A (“Animal Agriculture
5 Compliance Act for Open Feedlot Operations and Animal Truck

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Wash Facilities"), and Code chapter 459B ("Animal Agriculture
Compliance Act for Dry Bedded Confinement Feeding Operations").

CONFINEMENT FEEDING OPERATIONS — COUNTY ZONING. The
bill provides that a county may adopt a confinement feeding
operations siting ordinance which allows a county board of
supervisors (board) to approve the site where the construction
of a structure associated with a confinement feeding operation
(CAFO) is to occur. The board may place conditions on site
approval if the conditions relate to the construction or
operation of the confinement feeding operation or to manure
application.

The bill provides that the county may adopt the ordinance
notwithstanding provisions in Code section 331.304A which
prohibits a county from adopting legislation that regulates
animal agriculture and Code section 335.2 which prohibits a
county from adopting an ordinance that provides for the zoning
of farm structures.

CAFOs — PROPERTY TAXATION. The bill amends Code section
427.1, which provides a number of exemptions from property
taxation. The Code section includes an exemption for certain
types of pollution-control and recycling property as certified
by the department of natural resources. The bill limits this
tax exemption for such property that is related to the care
and feeding of livestock by requiring that the property used
for the care and feeding of livestock must be eligible for a
family farm tax credit under Code chapter 425A. The bill also
provides that the tax credit still available is limited to the
first $100,000 of the property's assessed value.

CAFOs — DEFINITION. The bill provides that a CAFO includes
any partially roofed area which animals are confined.

CAFOs — CONTRACT PRODUCTION. The bill amends provisions
that require the department of natural resources (DNR) to
approve or disapprove an application for a permit to construct
a confinement feeding operation structure (structure) which
is part of an existing or proposed CAFO. The bill provides
that the application must state whether the CAFO is or could become a contract livestock facility. It also provides that the statement must be included in the notice of a public hearing conducted by the board in the county where the proposed structure is to be constructed.

Code chapter 202 regulates the relationship between a contractor and a contract producer of a commodity, including livestock, and the Code chapter includes a number of defined terms. A contractor is a person who enters into an agreement with an agricultural producer to raise livestock on property held by the agricultural producer (contract livestock facility). The agricultural producer is referred to as a contract producer. The contract is referred to as a production contract.

CAFOs — REPORTING. The bill provides that for purposes of administering and enforcing Code chapter 459, subchapter II, relating to air quality and Code chapter 459, subchapter III, relating to water quality, DNR may require that the owner or operator of a CAFO submit one or more animals confined reports that contain information regarding the number of animals maintained at the operation in a manner and during a time period that DNR determines is relevant. The report must present the information in a manner that calculates the number of animals maintained as animal units (AU). The bill authorizes DNR to require a report as part of a construction permit to expand a structure. The owner or operator of the CAFO must also report to DNR the number of animals maintained as part of the operation converted to animal units. A CAFO’s size is determined by calculating its AU capacity. A special equivalency factor is assigned for each classification of confined animal. For example, each butcher or breeding swine weighing more than 55 pounds has an equivalency factor of 0.4 AUs. The permit requirement threshold of 1,000 AUs means that a permit would be required if after construction the CAFO would have an AU capacity of 2,500 of such swine (1,000 ÷ 0.4 =
CAFOs — SURETY BONDS. The bill addresses two documents filed by the owner of a CAFO with DNR when it administers water quality regulations: (1) an application for a construction permit (permit) issued by DNR that authorizes the construction, including expansion, of a structure and a manure management plan (MMP) governing the storage and application of manure originating from the operation.

The bill provides that DNR cannot approve an MMP unless the owner furnishes a surety bond for $10 million for the purpose of paying costs resulting from the discharge of manure from the owner's operation. Moneys payable under the bond must be used in cases in which the discharge has caused property damage. The moneys must be used to: (1) reimburse the state or a political subdivision, or an agent of the state or political subdivision, for costs associated with containment or cleanup; (2) the restoration of wild animal populations or habitat; and (3) the payment of a judgment award recovered by a plaintiff in a civil action. The bill provides for the expiration or cancellation of the bond. DNR is authorized to suspend or revoke an MMP if a replacement bond is not filed. The bill also provides that DNR is prohibited from issuing a permit to the owner authorizing the construction of any structure if a bond covering an operation has expired, been canceled, been suspended, or been revoked.

CAFOs — PERMITS. The bill requires a board to send a notice to certain landowners that a permit application has been filed with DNR proposing to construct a structure which is part of a proposed or existing CAFO. The notice must be sent by certified or ordinary mail to each neighbor holding legal title to land located within two miles from the location of the proposed construction site. An application must include a brief summary of information regarding the proposal, which must at least state: (1) the identity of the applicant, (2) the type and numbers of animals to be confined at the CAFO if
1 each proposed structure were constructed, and (3) the location,  
2 type, and size of each structure proposed to be constructed.  
3 The notice must include the summary and may also state time and  
4 place of a public hearing regarding the application conducted  
5 by the board. The bill provides that the same information must  
6 be included in the notice of a public hearing.  
7 CAFOs — MASTER MATRIX. The bill eliminates provisions  
8 that require the use of a master matrix as part of the process  
9 to approve or disapprove a permit for the construction or  
10 expansion of a structure associated with a CAFO. The master  
11 matrix is a formula designed to produce a statistically  
12 verifiable basis for determining whether to approve or  
13 disapprove an application for the construction of a structure.  
14 The master matrix measures impacts to air, water, and the  
15 community (567 IAC ch. 65, Appendix C).  
16 CAFOs — STRUCTURAL FAILURES. The bill requires the owner  
17 or operator of a CAFO to notify DNR of any actual or probable  
18 immediate structural failure from an associated structure. The  
19 failure may be the result of either the design or construction  
20 of the structure. The determination of a probable immediate  
21 structural failure must be based on factors established by DNR  
22 which may include an observation by the owner or operator or  
23 a report submitted to the owner or operator by a professional  
24 engineer. DNR is required to adopt rules that provide for  
25 notice procedures which may take into account factors that  
26 quantify the level of threat to water quality resulting from a  
27 discharge or an injury to or death of an animal maintained in  
28 an associated confinement building.  
29 OPEN FEEDLOT OPERATIONS — DEFINITION. The bill revises the  
30 definition of an open feedlot operation (feedlot) to include  
31 any place whether partially roofed or not where animals are  
32 maintained without crop, vegetation, or forage growth or  
33 residue cover.  
34 CAFOs, FEEDLOTS, AND ANIMAL TRUCK WASH FACILITIES —  
35 IMPAIRED WATERS. The bill prohibits the construction of a
structure associated with a CAFO, or animal truck wash facility (facility), if the structure is located in a subwatershed that includes a water body or water segment that has been placed on a list of impaired waters. The prohibition would no longer apply once the water was removed from the list and DNR determined that the water meets the state surface water classification for primary contact recreational use.

DNR's list of impaired waters is approved by EPA according to federal and state requirements (33 U.S.C. §1313 and Code sections 455B.194 and 455B.195). DNR is also required to develop a plan for restoring the impaired waters, including by identifying its total maximum daily loads; commonly referred to as TMDL that calculates the amount of contaminants that a water body may receive and still meet federal water quality standards (40 C.F.R. §130.7(b)(4)). Based on these measurements, the department classifies surface waters for a number of designated uses including primary contact recreational use which means that the water is considered safe for uses that may result in a person's prolonged and direct contact with the water, including by ingestion while swimming (33 U.S.C. §1251(a)(2) and 567 IAC 61.3).

CAFOs AND FEEDLOTS — OUTSTANDING IOWA WATERS. The bill prohibits a person from constructing or expanding a structure associated with a CAFO or feedlot within a watershed having a hydrologic unit code scale 12 or smaller, if the watershed constitutes an outstanding state resource as designated by the department.

CAFOs AND FEEDLOTS — SINKHOLES. The bill prohibits the construction of a structure associated with a CAFO or feedlot if DNR has classified the area of construction as prone to the formation of sinkholes. In that case, the owner or operator of the CAFO or feedlot must file a statement with DNR. The statement must be signed by a qualified geologist verifying that there is a low probability that a sinkhole if formed would exist within the applicable separation distance between the...
sinkhole and structure.

CAFOs, FEEDLOTS, AND DRY BEDDED CONFINEMENT FEEDING

OPERATIONS — KARST TERRAIN AND KNOWN SINKHOLES. The bill
prohibits the construction or expansion of a structure
associated with a feedlot facility or dry bedded confinement
feeding operation on karst terrain or terrain that drains
into a known sinkhole. The bill prohibits the stockpiling of
certain dry or solid manure on such terrain. The bill also
regulates the use of structures or stockpiles existing on
such terrain prior to the bill’s effective date. The bill
retains or expands vertical separation distances required
between the bottom of a structure or stockpile and any
underlying limestone, dolomite, or other soluble rock. The
bill requires that a stockpile located on the terrain be kept
in a qualified stockpile structure which is a building or other
roofed structure. It provides for the removal of manure or
solids from the stockpile. It also requires that an existing
stockpile be discontinued on July 1, 2027, unless DNR grants a
waiver.

Stockpiling refers to that part of manure or effluent
produced by agricultural animals which is “dry” or “solid”,
meaning that it does not flow perceptibly under pressure and is
not capable of being transported through a mechanical pumping
device designed to move a liquid.

Karst terrain is characterized by the presence of bedrock
composed of limestone or dolomite near the ground surface which
dissolves easily. Such terrain often includes sinkholes which
are a depression or hole in the ground caused by a collapse of
the ground’s surface layer.

APPLICABLE CIVIL PENALTIES. Compliance with a statutory
regulation under the Code chapter includes compliance with
a rule adopted by DNR (Code section 459.103). Code section
459.602 provides for civil penalties that may be assessed for
violations of Code chapter 459, subchapter II (air quality
regulations). A violator is subject to Code section 455B.109,
which provides for the administrative assessment of civil penalties of up to $10,000.

Each of the three Code chapters provide for the imposition and assessment of civil penalties for violations involving water quality. A person who violates a water quality provision is subject to an administratively assessed civil penalty of not more than $10,000 (Code sections 455B.109, 459.603, 459A.502, 8 and 459B.402), or a judicially assessed amount of not more than $5,000 per each day of the violation (Code sections 455B.191 and 459.603).

EFFECTIVE AND APPLICABILITY DATES. The bill takes effect upon enactment, except for one provision. The provision eliminating the property tax exemption takes effect on January 1, 2020, and applies to tax years beginning on and after that date.