

1 Section 1. NEW SECTION. 455B.205 INSPECTION PROGRAM --
2 ANAEROBIC LAGOONS AND EARTHEN MANURE STORAGE BASINS.

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4 anaerobic lagoons and earthen manure storage basins which are
5 part of animal feeding operations. The program shall require
6 an anaerobic lagoon or earthen manure storage basin to be
7 inspected by the department at least once each twelve months.
8 The inspection schedule shall provide priority to inspections
9 of anaerobic lagoons and earthen manure storage basins located
10 within environmentally sensitive areas. The department may
11 require the installation and operation of a hydrological
12 monitoring system if after an on-site inspection, the
13 department determines that a site presents an extraordinary
14 potential for surface water or subsurface water pollution.
15 The department shall file a report with the general assembly
16 on or before January 15 of each year describing the inspection
17 program, including resulting disciplinary or legal action
18 initiated by the department or the attorney general against
19 animal feeding operations in violation of this chapter.

20 EXPLANATION

21 This bill creates a new Code section 455B.205 requiring
22 that the department of natural resources establish a program
23 to inspect anaerobic lagoons and earthen manure storage
24 basins. The program must require an anaerobic lagoon or
25 earthen manure storage basin to be inspected by the department
26 at least once each 12 months. The bill provides that the
27 department may require the installation and operation of a
28 hydrological monitoring system if it determines that a site
29 presents an extraordinary potential for water pollution. The
30 bill provides that the department must file an annual report
31 with the general assembly regarding the inspection program.

32 Code section 455B.191 provides that a person violating
33 provisions relating to water quality is subject to a civil
34 penalty of up to \$5,000 for each day of the violation.

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SENATE FILE 468

S-3315

1 Amend Senate File 468 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Section 1. NEW SECTION. 103A.7A SWINE
5 CONFINEMENT FEEDING OPERATION STRUCTURES -- MODEL
6 CODE.

7 The commissioner shall establish a model building
8 code for confinement swine feeding operation
9 structures for which a construction permit is required
10 to be obtained as provided in section 455B.173, for
11 use by counties in amending their building codes.

12 Sec. ____ . Section 331.304, subsection 3, paragraph
13 b, Code 1997, is amended to read as follows:

14 b. A Except as otherwise provided in this
15 paragraph, a county building code shall not apply to
16 farm houses, barns, outbuildings, or other farm
17 buildings or structures which are primarily adapted
18 for use for an agricultural purposes purpose, while so
19 used or under construction for that use. The county
20 building code may apply to a confinement swine feeding
21 operation structure, as determined in section
22 455B.161, constructed or expanded on or after the
23 effective date of this Act, for which a construction
24 permit is required to be obtained as provided in
25 section 455B.173.

26 Sec. ____ . Section 455B.161, Code 1997, is amended
27 by adding the following new subsections:

28 NEW SUBSECTION. 9A. "Confinement swine feeding
29 operation" means a confinement feeding operation in
30 which swine are confined and fed.

31 NEW SUBSECTION. 9B. "Confinement swine feeding
32 operation structure" means a confinement building or
33 an animal feeding operation structure which is part of
34 a confinement swine feeding operation."

35 2. Title page, line 1, by inserting after the
36 word "for" the following: "a model building code for
37 and".

By PATTY JUDGE

S-3315 FILED APRIL 1, 1997

SENATE FILE 468

S-3314

1 Amend Senate File 468 as follows:

2 1. Page 1, line 1, by striking the words
3 "INSPECTION PROGRAM --".

4 2. Page 1, by striking lines 3 through 8 and
5 inserting the following:

6 "The following shall apply to an anaerobic lagoon
7 or earthen manure storage basin which is part of an
8 animal feeding operation, if the anaerobic lagoon or
9 earthen manure storage basin is required to be
10 constructed pursuant to a permit issued by the
11 department:

12 1. The department shall inspect each such
13 anaerobic lagoon and earthen manure storage basin
14 every thirty-six months. The department shall give
15 priority to inspections".

16 3. Page 1, lines 16 and 17, by striking the words
17 "the inspection program" and inserting the following:
18 "inspections conducted pursuant to this section".

19 4. Page 1, by inserting after line 19 the
20 following:

21 "2. A person who constructs an anaerobic lagoon or
22 earthen manure storage basin shall notify the
23 department that excavation is nearing completion prior
24 to completing excavation for the anaerobic lagoon or
25 earthen manure storage basin, as provided by the
26 department. The geological survey bureau shall review
27 the anaerobic lagoon or earthen manure storage basin
28 when the excavation is being completed, including when
29 the construction of a clay liner is being completed.
30 The bureau shall direct the taking of samples and
31 provide for the analysis of the samples to determine
32 the permeability of the anaerobic lagoon or earthen
33 manure storage basin."

By MERLIN E. BARTZ

S-3314 FILED APRIL 1, 1997

SENATE FILE 468

S-3317

1 Amend Senate File 468 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Section 1. Section 455B.171, Code 1997, is
5 amended by adding the following new subsections:

6 NEW SUBSECTION. 2A "Animal feeding operation
7 structure" means the same as defined in section
8 455B.161.

9 NEW SUBSECTION. 4A. "Confinement swine feeding
10 operation" means a confinement feeding operation in
11 which swine are confined and fed.

12 NEW SUBSECTION. 4B. "Confinement swine feeding
13 operation structure" means an animal feeding operation
14 structure which is part of a confinement swine feeding
15 operation."

16 2. Page 1, by striking line 2 and inserting the
17 following: "ANIMAL FEEDING OPERATION STRUCTURES."

18 3. Page 1, line 14, by inserting after the word
19 "pollution." the following: "During each major stage
20 of construction, the department shall conduct an
21 inspection of the confinement swine feeding operation
22 structure subject to a permit required to be approved
23 by the department, in order to ensure that a
24 confinement swine feeding operation structure is being
25 constructed according to design requirements approved
26 by the department. A confinement swine feeding
27 operation structure shall not operate unless the
28 department conducts a final inspection and certifies
29 that the confinement swine feeding operation structure
30 is constructed according to requirements approved by
31 the department. The department shall conduct an
32 annual inspection of each confinement swine feeding
33 operation required to obtain a construction permit
34 under this section."

35 4. By renumbering as necessary.

By PATTY JUDGE

S-3317 FILED APRIL 1, 1997

SENATE FILE 468

S-3316

1 Amend Senate File 468 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Section 1. Section 455B.173, subsection 13, Code
5 1997, is amended to read as follows:

6 13. Adopt, modify, or repeal rules relating to the
7 construction or operation of animal feeding
8 operations. The rules shall include, but are not
9 limited to, minimum manure control requirements,
10 requirements for obtaining permits, and departmental
11 evaluations of animal feeding operations. The
12 department shall not require that a person obtain a
13 permit for the construction of an animal feeding
14 operation structure, if the structure is part of a
15 small animal feeding operation. The department shall
16 collect an indemnity fee as provided in section 204.3
17 prior to the issuance of a construction permit. The
18 department shall not approve a permit for the
19 construction of three or more animal feeding operation
20 structures unless the applicant files a statement
21 approved by a professional engineer registered
22 pursuant to chapter 542B certifying that the
23 construction of the animal feeding operation structure
24 will not impede the drainage through established
25 drainage tile lines which cross property boundary
26 lines unless measures are taken to reestablish the
27 drainage prior to completion of construction. The
28 department shall deposit moneys collected in indemnity
29 fees in the manure storage indemnity fund created in
30 section 204.2. The department shall issue a permit
31 for an animal feeding operation, if an application is
32 submitted according to procedures required by the
33 department, and the application meets standards
34 established by the department, regardless of whether
35 the animal feeding operation is required to obtain
36 such a permit. An applicant for a construction permit
37 shall not begin construction at the location of a site
38 planned for the construction of an animal feeding
39 operation structure, until the person has been granted
40 a permit for the construction of the structure by the
41 department. The department shall make a determination
42 regarding the approval or denial of a permit within
43 sixty days from the date that the department receives
44 a completed application for a permit. However, the
45 sixty-day requirement shall not apply to an
46 application, if the applicant is not required to
47 obtain a permit in order to construct an animal
48 feeding operation structure or to operate an animal
49 feeding operation. The department shall deliver a
50 copy or require the applicant to deliver a copy of the

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1 application for a construction permit to the county
2 board of supervisors in the county where the
3 confinement feeding operation or confinement feeding
4 operation structure subject to the permit is to be
5 located. The department shall not approve the
6 application or issue a construction permit until
7 thirty days following delivery of the application to
8 the county board of supervisors. The department shall
9 consider comments from the county board of
10 supervisors, regarding compliance by the applicant
11 with the legal requirements for the construction of
12 the confinement feeding operation structure as
13 provided in this chapter, and rules adopted by the
14 department pursuant to this chapter, if the comments
15 are delivered to the department within fourteen days
16 after receipt of the application by the county board
17 of supervisors. However, if the construction permit
18 is for an animal feeding operation structure which is
19 part of a confinement feeding operation in which swine
20 are confined, the department shall not issue the
21 permit if the county board of supervisors submits an
22 objection to the department within thirty days after
23 receipt of the application by the county board of
24 supervisors. The objection must be based upon a
25 threat to environmental quality or the public health
26 that the board determines may be caused by the
27 location or design of the animal feeding operation
28 structure. Prior to granting a permit to a person for
29 the 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. 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. The department shall
39 not issue a permit to a person under this subsection
40 if an enforcement action by the department, relating
41 to a violation of this chapter concerning a
42 confinement feeding operation in which the person has
43 an interest, is pending. The department shall not
44 issue a permit to a person under this subsection for
45 five years after the date of the last violation
46 committed by a person or confinement feeding operation
47 in which the person holds a controlling interest
48 during which the person or operation was classified as
49 a habitual violator under section 455B.191. The
50 department shall conduct an annual review of each

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Page 3

1 confinement feeding operation which is a habitual
2 violator and each confinement feeding operation in
3 which a habitual violator holds a controlling
4 interest. The department shall notify persons
5 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 2. Title page, line 2, by inserting after the
12 word "structures" the following: "and providing for
13 permits".

By PATTY JUDGE

S-3316 FILED APRIL 1, 1997

**SENATE FILE 468
FISCAL NOTE**

A fiscal note for Senate File 468 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 468 provides that the Department of Natural Resources establish a program to inspect anaerobic lagoons and earthen manure storage basins. The Department of Natural Resources is required through the inspection program to inspect anaerobic lagoons and earthen manure storage structures at least once every 12 months. A report on the inspection program is due to the General Assembly on January 15 of each year.

ASSUMPTIONS

1. There are 600 operations that will require an annual inspection.
2. The annual inspections need to be conducted during a five month period of March 1 through mid-May and mid-September through December 1.
3. Average of 20 working days for each calendar month.
4. There are 9.0 FTE positions required to complete the inspection of all facilities every year, an increase of 3.0 FTE positions compared to FY 1997 funding.

FISCAL IMPACT

The estimated fiscal impact of Senate File 468 is a net cost of \$189,000 in FY 1998 and a net cost of \$210,000 in FY 1999 based on the FY 1997 appropriation. Following is a table to show the breakdown.

	(dollars in thousands)					
	<u>Fiscal Year 1998</u>			<u>Fiscal Year 1999</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Increase (Decrease)</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Increase (Decrease)</u>
<u>REVENUE</u>						
General Fund \$	374	374	0	374	374	0
<u>EXPENDITURES</u>						
Salaries	397	533	136	397	548	151
(FTE's)	(6.0)	(9.0)	(3.0)	(6.0)	(9.0)	(3.0)
Support	138	191	53	138	197	59
Total	535	724	189	535	745	210
<u>NET EFFECT</u>	<u>\$(161)</u>	<u>\$(350)</u>	<u>\$(189)</u>	<u>\$(161)</u>	<u>\$(371)</u>	<u>\$(210)</u>

(LSB 2727SV, AMF)

FILED APRIL 1, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR

Bartz, Chair
Hedge
J. Black
Fink
Judge

SSB 240
Natural Resources

Succeeded By
SF/HF 468
SENATE FILE
BY (PROPOSED COMMITTEE ON
NATURAL RESOURCES AND
ENVIRONMENT BILL BY
CHAIRPERSON BARTZ)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to animal feeding operations, by providing for
2 the inspection of certain animal feeding operation structures.

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

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