

2/19/96 Nat. Res.
2/27/96 Amend/Do Pass w/s. 5129

FILED FEB 19 1996

SENATE FILE **2220**
BY JUDGE

(p.683)
Passed Senate, Date 3-7-96 Passed House, Date _____
Vote: Ayes 16 Nays 33 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to environmental protection and public health, by
2 providing for the regulation of animal feeding operations,
3 including confinement swine feeding operations, and the
4 application of manure, including regulation by the department
5 of natural resources and other entities, providing for the
6 applicability of certain provisions, providing for the
7 applicability of penalties, and providing for an effective
8 date.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

10

11

SENATE FILE 2220

S-5129

- 1 Amend Senate File 2220 as follows:
- 2 1. Page 4, line 29, by striking the word "must".
- 3 2. Page 4, line 30, by striking the words "must
- 4 be" and inserting the following: "are".
- 5 3. Page 4, line 30, by striking the words "more
- 6 than".
- 7 4. Page 4, line 31, by inserting after the word
- 8 "feet" the following: "or less".
- 9 5. Page 15, line 23, by striking the words
- 10 "provide for" and inserting the following: "require".

By COMMITTEE ON NATURAL RESOURCES,
ENVIRONMENT, AND ENERGY
BILL FINK, Chairperson

a dopted 3-7-96
(p.681)

S-5129 FILED FEBRUARY 27, 1996

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S.F. 2220

1 Section 1. NEW SECTION. 103A.7A SWINE CONFINEMENT
2 FEEDING OPERATION STRUCTURES -- MODEL CODE.

3 The commissioner shall establish a model building code for
4 confinement swine feeding operation structures required to
5 obtain a license as provided in section 455B.173, for use by
6 counties in amending their building codes.

7 Sec. 2. Section 137.6, Code 1995, is amended by adding the
8 following new subsection:

9 NEW SUBSECTION. 6. Monitor drinking water wells which
10 exist in close proximity to animal feeding operations as
11 provided by the state department pursuant to section 455B.201.

12 Sec. 3. Section 204.5, unnumbered paragraph 1, Code
13 Supplement 1995, is amended to read as follows:

14 A county which has acquired real estate containing a
15 confinement-feeding-operation manure storage structure or egg
16 washwater storage structure, as defined in section 455B.161,
17 following the nonpayment of taxes pursuant to section 446.19,
18 may clean up the site, including removing and disposing of
19 manure at any time. The county may seek reimbursement
20 including by bringing an action for the costs of the removal
21 and disposal from the person abandoning the real estate.

22 Sec. 4. Section 331.304, subsection 3, paragraph b, Code
23 1995, is amended to read as follows:

24 b. A Except as otherwise provided in this paragraph, a
25 county building code shall not apply to farm houses, barns,
26 outbuildings, or other farm buildings or structures which are
27 primarily adapted for use for an agricultural purposes
28 purpose, while so used or under construction for that use.
29 The county building code may apply to a confinement swine
30 feeding operation structure constructed or expanded on or
31 after the effective date of this Act, which is required to
32 obtain a construction permit as provided in section 455B.173.

33 Sec. 5. NEW SECTION. 364.25 CONFINEMENT SWINE FEEDING
34 OPERATIONS.

35 A city may adopt an ordinance which prohibits the

1 construction or expansion of a confinement swine feeding
2 operation structure required to obtain a construction permit
3 pursuant to section 455B.173 from being constructed or
4 expanded after the effective date of this Act in an area
5 within two miles beyond the ~~limits~~ of the city, regardless of
6 whether a county zoning ordinance exists or whether the city
7 has adopted an ordinance which extends its powers within the
8 area as provided in section 414.23. The ordinance adopted by
9 the city shall describe in general terms the area in which the
10 city is prohibiting construction or expansion of the
11 confinement swine feeding operation or a confinement swine
12 feeding operation structure.

13 Sec. 6. Section 414.23, Code 1995, is amended to read as
14 follows:

15 414.23 EXTENDING BEYOND CITY LIMITS.

16 1. a. The powers granted by this chapter may be extended
17 by ordinance by any a city to the unincorporated area up to
18 two miles beyond the limits of such the city, except for those
19 areas any part of the area located within a county where a
20 county zoning ordinance exists. The ordinance adopted by the
21 city shall describe in general terms the area to be included
22 in the area subject to the city ordinance. ~~The exemption from~~
23 ~~regulation granted by section 335.2 to property used for~~
24 ~~agricultural purposes shall apply to such unincorporated area.~~
25 If the limits of ~~any such~~ the city are at any place less than
26 four miles distant from the limits of any other city which has
27 extended or thereafter extends its zoning jurisdiction under
28 this section, then at such time the powers herein granted
29 under this subsection shall extend to a line equidistant
30 between the limits of ~~said~~ the cities.

31 b. A ~~municipality~~ city, during the time its zoning
32 jurisdiction is extended under this ~~section~~ subsection, shall
33 increase the size of its planning and zoning commission and
34 its board of adjustment each by two members. The additional
35 members shall be residents of the area outside the city limits

1 over which the zoning jurisdiction is extended. ~~They~~ The
2 additional members shall be appointed by the board of
3 supervisors of the county in which ~~such~~ the extended area is
4 located and for the same terms of office and have the same
5 rights, privileges, and duties as the other members of ~~each-of~~
6 said the respective bodies of the additional members.

7 c. Property owners affected by ~~such~~ zoning regulations
8 adopted pursuant to this subsection shall have the same rights
9 of hearing, protest, and appeal as ~~these~~ property owners
10 residing within the municipality city exercising this-power
11 those rights.

12 d. Except as provided in subsection 2, the exemption from
13 regulation granted by section 335.2 to property used for
14 agricultural operations shall apply to the unincorporated area
15 over which the city is exercising its power.

16 e. ~~Whenever-a-county-in-which-this-power-is-being~~
17 ~~exercised-by-a-municipality~~ Except as provided in subsection
18 2, if a county adopts a county zoning ordinance, the power
19 exercised by the municipality city and the specific
20 regulations and districts ~~thereunder~~ established by the city
21 under this subsection shall be terminated within three months
22 of the establishment of the administrative authority for
23 county zoning, or at such date as mutually agreed upon by the
24 municipality city and county.

25 2. A city may adopt an ordinance under this chapter which
26 prohibits the construction or expansion of a confinement swine
27 feeding operation structure required to obtain a construction
28 permit as provided in section 455B.173, if the confinement
29 swine feeding operation structure is to be constructed or
30 expanded after the effective date of this Act, or which
31 regulates a confinement swine feeding operation structure.
32 The ordinance shall apply to the unincorporated area where the
33 city may exercise its jurisdiction beyond the limits of the
34 city pursuant to section 414.23, regardless of whether a
35 county zoning ordinance exists, or whether an ordinance

1 extends its powers within the area under subsection 1. The
2 ordinance adopted by the city under this subsection shall
3 describe in general terms the area over which the city is
4 exercising its jurisdiction.

5 Sec. 7. Section 455B.161, subsection 1, paragraph a, Code
6 Supplement 1995, is amended to read as follows:

7 a. ~~A-confinement-feeding-operation-structure.~~ An earthen
8 manure storage basin, formed manure storage structure, egg
9 washwater storage structure, or confinement building.

10 Sec. 8. Section 455B.161, subsection 3, Code Supplement
11 1995, is amended to read as follows:

12 3. a. "Animal feeding operation" means a lot, yard,
13 corral, building, or other area in which animals are confined
14 and fed and maintained for forty-five days or more in any
15 twelve-month period, and all structures used for the storage
16 of manure from animals in the operation.

17 b. Two or more animal feeding operations ~~under-common~~
18 ~~ownership-or-management~~ are deemed to be a single animal
19 feeding operation ~~if-they-are-adjacent~~ as follows:

20 (1) If the animal feeding operations do not include a
21 confinement swine feeding operation, the animal feeding
22 operations must be both of the following:

23 (a) Under common ownership or management.

24 (b) Adjacent or utilize a common system for manure
25 storage.

26 (2) If the animal feeding operations include a confinement
27 swine feeding operation, either of the following must apply to
28 the animal feeding operations:

29 (a) They must utilize a common system for manure storage.

30 (b) They must be separated by more than two thousand five
31 hundred feet, unless the combined animal weight capacity of
32 the animal feeding operations is two hundred thousand pounds
33 or less.

34 c. An animal feeding operation does not include a
35 livestock market.

1 Sec. 9. Section 455B.161, subsection 4, Code Supplement
2 1995, is amended to read as follows:

3 4. "Animal feeding operation structure" means an anaerobic
4 lagoon, earthen manure storage basin, formed manure storage
5 structure, egg washwater storage structure, or confinement
6 feeding-operation-structure building.

7 Sec. 10. Section 455B.161, subsection 9, Code Supplement
8 1995, is amended by striking the subsection.

9 Sec. 11. Section 455B.161, Code Supplement 1995, is
10 amended by adding the following new subsections:

11 NEW SUBSECTION. 9A. "Confinement swine feeding operation"
12 means a confinement feeding operation in which swine are
13 confined and fed.

14 NEW SUBSECTION. 9B. "Confinement swine feeding operation
15 structure" means a confinement building or a formed swine
16 manure storage structure.

17 Sec. 12. Section 455B.161, subsection 14, Code Supplement
18 1995, is amended to read as follows:

19 14. "Formed manure storage structure" means a manure
20 storage structure, either covered or uncovered, used to store
21 manure from a confinement feeding operation, which has walls
22 and a floor constructed of poured concrete, concrete block,
23 wood, steel, or similar materials.

24 Sec. 13. Section 455B.161, Code Supplement 1995, is
25 amended by adding the following new subsections:

26 NEW SUBSECTION. 14A. "Formed swine manure storage
27 structure" means a formed manure storage structure used to
28 store swine manure, which has walls and a floor constructed of
29 poured concrete.

30 NEW SUBSECTION. 16A. "Manure storage structure" means any
31 structure used to store manure from an animal feeding
32 operation, including an anaerobic lagoon, earthen manure
33 storage basin, or formed manure storage structure.

34 Sec. 14. Section 455B.162, unnumbered paragraph 1, Code
35 Supplement 1995, is amended to read as follows:

1 1. The Except as provided in subsection 1A, the following
2 shall apply to animal feeding operation structures constructed
3 on or after May 31, 1995; to the expansion of structures
4 constructed on or after May 31, 1995; or, except as provided
5 in section 455B.163, to the expansion of structures
6 constructed prior to May 31, 1995:

7 Sec. 15. Section 455B.162, subsection 1, unnumbered
8 paragraph 1, Code Supplement 1995, is amended by striking the
9 unnumbered paragraph.

10 Sec. 16. Section 455B.162, Code Supplement 1995, is
11 amended by adding the following new subsection:

12 NEW SUBSECTION. 1A. The following shall apply to
13 confinement swine feeding operation structures constructed on
14 or after the effective date of this Act, if the confinement
15 swine feeding operations are established on or after the
16 effective date of this Act:

17 a. The following table represents the minimum separation
18 distance in feet required between a confinement swine feeding
19 operation structure and a residence not owned by the owner of
20 the confinement swine feeding operation, or a commercial
21 enterprise, bona fide religious institution, or an educational
22 institution:

	Minimum	Minimum	Minimum
	separation	separation	separation
	distance	distance	distance
	in feet	in feet	in feet
	for	for	for
	operations	operations	operations
	having an	having an	having an
	animal weight	animal weight	animal weight
	capacity of	capacity of	capacity of
	less than	625,000 or	1,250,000 or
	625,000	more pounds	more pounds
	pounds	but less than	
		1,250,000	

1			pounds
2	Type of		
3	structure		
4	_____		
5	Uncovered		
6	formed		
7	manure		
8	storage		
9	structure	2,250	2,750 3,250
10	Covered		
11	formed		
12	manure		
13	storage		
14	structure	1,900	2,250 2,750

15 b. The following table represents the minimum separation
 16 distance in feet required between confinement swine feeding
 17 operation structures and a public use area or a residence not
 18 owned by the owner of the confinement swine feeding operation,
 19 a commercial enterprise, a bona fide religious institution, or
 20 an educational institution located within the corporate limits
 21 of a city:

22	Minimum	Minimum	Minimum
23	separation	separation	separation
24	distance	distance	distance
25	in feet	in feet	in feet
26	for	for	for
27	operations	operations	operations
28	having an	having an	having an
29	animal weight	animal weight	animal weight
30	weight	capacity of	capacity of
31	capacity of	625,000 or	1,250,000 or
32	less than	more pounds	more pounds
33	625,000	but less than	
34	pounds	1,250,000	
35		pounds	

1 Type of
2 structure

3 _____
4 Confinement

5 swine

6 feeding

7 operation

8 structure 2,500 3,025 3,750

9 Sec. 17. Section 455B.165, subsections 1, 2, and 4, Code
10 Supplement 1995, are amended to read as follows:

11 1. ~~A-confinement~~ An animal feeding operation structure,
12 other than an anaerobic lagoon, which provides for the storage
13 of manure exclusively in a dry form.

14 2. ~~A-confinement~~ An animal feeding operation structure,
15 other than an anaerobic lagoon or earthen manure storage
16 basin, if the structure is part of a confinement feeding
17 operation which qualifies as a small animal feeding operation.

18 ~~4.--An animal feeding operation which is constructed or~~
19 ~~expanded within the corporate limits of a city, or the area~~
20 ~~within a separation distance required pursuant to this part,~~
21 ~~if the city approves a waiver which shall be memorialized in~~
22 ~~writing.--The written waiver becomes effective only upon~~
23 ~~recording the waiver in the office of the recorder of deeds of~~
24 ~~the county in which the benefited land is located.--The filed~~
25 ~~waiver shall preclude enforcement by the state of this part as~~
26 ~~it relates to the animal feeding operation structure.~~

27 ~~However, this subsection shall not affect a separation~~
28 ~~distance required between residences, educational~~
29 ~~institutions, commercial enterprises, bona fide religious~~
30 ~~institutions, or public use areas, as provided in this part.~~

31 4. A city which adopts an ordinance on or after the
32 effective date of this Act which prohibits the construction or
33 expansion of a confinement feeding operation structure or
34 which provides a different separation distance requirement
35 than provided for in section 455B.162. The ordinance may

1 apply within the corporate limits of the city, or within the
2 area where the city may exercise its jurisdiction beyond the
3 corporate limits of the city as provided in section 364.25 or
4 414.23.

5 Sec. 18. Section 455B.171, subsection 2, Code Supplement
6 1995, is amended to read as follows:

7 2. a. "Animal feeding operation" means a lot, yard,
8 corral, building, or other area in which animals are confined
9 and fed and maintained for forty-five days or more in any
10 twelve-month period, and all structures used for the storage
11 of manure from animals in the animal feeding operation.

12 b. Two or more animal feeding operations ~~under-common~~
13 ~~ownership-or-management~~ are deemed to be a single animal
14 feeding operation ~~if-they-are-adjacent~~ as follows:

15 (1) If the animal feeding operations do not include a
16 confinement swine feeding operation, the animal feeding
17 operations must be both of the following:

18 (a) Under common ownership or management.

19 (b) Adjacent or utilize a common area or system for manure
20 disposal.

21 (2) If the animal feeding operations include a confinement
22 swine feeding operation, either of the following must apply to
23 the animal feeding operations:

24 (a) They must utilize a common system or area for manure
25 storage.

26 (b) They must be separated by more than two thousand five
27 hundred feet, unless the combined animal weight capacity of
28 the animal feeding operations is two hundred thousand pounds
29 or less.

30 c. An animal feeding operation does not include a
31 livestock market as defined in section 455B.161.

32 Sec. 19. Section 455B.171, Code Supplement 1995, is
33 amended by adding the following new subsections:

34 NEW SUBSECTION. 4A. "Confinement swine feeding operation"
35 means the same as defined in section 455B.161.

1 NEW SUBSECTION. 4B. "Confinement swine feeding operation
2 structure" means the same as defined in section 455B.161.

3 NEW SUBSECTION. 9A. "Formed manure storage structure"
4 means the same as defined in section 455B.161.

5 NEW SUBSECTION. 9B. "Formed swine manure storage
6 structure" means the same as defined in section 455B.161.

7 NEW SUBSECTION. 12A. "Manure storage structure" means the
8 same as defined in section 455B.161.

9 Sec. 20. Section 455B.173, subsection 13, Code Supplement
10 1995, is amended to read as follows:

11 13. a. Adopt, modify, or repeal rules relating to the
12 construction or operation of animal feeding operations. The
13 rules shall include, but are not limited to, minimum manure
14 control requirements, requirements for obtaining permits, and
15 departmental evaluations of animal feeding operations. The
16 department shall require that a person obtain a permit for the
17 construction of a confinement swine feeding operation
18 structure. The department shall approve or disapprove a
19 permit for a confinement swine feeding operation structure
20 based upon the most current available standards for the
21 construction of structures of a similar size. However, the
22 department shall not require that a person obtain a permit for
23 the construction of an animal feeding operation structure, if
24 the structure is part of a small animal feeding operation.

25 b. The department shall collect an indemnity fee as
26 provided in section 204.3 prior to the issuance of a
27 construction permit. The department shall deposit moneys
28 collected from indemnity fees in the manure storage indemnity
29 fund created in section 204.2.

30 c. The department shall not approve a permit for the
31 construction of a confinement swine feeding operation
32 structure or three or more other animal feeding operation
33 structures, unless the applicant files a statement approved by
34 a professional engineer registered pursuant to chapter 542B
35 certifying that the construction of the animal-feeding

1 operation structure will not impede the drainage through
2 established drainage tile lines which cross property boundary
3 lines unless measures are taken to reestablish the drainage
4 prior to completion of construction. ~~The department shall~~
5 ~~deposit moneys collected in indemnity fees in the manure~~
6 ~~storage indemnity fund created in section 204.2.~~ The permit
7 for a confinement swine feeding operation structure shall be
8 conditional upon the removal of any drainage tile located
9 within fifty feet of the structure prior to its operation,
10 according to rules adopted by the department, which shall
11 provide for the removal, capping, and rerouting of the
12 drainage tile.

13 d. The department shall issue a permit for an animal
14 feeding operation, if an application is submitted according to
15 procedures required by the department, and the application
16 meets standards established by the department, regardless of
17 whether the animal feeding operation is required to obtain
18 such a permit. An applicant for a construction permit shall
19 not begin construction at the location of a site planned for
20 the construction of an animal feeding operation structure,
21 until the person has been granted a permit for the
22 construction of the structure by the department. The
23 department shall make a determination regarding the approval
24 or denial of a permit within sixty days from the date that the
25 department receives a completed application for a permit.
26 However, the sixty-day requirement shall not apply to an
27 application, if the applicant is not required to obtain a
28 permit in order to construct an animal feeding operation
29 structure or to operate an animal feeding operation. The
30 department shall deliver a copy or require the applicant to
31 deliver a copy of the application for a construction permit
32 and the applicant's manure management plan as provided in
33 section 455B.203, for a confinement swine feeding operation,
34 to the county board of supervisors in the county where the
35 confinement feeding operation or confinement related animal

1 feeding operation structure subject to the permit is to be
2 located. The board may file the application and the manure
3 management plan for a confinement swine feeding operation with
4 the county recorder, and require that the applicant submit a
5 filing fee. The department shall not approve the application
6 or issue a construction permit for an animal feeding operation
7 structure until thirty days following delivery of the
8 application to the county board of supervisors. If the
9 construction permit is for an animal feeding operation
10 structure for which a construction permit is required, the
11 county may submit comments to the department regarding
12 compliance by the applicant with the legal requirements for
13 the construction of the animal feeding operation structure as
14 provided in this chapter, and rules adopted by the department
15 pursuant to this chapter. The department shall consider
16 comments from the county board of supervisors, regarding
17 ~~compliance by the applicant with the legal requirements for~~
18 ~~the construction of the confinement feeding operation~~
19 ~~structure as provided in this chapter, and rules adopted by~~
20 ~~the department pursuant to this chapter,~~ if the comments are
21 delivered to the department within fourteen days after receipt
22 of the application by the county board of supervisors.
23 However, if the construction permit is for a confinement swine
24 feeding operation structure, the department shall not issue
25 the permit, if the county board of supervisors submits an
26 objection to the department within thirty days after receipt
27 of the application by the county board of supervisors. The
28 objection must be based upon a threat to environmental quality
29 or the public health that the board determines may be caused
30 by the location or design of the confinement swine feeding
31 operation structure.
32 e. Prior to granting a permit to a person for the
33 construction of an animal feeding operation, the department
34 may require the installation and operation of a hydrological
35 monitoring system for an exclusively earthen manure storage

1 structure, if, after an on-site inspection, the department
2 determines that the site presents an extraordinary potential
3 for groundwater pollution. The department shall require the
4 installation and operation of a hydrological monitoring system
5 for a manure storage structure which is part of a confinement
6 feeding operation prior to issuing a permit to the confinement
7 feeding operation, unless after an on-site inspection, the
8 department determines that no potential for groundwater
9 pollution exists.

10 f. A person shall not obtain a permit for the construction
11 of a confinement feeding operation, unless the person develops
12 a manure management plan as provided in section 455B.203.

13 g. During each major stage of construction, the department
14 shall conduct an inspection of the confinement swine feeding
15 operation structure subject to a permit required to be
16 approved by the department, in order to ensure that a
17 confinement swine feeding operation structure is being
18 constructed according to design requirements approved by the
19 department. A confinement swine feeding operation structure
20 shall not operate unless the department conducts a final
21 inspection and certifies that the confinement swine feeding
22 operation structure is constructed according to requirements
23 approved by the department.

24 h. The department shall not issue a permit to a person
25 under this subsection if an enforcement action by the
26 department, relating to a violation of this chapter concerning
27 a confinement feeding operation in which the person has an
28 interest, is pending. The department shall not issue a permit
29 to a person under this subsection for five years after the
30 date of the last violation committed by a person or
31 confinement feeding operation in which the person holds a
32 controlling interest during which the person or operation was
33 classified as a habitual violator under section 455B.191. The
34 department shall conduct an annual review inspection of each
35 confinement feeding operation which is a habitual violator and

1 each confinement feeding operation in which a habitual
2 violator holds a controlling interest. The department shall
3 notify persons classified as habitual violators of their
4 classification, additional restrictions imposed upon the
5 persons pursuant to the classification, and special civil
6 penalties that may be imposed upon the persons. The notice
7 shall be sent to the persons by certified mail.

8 Sec. 21. Section 455B.191, subsection 7, paragraphs a
9 through d, Code Supplement 1995, are amended to read as
10 follows:

11 a. The construction or operation of ~~a-confinement~~ an
12 animal feeding operation structure ~~or-anaerobic-lagoon~~ which
13 is part of a confinement feeding operation, or the
14 installation or use of a related pollution control device or
15 practice, for which the person must obtain a permit, in
16 violation of this chapter, or rules adopted by the department,
17 including the terms or conditions of the permit.

18 b. Intentionally making a false statement or
19 misrepresenting information to the department as part of an
20 application for a construction permit for ~~a-confinement~~ an
21 animal feeding operation structure ~~or-anaerobic-lagoon~~ which
22 is part of a confinement feeding operation, or the
23 installation of a related pollution control device or practice
24 for which the person must obtain a construction permit.

25 c. Failing to obtain a permit or approval by the
26 department in violation of this chapter or departmental rule
27 which requires a permit to construct or operate a confinement
28 feeding operation or use ~~a-confinement~~ an animal feeding
29 operation structure, ~~anaerobic-lagoon,~~ or a pollution control
30 device or practice which is part of a confinement feeding
31 operation.

32 d. Operating a confinement feeding operation, including a
33 ~~confinement~~ an animal feeding operation structure ~~or-anaerobic~~
34 ~~lagoon~~ which is part of a confinement feeding operation, or a
35 related pollution control device or practice, which causes

1 pollution to the waters of the state, if the pollution was
2 caused intentionally, or caused by a failure to take measures
3 required to abate the pollution which resulted from an act of
4 God.

5 Sec. 22. Section 455B.191, subsection 7, Code Supplement
6 1995, is amended by adding the following new paragraph:

7 NEW PARAGRAPH. f. To apply manure subject to a manure
8 management plan in violation of the plan, if another manure
9 management plan provides for the application of manure on the
10 same land.

11 Sec. 23. Section 455B.201, subsection 4, Code Supplement
12 1995, is amended to read as follows:

13 4. A person shall not apply manure by spray irrigation
14 equipment, ~~except as provided by rules which shall be adopted~~
15 ~~by the department pursuant to chapter 17A.~~

16 Sec. 24. Section 455B.201, Code Supplement 1995, is
17 amended by adding the following new subsections:

18 NEW SUBSECTION. 5. On and after the effective date of
19 this Act, a person shall not construct a manure storage
20 structure which is part of a confinement swine feeding
21 operation unless the manure storage structure is a formed
22 swine manure storage structure.

23 NEW SUBSECTION. 6. The department shall provide for the
24 installation and operation of a hydrological monitoring system
25 for a manure storage structure which is part of a confinement
26 feeding operation structure, unless after an on-site
27 inspection, the department determines that the site presents
28 no potential for groundwater pollution.

29 NEW SUBSECTION. 7. The department shall do all of the
30 following:

31 a. Cooperate with the Iowa department of public health in
32 regularly monitoring drinking water wells which are located in
33 close proximity to animal feeding operations. The monitoring
34 may be performed by employees of a county board of health in
35 the county where a drinking water well is located and reported

1 to the department of natural resources as provided by the Iowa
2 department of public health.

3 b. Regularly inspect and evaluate the structural integrity
4 of manure storage structures which are part of confinement
5 swine feeding operations. The department shall annually
6 inspect and evaluate not less than ten percent of all
7 anaerobic lagoons and earthen manure storage basins which are
8 part of those operations and for which a construction permit
9 has been issued by the department.

10 NEW SUBSECTION. 8. Drainage tile shall not be located
11 within fifty feet from a manure storage structure which is
12 part of a confinement swine feeding operation. The department
13 shall adopt rules for the inspection, removal, capping, and
14 rerouting of the drainage tile. The owner of a confinement
15 swine feeding operation shall comply with this subsection not
16 later than July 1, 1998.

17 Sec. 25. Section 455B.203, subsection 2, paragraph a, Code
18 Supplement 1995, is amended to read as follows:

19 a. Calculations necessary to determine the land area
20 required for the application of manure from a confinement
21 feeding operation ~~based on nitrogen use levels~~ in order to
22 obtain optimum crop yields according to a crop schedule
23 specified in the plan, and according to requirements adopted
24 by the department, as follows:

25 (1) If the manure is produced from a confinement feeding
26 operation other than a confinement swine feeding operation,
27 the calculations shall be based on nitrogen use levels.

28 (2) If the manure is produced from a confinement swine
29 feeding operation, the calculations shall be based on
30 phosphorus use levels.

31 The department shall adopt calculations required under this
32 paragraph "a" after receiving recommendations from the animal
33 agriculture consulting organization provided for in 1995 Iowa
34 Acts, chapter 195, section 37.

35 Sec. 26. Section 455B.203, subsection 2, Code Supplement

1 1995, is amended by adding the following new paragraph:

2 NEW PARAGRAPH. h. A written record describing actions
3 taken to determine the existence of drainage tile lines,
4 including the findings, and actions taken to comply with
5 permit requirements in section 455B.173, and minimum manure
6 control requirements provided in section 455B.201.

7 Sec. 27. Section 455B.203, Code Supplement 1995, is
8 amended by adding the following new subsection:

9 NEW SUBSECTION. 2A. A person required to submit a manure
10 management plan shall not apply manure on the land other than
11 as provided in the manure management plan.

12 Sec. 28. Section 455B.204, subsection 1, unnumbered
13 paragraph 1, Code Supplement 1995, is amended to read as
14 follows:

15 An animal feeding operation structure shall not be located
16 at-least constructed or expanded less than five hundred feet
17 away from the surface intake of an agricultural drainage well
18 or known sinkhole, and at-least not less than two hundred feet
19 away from a lake, river, or stream located within the
20 territorial limits of the state, any marginal river area
21 adjacent to the state, which can support a floating vessel
22 capable of carrying one or more persons during a total of a
23 six-month period in one out of ten years, excluding periods of
24 flooding. However, no a distance separation is not required
25 between a location or object and a farm pond or privately
26 owned lake, as defined in section 462A.2. A confinement swine
27 feeding operation structure shall not be constructed or
28 expanded less than five hundred feet away from a drinking
29 water well.

30 Sec. 29. Section 657.1, Code Supplement 1995, is amended
31 to read as follows:

32 657.1 NUISANCE -- WHAT CONSTITUTES -- ACTION TO ABATE.

33 Whatever is injurious to health, indecent, or unreasonably
34 offensive to the senses, or an obstruction to the free use of
35 property, so as essentially to unreasonably interfere with the

1 comfortable enjoyment of life or property, is a nuisance, and
2 a civil action by ordinary proceedings may be brought to
3 enjoin and abate the same and to recover damages sustained on
4 account thereof.

5 Sec. 30. Section 657.2, subsection 1, Code Supplement
6 1995, is amended to read as follows:

7 1. The erecting, continuing, or using any building or
8 other place for the exercise of any trade, employment, or
9 manufacture, which, by occasioning noxious exhalations,
10 unreasonably offensive smells, or other annoyances, becomes
11 injurious and dangerous to the health, comfort, or property of
12 individuals or the public.

13 Sec. 31. APPLICABILITY. Notwithstanding contrary
14 provisions of this Act, and except as provided in section
15 455B.163, as enacted by 1995 Iowa Acts, chapter 195, section
16 17, with regard to the continued operation of animal feeding
17 operations constructed prior to May 31, 1995, or the expansion
18 of structures constructed prior to May 31, 1995, the
19 provisions of section 455B.162, subsection 1, paragraph "a",
20 and paragraph "b", Code Supplement 1995, as enacted by 1995
21 Iowa Acts, chapter 195, section 16, shall continue to apply to
22 animal feeding operation structures as defined in section
23 455B.161, subsection 4, Code Supplement 1995, as enacted by
24 1995 Iowa Acts, chapter 195, section 15, if constructed or
25 expanded on or after May 31, 1995, but prior to the effective
26 date of this Act.

27 Sec. 32. DEPARTMENT OF NATURAL RESOURCES RULES REQUIRED.
28 The department of natural resources shall adopt as rules
29 recommended manure application practices as provided in 567
30 IAC 65.2(1), to apply to confinement swine feeding operations,
31 unless inconsistent with statute or rules required to
32 implement this Act.

33 Sec. 33. REPEAL OF NUISANCE SUIT RESTRICTION. Section
34 657.11, Code Supplement 1995, is repealed.

35 Sec. 34. EFFECTIVE DATE. This Act, being deemed of

1 immediate importance, takes effect upon enactment.

2 EXPLANATION

3 This bill relates to environmental protection and public
4 health by providing for the regulation of animal feeding
5 operations, including confinement feeding operations, and the
6 application of manure on land. A confinement swine feeding
7 operation is an area in which swine are confined to buildings
8 and fed and maintained for 45 days or more in any 12-month
9 period, including all structures used for the storage of
10 manure from animals in the operation.

11 The bill requires the state building code commissioner to
12 establish a model building code for confinement swine feeding
13 operation structures. The bill provides that a county
14 building code may apply to a confinement feeding operation
15 structure.

16 The bill authorizes a local board of health to monitor
17 drinking water wells which exist in close proximity to animal
18 feeding operations. The bill amends a provision which allows
19 a county to be reimbursed for acquiring real estate where an
20 animal feeding operation is located, by allowing reimbursement
21 for cleaning up an anaerobic lagoon.

22 The bill provides that for purposes of their regulation
23 under chapter 455B, two or more animal feeding operations are
24 deemed to be a single animal feeding operation if they include
25 a confinement swine feeding operation and are separated by
26 more than 2,500 feet, unless the combined animal weight
27 capacity of the animal feeding operations is 200,000 pounds or
28 less.

29 The bill provides greater separation distances for
30 confinement swine feeding operation structures constructed on
31 or after the effective date of the bill. The separation
32 distances apply between a confinement swine feeding operation
33 structure and a residence, commercial enterprise, bona fide
34 religious institution, or educational institution. Other
35 separation distances apply between a confinement swine feeding

1 operation structure and a public use area or a residence,
2 commercial enterprise, bona fide religious institution, or
3 educational institution located within the corporate limits of
4 a city.

5 The bill provides that a city may adopt an ordinance which
6 prohibits the construction or expansion of a confinement
7 feeding operation structure or which provides a different
8 separation distance requirement, applicable within the
9 corporate limits of a city or the two-mile area beyond the
10 corporate limits of the city.

11 The bill provides that the department of natural resources
12 must approve or disapprove a permit for the construction of a
13 confinement swine feeding operation structure based upon
14 current available standards for the construction of structures
15 of a similar size, unless the operation is part of a small
16 animal feeding operation, with an animal weight capacity of
17 200,000 pounds or less.

18 The bill provides for the removal of any drainage tile
19 located within 50 feet of a confinement swine feeding
20 operation structure.

21 The bill requires that a person applying to the department
22 for a permit to construct a confinement swine feeding
23 operation structure must submit a manure management plan with
24 the county as well as the application. The bill provides that
25 the department is prohibited from approving a permit, if the
26 county board of supervisors submits an objection to the
27 department. The bill requires the department to install and
28 operate a hydrological monitoring system for a manure storage
29 structure which is part of a confinement feeding operation
30 prior to issuing a permit. The bill requires that during each
31 major stage of construction, the department must conduct an
32 inspection of the confinement swine feeding operation
33 structure which is subject to a permit.

34 The bill provides that on and after the effective date of
35 the bill, a person is prohibited from constructing a manure

1 storage structure which is part of a confinement swine feeding
2 operation unless the manure storage structure is a formed
3 swine manure storage structure. The bill requires
4 hydrological monitoring of manure storage structures which are
5 part of confinement swine feeding operation structures. The
6 bill requires the department to cooperate with the Iowa
7 department of public health in regularly monitoring drinking
8 water wells which are located in close proximity to animal
9 feeding operations. The bill requires the department to
10 regularly inspect and evaluate the structural integrity of
11 manure storage structures which are part of confinement swine
12 feeding operations. The bill requires that drainage tile
13 cannot be located within 50 feet from a manure storage
14 structure which is part of a confinement swine feeding
15 operation.

16 The bill amends provisions relating to manure management
17 plans. The bill provides that if manure is produced from a
18 confinement swine feeding operation, the plan must include
19 calculations to determine the land area required for the
20 application of manure from a confinement feeding operation
21 based on phosphorus use levels required to obtain optimum crop
22 yields.

23 The bill prohibits a person required to submit a manure
24 management plan from applying manure on the land other than as
25 provided in the plan. It adds as criteria for the
26 classification of habitual violator a person who applies
27 manure subject to a manure management plan and in violation of
28 the plan, if another manure management plan provides for the
29 application of manure on the same land.

30 The bill requires that a confinement feeding operation
31 structure be constructed at least 500 feet away from a
32 drinking water well.

33 The bill requires the department of natural resources to
34 adopt as rules recommended manure application practices as
35 provided in 567 IAC 65.2(1) to apply to confinement swine

1 feeding operations.

2 The bill repeals section 657.11, which applies to nuisance
3 suit restrictions against animal feeding operations.

4 The bill provides for the prospective applicability of its
5 provisions as applied to separation distance requirements.

6 Chapter 455B includes provisions imposing penalties upon
7 violators which are applicable to the provisions of this bill.
8 A person violating provisions of the bill is generally subject
9 to a civil penalty of \$10,000, pursuant to section 455B.109.
10 A person who violates water quality provisions is subject to a
11 civil penalty of not more than \$5,000 unless the person is
12 classified as a habitual violator, pursuant to section
13 455B.191. A habitual violator may be subject to a civil
14 penalty of not more than \$25,000.

15 The bill takes effect upon enactment.

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A fiscal note for Senate File 2220 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2220 provides for regulation of animal feeding operations, including confinement feeding operations, and the application of manure on land. The Bill provides for monitoring of drinking water wells in close proximity to animal feeding operations.

ASSUMPTIONS

1. Approximately 100 annual inspections of confinement feeding operations per year will be done by the Department of Natural Resources.
2. Approximately 100 construction projects of confinement feeding operations per year will be inspected four times per year by the Department of Natural Resources.
3. The Department of Public Health will provide evaluation standards and technical assistance to local Boards of Health and case-by-case evaluation of each permitted feedlot.

FISCAL IMPACT

The estimated cost of Senate File 2220 for FY 1997 is \$947,000 and 11.5 FTE positions and is \$888,000 and 10.5 FTE positions for FY 1998. The breakdown is provided below.

The Department of Natural Resources estimates the required regulation in this Bill will require an additional \$893,000 and 10.5 FTE positions in FY 1997 from current law. In FY 1998, the Department estimates the cost to be \$833,000 and 9.5 FTE positions.

The Department of Public Health estimates the cost for FY 1997 at \$53,000 and 1.0 FTE position and the cost for FY 1998 at \$56,000 and 1.0 FTE position.

The Department of Public Safety estimates the cost for FY 1997 to be \$1,000.

The estimated impact to Iowa municipalities cannot be determined.

The estimated impact to the counties cannot be determined.

SOURCES

Department of Natural Resources
Department of Public Health
Department of Public Safety
League of Iowa Municipalities

(LSB 3817XS, DHK)

PAGE 2 , FISCAL NOTE, SENATE FILE 2220

SENATE FILE 2220

S-5169

1 Amend Senate File 2220 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. NEW SECTION. 331.309 AGRICULTURAL
5 DRAINAGE WELLS -- PENALTY.

6 1. The owner of land shall do all of the following
7 by July 1, 1998:

8 a. If the land contains a surface water intake
9 emptying into an agricultural drainage well, including
10 a surface water intake located in a road ditch, the
11 owner shall remove the surface water intake by July 1,
12 1998. This surface-water-intake removal requirement
13 does not require a person to remove or prohibit a
14 person from installing a tile line that empties into
15 an agricultural drainage well, if the tile line does
16 not have a surface water intake.

17 b. If the land contains a cistern connecting to an
18 agricultural drainage well, the owner shall construct
19 and maintain sidewalls surrounding the cistern in
20 order to prevent surface water runoff directly
21 emptying into the agricultural drainage well.

22 c. If the land contains an agricultural drainage
23 well, the owner shall install a vented cover over the
24 agricultural drainage well in order to prevent surface
25 water runoff directly emptying into the agricultural
26 drainage well.

27 2. A county may adopt minimum standards to
28 administer the requirements of this section. The
29 department of natural resources shall provide
30 information relating to owners registering
31 agricultural drainage wells pursuant to section 159.29
32 to each county board of supervisors and each drainage
33 district organized pursuant to chapter 468, where an
34 agricultural drainage well is registered.

35 3. Landowners of land where an agricultural
36 drainage well is located shall be notified of the
37 deadline for complying with this section by print,
38 electronic media, or other notification process, as
39 follows:

40 a. If the agricultural drainage well is not
41 located on land within a drainage district as provided
42 in chapter 468, the county shall provide the notice.

43 b. If the agricultural drainage well is located on
44 land within a drainage district as provided in chapter
45 468, the board of the drainage district shall provide
46 the notice, unless the county and the district
47 determine that notice will be provided by the county.

48 4. A surface tile emptying into an agricultural
49 drainage well shall be inspected to ensure compliance
50 with this section, as follows:

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1 a. If the agricultural drainage well is not within
2 a drainage district as provided in chapter 468, the
3 inspection shall be made as required by the county
4 board of supervisors.

5 b. If the agricultural drainage well is located on
6 land which is within a drainage district as provided
7 in chapter 468, the inspection shall be made as
8 required by the board of the drainage district, unless
9 the county and the district determine that inspection
10 will be made by the county.

11 The expenses incurred by the board of supervisors
12 for notification, inspection, and recordation shall be
13 paid equally by landowners in the county who own land
14 where there is located an agricultural drainage well.
15 The amount shall be placed upon the tax books, and
16 collected with interest and penalties after due, in
17 the same manner as other unpaid property taxes.
18 However, if expenses are incurred by the board of the
19 drainage district, the amount shall be charged to the
20 landowners in the district.

21 5. A person who does not comply with this section
22 is guilty of a simple misdemeanor. However, if a
23 person was guilty of violating this section and again
24 violates this section by not taking action necessary
25 to correct a previous violation within sixty days
26 after judgment is entered, the person is guilty of a
27 serious misdemeanor. If a person was guilty of
28 violating this section two or more times and again
29 violates this section by not taking action necessary
30 to correct a previous violation within sixty days
31 after the last judgment is entered, the person is
32 guilty of an aggravated misdemeanor.

33 Sec. 2. Section 455B.173, subsection 13, Code
34 Supplement 1995, is amended to read as follows:

35 13. a. Adopt, modify, or repeal rules relating to
36 the construction or operation of animal feeding
37 operations. The rules shall include, but are not
38 limited to, minimum manure control requirements,
39 requirements for obtaining permits, and departmental
40 evaluations of animal feeding operations. The
41 department shall not require that a person obtain a
42 permit for the construction of an animal feeding
43 operation structure, if the structure is part of a
44 small animal feeding operation.

45 b. The department shall collect an indemnity fee
46 as provided in section 204.3 prior to the issuance of
47 a construction permit. The department shall deposit
48 moneys collected in indemnity fees in the manure
49 storage indemnity fund created in section 204.2.

50 c. The department shall not approve a permit for

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1 the construction of three or more animal feeding
2 operation structures unless the applicant files a
3 statement approved by a professional engineer
4 registered pursuant to chapter 542B certifying that
5 the construction of the animal feeding operation
6 structure will not impede the drainage through
7 established drainage tile lines which cross property
8 boundary lines unless measures are taken to
9 reestablish the drainage prior to completion of
10 construction. ~~The department shall deposit moneys~~
11 ~~collected in indemnity fees in the manure storage~~
12 ~~indemnity fund created in section 204.2.~~
13 d. The department shall issue a permit for an
14 animal feeding operation, if an application is
15 submitted according to procedures required by the
16 department according to this section, and the
17 application meets standards established by the
18 department, regardless of whether the animal feeding
19 operation is required to obtain such a permit. An
20 applicant for a construction permit shall not begin
21 construction at the location of a site planned for the
22 construction of an animal feeding operation structure,
23 until the person has been granted a permit for the
24 construction of the structure by the department.
25 e. The department shall make a determination
26 regarding the approval or denial of a permit within
27 sixty days from the date that the department receives
28 a completed application for a the approval of the
29 permit, as provided in this paragraph. However, the
30 sixty-day requirement shall not apply to an
31 application, if the applicant is not required to
32 obtain a permit in order to construct an animal
33 feeding operation structure or to operate an animal
34 feeding operation. The department shall deliver a
35 copy or require the applicant to deliver a copy of the
36 application for a construction permit to the county
37 board of supervisors in the county where the
38 confinement feeding operation or confinement animal
39 feeding operation structure subject to the permit is
40 to be located. Upon receipt of an application for
41 departmental approval under this section, the
42 department shall determine if the application complies
43 with all permit requirements. The process of
44 approving or disapproving a permit shall be as
45 follows:
46 (1) If the total animal weight capacity of all
47 permitted confinement feeding operations in the county
48 is less than fifty million pounds, the department
49 shall not approve the application or issue a
50 construction permit until thirty days following

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1 delivery of the application to the county board of
2 supervisors. The department shall consider comments
3 from the county board of supervisors, regarding
4 compliance by the applicant with the legal
5 requirements for the construction of the confinement
6 feeding operation structure as provided in this
7 chapter, and rules adopted by the department pursuant
8 to this chapter, if the comments are delivered to the
9 department within fourteen days after receipt of the
10 application by the county board of supervisors.

11 (2) If the total animal weight capacity of all
12 permitted confinement feeding operations in the county
13 is fifty million pounds or more, the department shall
14 not approve the application or issue a construction
15 permit until the county has approved the application.
16 The county shall receive the application from the
17 applicant or the department as required by the
18 department. Within sixty days after receipt of the
19 application by the county board of supervisors, the
20 board shall either approve or disapprove the
21 application; endorse its approval or disapproval on
22 the application; and forward the application to the
23 department as required by the department. An
24 application which is not received by the department in
25 a timely manner shall be deemed to be approved by the
26 department.

27 f. Prior to granting a permit to a person for the
28 construction of an animal feeding operation, the
29 department may require the installation and operation
30 of a hydrological monitoring system for an exclusively
31 earthen manure storage structure, if, after an on-site
32 inspection, the department determines that the site
33 presents an extraordinary potential for groundwater
34 pollution.

35 g. A person shall not obtain a permit for the
36 construction of a confinement feeding operation,
37 unless the person develops a manure management plan as
38 provided in section 455B.203.

39 h. The department shall not issue a permit to a
40 person under this subsection if an enforcement action
41 by the department, relating to a violation of this
42 chapter concerning a confinement feeding operation in
43 which the person has an interest, is pending. The
44 department shall not issue a permit to a person under
45 this subsection for five years after the date of the
46 last violation committed by a person or confinement
47 feeding operation in which the person holds a
48 controlling interest during which the person or
49 operation was classified as a habitual violator under
50 section 455B.191. The department shall conduct an

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1 annual review of each confinement feeding operation
2 which is a habitual violator and each confinement
3 feeding operation in which a habitual violator holds a
4 controlling interest. The department shall notify
5 persons classified as habitual violators of their
6 classification, additional restrictions imposed upon
7 the persons pursuant to the classification, and
8 special civil penalties that may be imposed upon the
9 persons. The notice shall be sent to the persons by
10 certified mail.

11 Sec. 3. Section 455B.201, subsection 4, Code
12 Supplement 1995, is amended by adding the following
13 new subsection:

14 4. A person shall not use spray irrigation
15 equipment to apply manure on land from which water
16 drains into an agricultural drainage well. A person
17 shall not otherwise apply manure by spray irrigation
18 equipment, except as provided by rules which shall be
19 adopted by the department pursuant to chapter 17A.

20 Sec. 4. Section 455B.203, subsection 1, Code
21 Supplement 1995, is amended to read as follows:

22 1. ~~In-order-to-receive-a-permit-for-the~~
23 ~~construction-of-a~~ A person constructing an animal
24 feeding operation structure which is part of a
25 confinement feeding operation, as-provided-in-section
26 455B:173 other than a small animal feeding operation,
27 a-person shall submit a manure management plan to the
28 department. If the person is required to obtain a
29 construction permit for a confinement feeding
30 operation as provided in section 455B.173, the person
31 shall submit the manure management plan together with
32 the application for a construction permit. If the
33 person is not required to obtain a construction
34 permit, the person shall submit the manure management
35 plan prior to construction."

36 2. Title page, by striking lines 5 through 8 and
37 inserting the following: "of natural resources and
38 other entitles."

39 3. By renumbering as necessary.

By STEWART IVERSON, Jr.

S-5169 FILED MARCH 5, 1996

Out of Order

3-7-96

(p. 682)

SENATE FILE 2220

S-5176

- 1 Amend Senate File 2220 as follows:
 2 1. Page 8, line 33, by inserting after the word
 3 "confinement" the following: "swine".
 4 2. Page 8, line 34, by inserting after the word
 5 "requirement" the following: "for a confinement swine
 6 feeding operation structure".
 7 3. Page 13, line 5, by inserting after the word
 8 "confinement" the following: "swine".
 9 4. Page 15, line 25, by inserting after the word
 10 "confinement" the following: "swine".

(P.681)

Adopted 3-7-96

By PATTY JUDGE

S-5176 FILED MARCH 5, 1996

SENATE FILE 2220

S-5180

- 1 Amend Senate File 2220 as follows:
 2 1. Page 15, line 13, by inserting after the word
 3 "manure" the following: "from a confinement swine
 4 feeding operation".
 5 2. Page 18, by inserting after line 32 the
 6 following:
 7 "Sec. ____ . REPEAL OF DEPARTMENT OF NATURAL
 8 RESOURCES RULES. The department of natural resources
 9 shall repeal provisions in 567 IAC 65.2(9) and 567 IAC
 10 65.2(10) which apply to the application of manure by
 11 spray irrigation equipment by September 1, 1996."

By BILL FINK

Withdrawn 3-7-96 (P.681)

S-5180 FILED MARCH 5, 1996

SENATE FILE 2220

S-5200

- 1 Amend Senate File 2220 as follows:
 2 1. Page 15, line 13, by inserting after the word
 3 "manure" the following: "from a confinement swine
 4 feeding operation".
 5 2. Page 18, by inserting after line 32 the
 6 following:
 7 "Sec. ____ . REPEAL OF DEPARTMENT OF NATURAL
 8 RESOURCES RULES. The department of natural resources
 9 shall repeal provisions in 567 IAC 65.2(9) and IAB,
 10 Volume XVIII, No. 17 (2/14/96) pp. 1356-1357, ARC
 11 6250A, Item 4, rule 65.2, new subrule 10, which apply
 12 to the application of manure by spray irrigation
 13 equipment by September 1, 1996."

By BILL FINK

S-5200 FILED MARCH 5, 1996

*Withdrawn**3-7-96**(P.682)*

SENATE FILE 2220

S-5238

1 Amend Senate File 2220 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. Section 9H.5A, subsection 3, paragraph
5 g, Code Supplement 1995, is amended to read as
6 follows:

7 g. The approximate number of livestock, including
8 cattle, sheep, swine, ostriches, rheas, emus, or
9 poultry, owned, contracted for, or kept by the
10 corporation, limited liability company, trust, or
11 limited partnership; ~~and~~ the approximate number of
12 offspring produced from the livestock; and for each
13 county the animal weight capacity of each confinement
14 feeding operation in which swine are fed.

15 Sec. 2. Section 9H.5B, Code 1995, is amended by
16 adding the following new subsection:

17 NEW SUBSECTION. 4. For each county, the animal
18 weight capacity of each confinement feeding operation
19 in which swine are fed pursuant to a care and feeding
20 contract in which the contract feeder is a party.

21 Sec. 3. NEW SECTION. 9H.5C REPORTS BY
22 CONFINEMENT FEEDING OPERATIONS.

23 A person who owns confinement feeding operations
24 having a total animal weight capacity of seven million
25 five hundred thousand pounds or more shall file with
26 the secretary of state on or before March 31 of each
27 year, a report stating all of the following:

28 1. The name and address of the person.

29 2. The total animal weight capacity of all
30 confinement feeding operations which are owned by the
31 person.

32 3. For each county, the animal weight capacity of
33 all confinement feeding operations which are owned by
34 the person.

35 4. Whether the person is required to file a report
36 as a contract feeder pursuant to section 9H.5B.

37 Sec. 4. Section 9H.14, Code 1995, is amended to
38 read as follows:

39 9H.14 DUTIES OF SECRETARY OF STATE.

40 ~~1. The secretary of state shall notify the~~
41 ~~attorney general when the secretary of state has~~
42 ~~reason to believe a violation of this chapter has~~
43 ~~occurred. It is the intent of this section that~~
44 information compiled from reports required
45 under this section shall be made available to members
46 of the general assembly and appropriate committees of
47 the general assembly in order to determine the extent
48 of farming being carried out in this state by
49 corporations and other business entities and the
50 effect of such farming practices upon the economy of

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1 this state. The secretary of state shall assist any
2 committee of the general assembly existing or
3 established for the purposes of studying the effects
4 of this chapter and the practices this chapter seeks
5 to study and regulate.

6 2. ~~The~~ Notwithstanding chapter 22, reports of
7 corporations, limited liability companies, limited
8 partnerships, trusts, contractors, and processors
9 required in this chapter shall be confidential reports
10 ~~except-as-to-the.~~ However, the reports may be made
11 available to the attorney general for review and
12 appropriate action when necessary. Information
13 regarding confinement swine feeding enterprises as
14 defined in section 455B.171, shall not be
15 confidential.

16 3. ~~The secretary of state shall assist-any~~
17 ~~committee-of-the-general-assembly-existing-or~~
18 ~~established-for-the-purposes-of-studying-the-effects~~
19 ~~of-this-chapter-and-the-practices-this-chapter-seeks~~
20 ~~to-study-and-regulate~~ each year compile information
21 regarding commercial confinement swine feeding
22 enterprises. The information shall be made available
23 upon request to a county. The information may be
24 compiled from reports required to be filed pursuant to
25 this chapter, including sections 9H.5A, 9H.5B, and
26 9H.5C, and financing statements required to be filed
27 pursuant to section 554.9401.

28 Sec. 5. Section 455B.171, Code Supplement 1995, is
29 amended by adding the following new subsection:

30 NEW SUBSECTION. 4A. "Confinement swine feeding
31 enterprise" means a person who owns or is a party to a
32 contract for the care and feeding of swine, if the
33 swine are fed in confinement feeding operations and
34 the total animal weight capacity of all confinement
35 feeding operations in which the swine are fed in this
36 state is seven million five hundred thousand pounds or
37 more.

38 A confinement swine feeding operation which is
39 owned by a person holding an interest in a profit or
40 nonprofit entity, shall not be considered when
41 calculating animal weight capacity and shall not be
42 considered as part of a confinement swine feeding
43 enterprise, unless the swine are owned by the business
44 entity or subject to a contract for their care and
45 feeding in which the enterprise is a party.

46 Sec. 6. Section 455B.173, subsection 13, Code
47 Supplement 1995, is amended to read as follows:

48 13. a. Adopt, modify, or repeal rules relating to
49 the construction or operation of animal feeding
50 operations. The rules shall include, but are not

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1 limited to, minimum manure control requirements,
2 requirements for obtaining permits, and departmental
3 evaluations of animal feeding operations. The
4 department shall not require that a person obtain a
5 permit for the construction of an animal feeding
6 operation structure, if the structure is part of a
7 small animal feeding operation.

8 b. The department shall collect an indemnity fee
9 as provided in section 204.3 prior to the issuance of
10 a construction permit. The department shall deposit
11 moneys collected in indemnity fees in the manure
12 storage indemnity fund created in section 204.2.

13 c. The department shall not approve a permit for
14 the construction of three or more animal feeding
15 operation structures unless the applicant files a
16 statement approved by a professional engineer
17 registered pursuant to chapter 542B certifying that
18 the construction of the animal feeding operation
19 structure will not impede the drainage through
20 established drainage tile lines which cross property
21 boundary lines unless measures are taken to
22 reestablish the drainage prior to completion of
23 construction. ~~The department shall deposit moneys~~
24 ~~collected in indemnity fees in the manure storage~~
25 ~~indemnity fund created in section 204.2.~~

26 d. The department shall issue a permit for an
27 animal feeding operation, if an application is
28 submitted according to procedures required by the
29 department according to this section, and the
30 application meets standards established by the
31 department, regardless of whether the animal feeding
32 operation is required to obtain such a permit. An
33 applicant for a construction permit shall not begin
34 construction at the location of a site planned for the
35 construction of an animal feeding operation structure,
36 until the person has been granted a permit for the
37 construction of the structure by the department.

38 e. The department shall make a determination
39 regarding the approval or denial of a permit within
40 sixty days from the date that the department receives
41 a completed application for a the approval of the
42 permit, as provided in this paragraph. However, the
43 sixty-day requirement shall not apply to an
44 application, if the applicant is not required to
45 obtain a permit in order to construct an animal
46 feeding operation structure or to operate an animal
47 feeding operation. The department shall deliver a
48 copy or require the applicant to deliver a copy of the
49 application for a construction permit to the county
50 board of supervisors in the county where the

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1 confinement feeding operation or confinement feeding
2 operation structure subject to the permit is to be
3 located. Upon receipt of an application for
4 departmental approval under this subsection, the
5 department shall determine if the application complies
6 with all permit requirements. The process of
7 approving or disapproving a permit shall be as
8 follows:

9 (1) If the confinement feeding operation is not a
10 confinement swine feeding enterprise, the department
11 shall not approve the application or issue a
12 construction permit until thirty days following
13 delivery of the application to the county board of
14 supervisors. The department shall consider comments
15 from the county board of supervisors, regarding
16 compliance by the applicant with the legal
17 requirements for the construction of the confinement
18 feeding operation structure as provided in this
19 chapter, and rules adopted by the department pursuant
20 to this chapter, if the comments are delivered to the
21 department within fourteen days after receipt of the
22 application by the county board of supervisors.

23 (2) If the confinement feeding operation is a
24 confinement swine feeding enterprise, the department
25 shall not approve the application unless the
26 department receives the approval of the application
27 from the county.

28 f. Prior to granting a permit to a person for the
29 construction of an animal feeding operation, the
30 department may require the installation and operation
31 of a hydrological monitoring system for an exclusively
32 earthen manure storage structure, if, after an on-site
33 inspection, the department determines that the site
34 presents an extraordinary potential for groundwater
35 pollution.

36 g. A person shall not obtain a permit for the
37 construction of a confinement feeding operation,
38 unless the person develops a manure management plan as
39 provided in section 455B.203.

40 h. The department shall not issue a permit to a
41 person under this subsection if an enforcement action
42 by the department, relating to a violation of this
43 chapter concerning a confinement feeding operation in
44 which the person has an interest, is pending. The
45 department shall not issue a permit to a person under
46 this subsection for five years after the date of the
47 last violation committed by a person or confinement
48 feeding operation in which the person holds a
49 controlling interest during which the person or
50 operation was classified as a habitual violator under

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1 section 455B.191. The department shall conduct an
2 annual review of each confinement feeding operation
3 which is a habitual violator and each confinement
4 feeding operation in which a habitual violator holds a
5 controlling interest. The department shall notify
6 persons classified as habitual violators of their
7 classification, additional restrictions imposed upon
8 the persons pursuant to the classification, and
9 special civil penalties that may be imposed upon the
10 persons. The notice shall be sent to the persons by
11 certified mail.

12 Sec. 7. Section 554.9402, subsection 1, Code 1995,
13 is amended to read as follows:

14 1. A financing statement is sufficient if it gives
15 the names of the debtor and the secured party, is
16 signed by the debtor, gives an address of the secured
17 party from which information concerning the security
18 interest may be obtained, gives a mailing address of
19 the debtor and contains a statement indicating the
20 types, or describing the items, of collateral. A
21 financing statement may be filed before a security
22 agreement is made or a security interest otherwise
23 attaches. When the financing statement covers crops
24 growing or to be grown, the statement must also
25 contain a description of the real estate concerned.
26 When a financing statement covers swine fed in a
27 confinement feeding operation as provided in section
28 455B.161, the financing statement shall state the
29 animal weight capacity of the confinement feeding
30 operation as verified by the debtor. When the
31 financing statement covers timber to be cut or covers
32 minerals or the like (including oil and gas) or
33 accounts subject to section 554.9103, subsection 5, or
34 when the financing statement is filed as a fixture
35 filing (section 554.9313) and the collateral is goods
36 which are or are to become fixtures, the statement
37 must also comply with subsection 5. A copy of the
38 security agreement is sufficient as a financing
39 statement if it contains the above information and is
40 signed by the debtor. A copy of a jobs training
41 agreement entered into under chapter 260E or 260F
42 between an employer and a community college is
43 sufficient as a financing statement if it contains the
44 information required by this section and is signed by
45 the employer. A carbon, photographic or other
46 reproduction of a security agreement or a financing
47 statement is sufficient as a financing statement if
48 the security agreement so provides or if the original
49 has been filed in this state. The secretary of state
50 must accept for filing a copy of a signature required

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1 by this section. The secretary of state may adopt
2 rules for the electronic filing of a financing
3 statement.

4 Sec. 8. Section 554.9402, subsection 3, Code 1995,
5 is amended to read as follows:

6 3. A form substantially as follows is sufficient
7 to comply with subsection 1:

- 8 Name of debtor (or assignor)
- 9 Address
- 10 Name of secured party (or assignee)
- 11 Address

12 (1) This financing statement covers the following
13 types (or items) of property:

14 (Describe)

15 (2) (If collateral is crops) The above described
16 crops are growing or are to be grown on:

17 (Describe Real Estate)

18 (3) (If collateral is swine fed in a confinement
19 feeding operation) The above described swine are fed
20 in a confinement feeding operation that has an animal
21 weight capacity of:

22 (State Animal Weight Capacity)

23 ~~(3)~~ (4) (If applicable) The above goods are to
24 become fixtures on

25 Where appropriate either add or substitute "The
26 above timber is standing on" or "The above
27 minerals or the like (including oil and gas) are
28 located on" or "The above accounts will be
29 financed at the wellhead or minehead of the well or
30 mine located on" or any or all of these

31 (Describe Real Estate)

32 and this financing statement is to be filed for record
33 in the real estate records. (If the debtor does not
34 have an interest of record) The name of a record owner
35 is

36 ~~(4)~~ (5) (If products of collateral are claimed)

37 Products of the collateral are also covered.

38 (use whichever is applicable)

39 Signature of Debtor (or Assignor)

40 Signature of Secured Party (or Assignee)"

41 2. Title page, by striking lines 3 through 8 and
42 inserting the following: "including confinement
43 swine feeding operations."

44 3. By renumbering as necessary.

By STEWART IVERSON, Jr.

S-5238 FILED MARCH 6, 1996

*Out of Order 3-7-96
(p. 681)*

SENATE FILE 2220

S-5232

- 1 Amend the amendment, S-5169, to Senate File 2220 as
- 2 follows:
- 3 1. Page 1, line 9, by striking the word
- 4 "including".
- 5 2. Page 1, by striking line 10 and inserting the
- 6 following: "the".

By MARY LOU FREEMAN

S-5232 FILED MARCH 6, 1996

SENATE FILE 2220

S-5237

- 1 Amend Senate File 2220 as follows:
- 2 1. By striking page 17, line 30, through page 18,
- 3 line 12.
- 4 2. Page 18, by striking lines 33 and 34.

By RANDAL J. GIANNETTO

S-5237 FILED MARCH 6, 1996

SENATE FILE 2220

S-5241

- 1 Amend Senate File 2220 as follows:
- 2 1. Page 1, by inserting before line 1, the
- 3 following:
- 4 "Section 1. NEW SECTION. 7D.36 ANIMAL FEEDING
- 5 OPERATIONS.
- 6 The executive council shall annually reimburse each
- 7 county and city submitting a claim for an amount which
- 8 equals the total costs incurred by the county or city
- 9 for regulating animal feeding operations as provided
- 10 pursuant to sections 331.304, 364.25, 414.23,
- 11 455B.165, 455B.173, and 455B.201. Reimbursement shall
- 12 be made out of any money in the state treasury not
- 13 otherwise appropriated. The executive council may
- 14 prescribe procedures for submitting and approving
- 15 claims, including verifying that claims are accurate
- 16 by requiring certification or supporting
- 17 documentation."

By JIM LIND

S-5241 FILED MARCH 7, 1996

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(P.683)

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