



DNR Animal Feeding Operations Rule

ICA Fact Sheet
December 2016

On Oct. 18, the Iowa Environmental Protection Commission approved the DNR Animal Feeding Operations rule and the rule went into effect on Dec. 14, 2016.

This lengthy and detailed rule change implements legislative changes made in 2012, 2013, and 2015, makes technical changes to update the rules, as well as clarifying some areas of the rules where there have been interpretation questions. (The rule also includes changes to DNR Chapter 200A. See the ICA Chapter 200A Fact Sheet for details.)

Substantive changes in the new rule include:

- Secondary containment for dry manure confinements. For purposes of earthen secondary containment barriers for confinement operations storing dry manure to qualify for an exemption to the separation distance from water sources and major water sources, the earthen secondary containment is not required to meet percolation standards and dike slope and width requirements for liquid manure structure earthen secondary containment. Any dry manure retained in the secondary containment must be removed and properly disposed within 14 days.
- Earthen basins with both open feedlot effluent and confinement manure must meet confinement construction standards.
- Open feedlot effluent control detailed system requirements. The requirement that precipitation has not exceeded .05 inch per day for each of the last three days before effluent application and that no precipitation is occurring on the day of application is deleted for each of the five systems and replaced with “precipitation has not exceeded the water-holding capacity of the soil to accept the manure application without the possibility of runoff.”
- Definitions.
 - Common management. The common management definition, used to determine whether two sites are one animal feeding operation or two, is amended to replace “person” with “individual” to make it clear that one producer cannot use two legal entities to create separate management.
 - Complete permit application. A definition of “complete application” was added to clarify what types of required changes to a confinement operation construction permit application will require a producer to start the application process over. A complete application is one where all questions have been completed, the application is signed, and all applicable portions of the application and attachments have been submitted.
 - Open feedlot definitions for “feed storage runoff basin” and “open feedlot effluent basin” have been added to be consistent with federal NDPEs rules.
 - Public use area. The definition of public use area for separation distances for confinement operations is amended to remove the provision for facilities to include lakes on a list at the end of Chapter 65 and instead adds cabins and fishing docks, fishing houses, fishing jetties or fishing piers at lakes as facilities.
- Manure application on snow or frozen ground. The rule regarding application of liquid manure from confinement operations with MMPs on snow or frozen ground is amended to reinstate the exemption allowing confinement operations without enough manure storage to store manure from Dec. 21 to April 1 under normal circumstances to utilize emergency manure application provisions to apply on snow or frozen ground. The amendment allows the exemption, which had expired last year, only for

confinement operations with no manure storage structures constructed after May 26, 2009, the date the legislation went into effect.

- Expiration of construction permits. If confinement operation with a construction permit has not completed construction within the required 4 years after the permit is issued, the animal unit capacity in the permit is reduced to what was actually constructed and the DNR will issue a construction permit amendment.
- Beginning construction. Filling or compacting soil or soil amendments was added to the list of activities that are considered beginning construction for confinement operations. Accordingly, filling or compacting soil or soil amendments cannot be done on a site requiring a construction permit until the permit is issued.
- Secondary containment. For purposes of secondary containment barriers for confinement operations storing liquid or semi-liquid manure to qualify for an exemption to the separation distance from water sources and major water sources, semi-liquid manure is defined as manure that is too solid for pumping but too liquid for stacking.
- Measurement of separation distances. This rule is amended to clarify that when measuring from a confinement operation structure, the structure does not include areas that do not house animals or store manure or litter (e.g., offices, loading chutes, bulk feed bins, etc.).
- Separation distance waivers. Waivers for confinement operation separation distances must be specific to the construction or expansion for which the application is submitted. Future construction or expansion may only be included in the waiver if the waiver includes specific language describing the future construction or expansion.
- Concrete standards for confinement operations. Form ties used in concrete wall construction must be nonremovable and no conduits or pipes can be installed through an outside wall below the maximum liquid level of the structure.
- Soil sampling for P Index for Confinement MMPs. The requirement to sample once every four years is replaced with a requirement that samples must be four years old or less.
- Soil samples with new Confinement MMP. If soil samples are submitted with an original MMP that don't meet the minimum acres per sample requirement in the rules as allowed by rule, then when samples meeting the minimum acres per sample requirement are submitted within one year, a new MMP must be submitted with the samples.
- The list of lakes used for the major water source separation distance for confinement operations is updated by adding lakes to the list.

The rule changes to implement the legislative amendments are:

- 2015 legislation that changed regulation of livestock truck washes from industrial to animal feeding operations. The legislation also requires DNR NPDES rules for open feedlot operations to be no more stringent than federal NPDES rules, just like legislation passed previously for confinement operations. This 2015 legislation resulted in the elimination of the DNR rules defining large CAFOs and medium CAFOs to include operations with 1,000 animal units or more where more than one category of animals (dairy, beef, swine, etc.) is maintained using the same type of operation (confinement or open feedlot).
- 2012 legislation that excluded swine replacement gilts from the animal units for a swine farrow and gestation operation in determining whether an operation is a "qualified confinement feeding operation". Qualified confinement feeding operations must use aerobic manure treatment requirements.
- 2012 legislation that added fish production facilities as animal feeding operations.
- 2013 legislation that allows a confinement operation to downsize to become a Small Animal Feeding Operation (SAFO) without rendering a portion of the facilities unusable. (the so-called "SAFO Mothball Bill"). The rule change also clarifies that a "mothballed" SAFO is not required to file an annual manure management plan until the mothballed portion of the operation is returned to production and the operation is no longer a SAFO.