

PLANNING & DEVELOPMENT

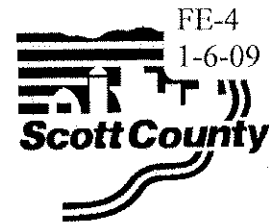
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Timothy Huey
Director

To: Dee F. Bruemmer, County Administrator

From: Timothy Huey, Planning Director

Date: December 29, 2008

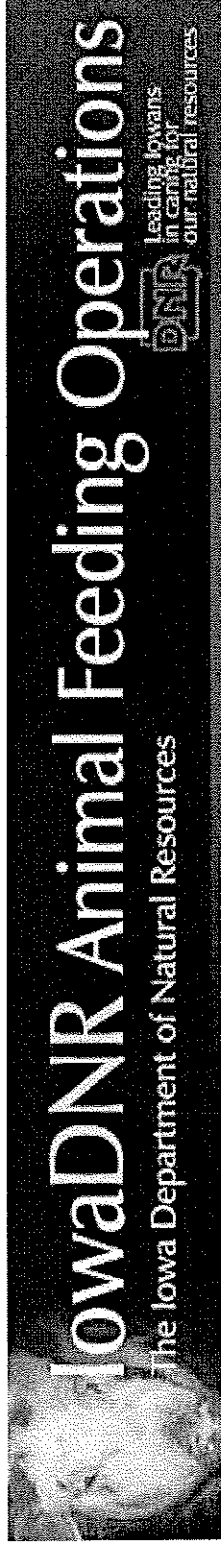
Re: Annual Re-Adoption of Master Matrix for review of Confined Animal Feeding Operations (CAFO)

Six years ago the Board of Supervisors adopted the Master Matrix to allow County participation and input in the application process for new or expanded animal confinement feed operations in Scott County. The IDNR rules require that a county annually adopt a construction evaluation in the month of January and file it with the State in order to continue participation. In order to be able to evaluate proposed sites for large confinement facilities counties must adopt these rules by resolution and notify the DNR by Jan. 31, 2009. This was the sixth year for supervisors to evaluate proposed permits and the Board reviewed one application this past year. There was also one application in 2007 but there were two applications for expanded CAFOs in Scott County in 2006 and 2005 that were reviewed using the Master Matrix. Scott County also received two other applications in 2005 for expansions that were not large enough to trigger review under the Master Matrix criteria.

New or expanded confined animal feeding operations in counties that file the resolutions must meet higher standards than other permitted sites. They must earn points on the master matrix by choosing a site and using practices that reduce impacts on the environment and the community. Participating counties must evaluate and make a recommendation on all construction permit applications submitted to the DNR or they forfeit the right to evaluate sites until the next sign-up period.

Attached is a map from the IDNR showing all the counties in Iowa that adopted a resolution last year. The Iowa DNR website <http://www.iowadnr.com/afo/matrix.html> also has detailed information on the Master Matrix.

There have been no changes to the requirements of the Master Matrix so I have also attached the information provided six years ago regarding the initial adoption of the Construction Evaluation Resolution by Scott County.



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Master Matrix

The master matrix is a scoring system that can be used to evaluate the siting of permitted confinement feeding operations. Counties that have adopted a construction evaluation resolution can use the master matrix. Counties must re-adopt the construction evaluation resolution annually between January 1 and January 31, starting in 2004, to continue to use the master matrix.

Producers in counties that have adopted the matrix must meet higher standards than other permitted facilities. Before they can be approved for construction, they must earn points on the master matrix for choosing sites and using practices that reduce adverse impacts on the environment and the community. Producers must have 50% (440 points minimum) of the total score and at least 25% of the available points in each of the three subcategories of air, water and community impacts to pass the master matrix. The following links provide additional information about the Master Matrix:

- [Who needs the Master Matrix](#)
- [Master Matrix document \(*.pdf file\)](#)
- [Master Matrix Technical Advisory Committee](#)
- [Critical public areas](#)

The following are Adobe Acrobat *.pdf files:

- [Map of Counties that adopted the Construction Evaluation Resolution in 2008 -Last Updated: January 31, 2008](#)

RECOMMENDATIONS FOR COUNTIES WITH MASTER MATRIX- CONFINEMENTS

January 11, 2008

1. The 30-day deadline for the County to publish a notice in the newspaper and to send the board's recommendation to DNR, does not start until DNR receives and accepts a construction permit application.
2. If DNR receives a construction permit application, but rejects it for being incomplete, your county will be notified via fax and will be asked not to publish the public notice until further notice.
3. When DNR receives and accepts an application, your county will be notified via fax about actions that must be completed and deadlines. This is a courtesy reminder, not required by Iowa law. Required actions are:
 - Publish a notice in the newspaper. An example of the notice will be provided. Follow the sample notice, to avoid publishing the notice again. Send DNR the affidavit of public notice, within the 30-day deadline.
 - The board will also need to evaluate the application using the master matrix, if it meets the master matrix criteria and submit to DNR the board's recommendation to approve or disapprove the application.
 - Fax to DNR the board's recommendation within the 30-day deadline indicated in the courtesy reminder letter that you received from DNR. The board's recommendation may be based on the results produced by the master matrix; however, the reasons and all supporting documents should be included.
4. Master matrix criteria (Construction permit applications required to be evaluated with the master matrix):
 - County has passed and submitted to DNR a Construction Evaluation Resolution (CER).
 - The confinement feeding operation was constructed before April 1, 2002 and the total animal unit capacity (AUC), if a construction permit is issued, would be 1,667 animal units (AU) or more.
 - A new confinement feeding operation or an existing operation that was constructed on or after April 1, 2002, that is required to obtain a construction permit, regardless of their AUC.
5. It is strongly recommended that the board **fax** the recommendation and matrix evaluation to DNR rather than relying solely on the mail. The board's recommendation must be received by DNR within 30 days from DNR's receipt of the application. In the past, counties have been dropped from the master matrix program until the next enrollment period, because DNR received their recommendation after the 30-day deadline.
6. It is recommended that your board evaluate consistently all construction permit applications that meet the master matrix criteria. If the board needs additional information from the applicant, the board may request it directly. Because the master matrix is a county tool, the DNR will not verify the master matrix distances or any of the matrix supporting documents. However, your board may contact the DNR if you need information about minimum separation distance requirements or any other requirement.
7. A public hearing is not required, but optional.
8. Public comments and comments by the board must be received by DNR within the 30 day deadline indicated in the reminder letter, regardless of whether the application meets the master matrix criteria.
9. If your board receives a manure management plan (MMP) with a construction design statement (CDS) or an annual MMP update, for an operation not required to obtain a construction permit, your board will only need to have these documents available for public review. No other action or public notice is required.
10. If you have any questions, please contact our Animal Feeding Operations (AFO) Program as follows:

Phone: 515-281-8941

Fax: 515-281-8895

Bob Palla, is the lead worker and his direct number is 515-281-8868

Name of Operation: _____

Name of Owner: _____

Location: _____
(Quarter/quarter) (Quarter) (Sec-Twp-Rng)

**Confinement Animal Feeding Operation (CAFO)
Construction Permit Application**

CHECKLIST

Date application material received by county _____

Date application material received by IDNR _____

Date notice published in newspaper _____

(NOTE: must be published within 14 days of receipt by county of application.)

The notice shall include all of the following:

(a) The name of the person applying to receive the construction permit.

(b) The name of the township where the confinement feeding operation structure is to be constructed.

(c) Each type of confinement feeding operation structure proposed to be constructed.

(d) The animal unit capacity of the confinement feeding operation if the construction permit were to be approved.

(e) The time when and the place where the application may be examined as provided in section 22.2.

(f) Procedures for providing public comments to the board as provided by the board.

Public hearing to be held? Yes No

Permit subject to master matrix? Yes No

Date of public hearing _____

Adopted recommendation to Approve Disapprove

Date adopted recommendation sent to IDNR _____

(NOTE: must be *received* by IDNR within 30 days of date of receipt *by the IDNR* of application.)

Guidance for the County Board of Supervisors When receiving construction applications

All counties: Must publish a public notice in a newspaper with general circulation in the county, (regardless of whether the county has adopted a construction evaluation resolution pursuant to Iowa Code 2003 Section 459.304) that they have received a construction application for a confinement feeding operation. The notice must be published as soon as possible but not later than 14 days after the county has received the construction application. The notice must include all of the following:

1. Name of the person applying for a construction permit.
2. Name of the Township where the confinement feeding operation applying for a construction permit is located (for expansions) or will be located (for new facilities).
3. Type of confinement feeding operation structure being proposed (e.g. confinement building with below the floor concrete pit, earthen manure storage basin, anaerobic lagoon, slurry tank, outside concrete tank, etc.)
4. The animal unit capacity in animal units (AU) if a construction permit is issued.
5. The time when and place where the construction permit application may be examined.
6. Procedures and deadline for providing public comments.

Within 30 days after receiving a construction application, the county must provide the DNR with a proof of publication. A construction permit will not be issued without a proof of a public notice that meets the requirements of the Iowa Code 459.304 (summarized above), even if the other legal requirements have been met. The Board may forward to the DNR comments received from the public or comments by the board regarding the construction permit application. A public hearing is optional.

Counties using the Master Matrix: If the county has adopted a construction evaluation resolution, the board must submit to the DNR the result of their adopted recommendation to approve or disapprove an application. Within 30 days following the DNR's receipt of the construction application, the board shall provide to DNR the following: a copy of the completed Master Matrix, calculations and scoring of the application. The board shall use the master matrix to evaluate construction permit applications for the following:

1. Confinement feeding operations constructed on or after April 1, 2002, including the expansion of these operations that are applying for a construction permit and regardless of their animal unit capacity.
2. Existing confinement feeding operations constructed prior to April 1, 2002 that are expanding to an AUC of 1,667 animal units or more.

If you need additional information or have any questions please call an engineer of the DNR - Animal Feeding Operations Section at (515) 281-8941.

Understanding the Master Matrix

1. What is the county's first decision?

Counties must notify the DNR between February 1, 2003 and February 28, 2003 if they want to begin using the master matrix as of March 1, 2003. There is an enrollment period. For evaluation of construction permit applications filed between March 1, 2003 and January 31, 2004, the county board of supervisors must file an adopted construction evaluation resolution with the DNR between February 1, 2003 and February 28, 2003. Subrule 65.103(a)(1).

2. Are there some things that will remain the same regardless of whether a county submits a resolution?

Regardless of whether a county has adopted the matrix resolution, every county is required to publish a notice every time it receives an application. Publication must be in one newspaper "having a general circulation in the county." 455B.200E(2)(a)(1).

Regardless of whether a county has adopted the matrix resolution, a county may submit comments and/or hold a public hearing on any or all applications it receives. It is discretionary. "The board may hold a public hearing to receive public comments regarding the application." 455B.200E(2)(b).

3. So what are counties giving up if they don't pass a resolution?

Counties cannot submit a formal recommendation to DNR to approve or deny a construction permit application if it has not officially agreed to use the master matrix. A county can submit comments, but not a formal recommendation. 455B.200E(3).

The only counties that can appeal the DNR's decision to the EPC regarding a specific application are those that have filed a construction evaluation resolution with the DNR. 455B.200E(8)(b)(2).

Only counties are using the master matrix and complying with can send county employees to accompany DNR on an inspection of an applicant's site. Counties that are using the master matrix have the right to send an inspector. Other counties do not. 455B.200E(6). Counties not only need to adopt a resolution, but also need to submit a recommendation on every application in order to go on site surveys.

4. If we do adopt the resolution, what exactly are we agreeing to?

If a county agrees to use the master matrix to review applications in 2003, that agreement is in effect for one year. But a county can rescind its resolution at any time. For 2003 and 2004, the proposed administrative rule says an agreement to use the matrix is binding on the county for one year. Subrule 65.10(3)(a)(1).

A county cannot pick and choose which applications it will evaluate. According to the proposed administrative rules, failure to evaluate any permit application will result in DNR rescinding the county's construction evaluation resolution. Subrule 65.10(3)(a)(6)

Counties that use the master matrix are required to review the application of all confinement structures with an earthen manure storage basin, regardless of animal unit capacity. 455B.200A(1)(a)(2).

Otherwise, counties only use the master matrix process if the confinement structure has an animal unit capacity of over 1,000 animal units. 455B.200A(1)(a)(1)

The master matrix process applies to new confinement structures, and also to expansions of existing operations. If a unit was constructed prior to April 1, 2002, the board is required to evaluate any expansion if after the expansion the structure will have an animal unit capacity of more than 1,666 animal units. 455B.200E(3)(a).

A county must complete its master matrix process within 30 days of the time the application is submitted to the DNR by the applicant. The county's comments or evaluations must be received by the DNR "not later than 30 days following the applicant's delivery of the application" to the DNR. 455B.200E(4).

Counties cannot charge applicants for the staff time spent reviewing applications, or for incidental expenses. There is no provision in the law for collecting any such fees.

5. How does the matrix process work?

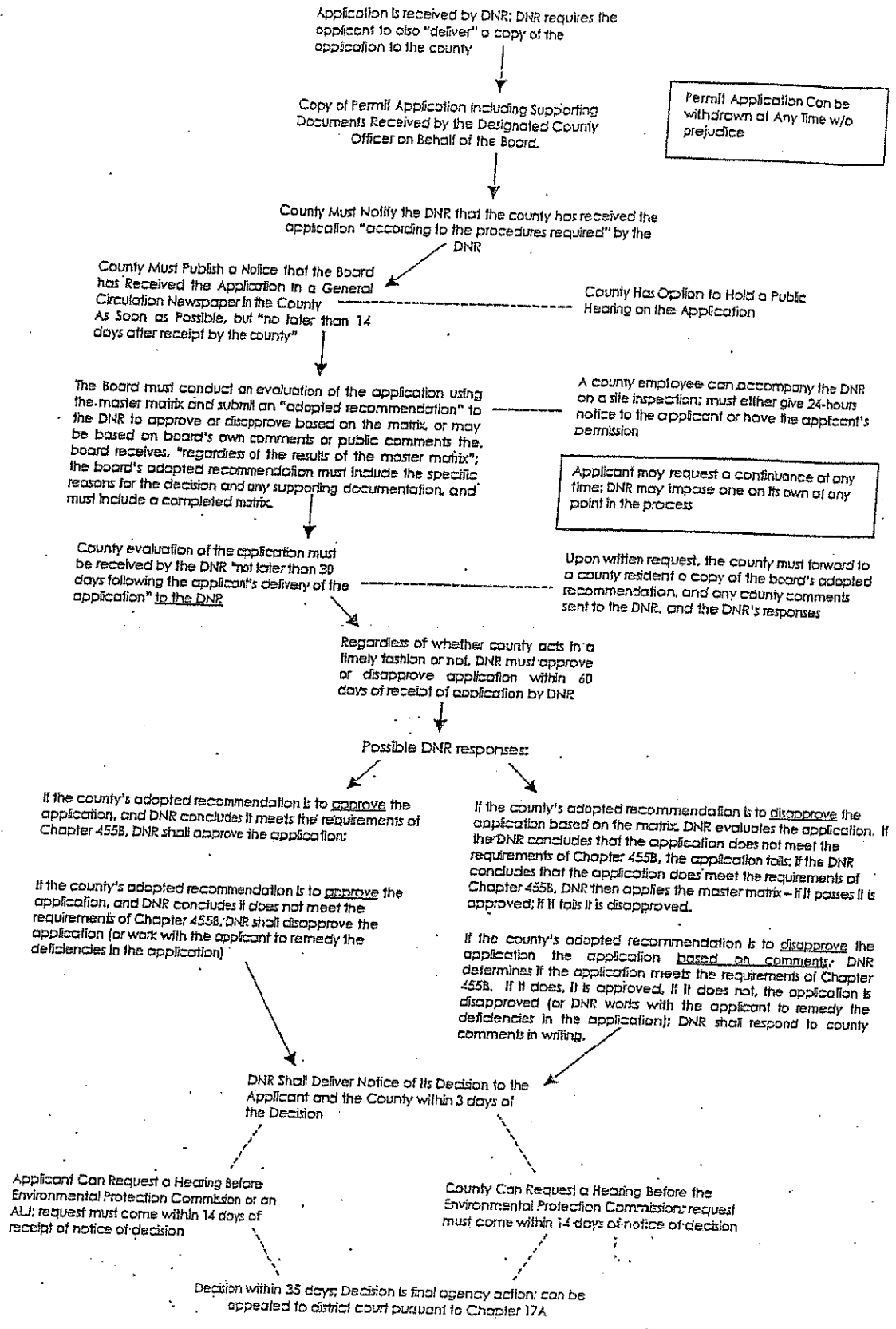
When counties use the master matrix to review applications, it is up to the applicant to supply all supporting documentation. The construction permit application that is filed by an applicant must contain a completed master matrix, and it is up to the applicant to supply all supporting documentation.

An application cannot pass even if it has a high enough overall score unless it has enough points in each of the three subcategories (air, water, community). According to the proposed administrative rules, in addition to the minimum overall score, an applicant must receive a minimum score in each of the three subcategories

A county can recommend that an application be denied even if the application passes the matrix. The board's recommendation may be based on the master matrix "or may be based on comments under this section regardless of the results of the master matrix." 455B.200E(3)(b)

Even if a county finds that an application passes the master matrix, and votes for approval of the construction permit application, the application is independently reviewed by the DNR. Regardless of the county's recommendation, the deciding factor in every case is going to be whether the DNR thinks the application meets the requirements of Chapter 455B.

Master Matrix Flowchart



Permit Application Can be withdrawn at Any Time w/o prejudice

Applicant may request a continuance of any time; DNR may impose one on its own at any point in the process

**Master Matrix Flowchart
For Counties Without a
Construction Evaluation Resolution**

