

FILED JAN 21 1998

SENATE FILE 2049  
BY BORLAUG

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

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An Act prohibiting the construction or expansion of earthen manure structures associated with confinement feeding operations, and providing an effective date.

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

S.F. 2049

1 Section 1. Section 455B.161, Code 1997, is amended by  
2 adding the following new subsections:

3 NEW SUBSECTION. 5A. "Authorized animal feeding operation  
4 structure" means an animal feeding operation structure other  
5 than an unformed manure storage structure.

6 NEW SUBSECTION. 21. "Unformed manure storage structure"  
7 means a covered or uncovered animal feeding operation  
8 structure, other than a formed manure storage structure, which  
9 is used to store manure from a confinement feeding operation,  
10 including but not limited to an earthen manure storage basin  
11 or anaerobic lagoon.

12 Sec. 2. Section 455B.162, unnumbered paragraph 1, Code  
13 1997, is amended by striking the unnumbered paragraph.

14 Sec. 3. Section 455B.162, subsection 1, unnumbered  
15 paragraph 1, Code 1997, is amended by striking the unnumbered  
16 paragraph and inserting in lieu thereof the following:

17 The following tables shall apply to animal feeding  
18 operation structures constructed or expanded on or after May  
19 31, 1995, but prior to the effective date of this Act:

20 Sec. 4. Section 455B.162, Code 1997, is amended by adding  
21 the following new subsections:

22 NEW SUBSECTION. 1A. The following tables shall apply to  
23 authorized animal feeding operation structures constructed or  
24 expanded on or after the effective date of this Act:

25 a. The following table represents the minimum separation  
26 distance in feet required between an authorized animal feeding  
27 operation structure and a residence not owned by the owner of  
28 the animal feeding operation, or a commercial enterprise, bona  
29 fide religious institution, or an educational institution:

30	Minimum
31	separation
32	distance in
33	feet for
34	operations
35	Minimum having an

1	separation	animal	Minimum
2	distance in	weight	separation
3	feet for	capacity of	distance in
4	operations	625,000 or	feet for
5	having an	more pounds	operations
6	animal	but less than	having an
7	weight	1,250,000	animal
8	capacity of	pounds for	weight
9	less than	animals other	capacity of
10	625,000	than bovine,	1,250,000 or
11	pounds for	or 1,600,000	more pounds
12	animals other	or more	for animals
13	than bovine,	pounds but	other than
14	or less than	less than	bovine, or
15	1,600,000	4,000,000	4,000,000 or
16	pounds for	pounds for	more pounds
17	<u>Type of structure</u>	<u>bovine</u>	<u>bovine</u>
18	Uncovered formed		
19	manure storage		
20	structure	1,000	1,500
21	Covered formed		
22	manure storage		
23	structure	750	1,000
24	Confinement		
25	building	750	1,000
26	Egg washwater		
27	storage structure	750	1,000

18 Uncovered formed

19 manure storage

20 structure 1,000 1,500 2,000

21 Covered formed

22 manure storage

23 structure 750 1,000 1,500

24 Confinement

25 building 750 1,000 1,500

26 Egg washwater

27 storage structure 750 1,000 1,500

28 b. The following table represents the minimum separation  
 29 distance in feet required between an authorized animal feeding  
 30 operation structure and a public use area or a residence not  
 31 owned by the owner of the animal feeding operation, a  
 32 commercial enterprise, a bona fide religious institution, or  
 33 an educational institution located within the corporate limits  
 34 of a city:

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Minimum

1		separation	
2		distance in	
3		feet for	
4		operations	
5	Minimum	having an	
6	separation	animal	Minimum
7	distance in	weight	separation
8	feet for	capacity of	distance in
9	operations	625,000 or	feet for
10	having an	more pounds	operations
11	animal	but less than	having an
12	weight	1,250,000	animal
13	capacity of	pounds for	weight
14	less than	animals other	capacity of
15	625,000	than bovine,	1,250,000 or
16	pounds for	or 1,600,000	more pounds
17	animals other	or more	for animals
18	than bovine,	pounds but	other than
19	or less than	less than	bovine, or
20	1,600,000	4,000,000	4,000,000 or
21	pounds for	pounds for	more pounds
22	<u>Type of structure</u>	<u>bovine</u>	<u>bovine</u>
23	<u>Authorized animal</u>		<u>for bovine</u>

23 Authorized animal  
24 feeding operation

25 structure 1,250 1,875 2,500

26 NEW SUBSECTION. 3. An animal feeding operation structure  
27 constructed prior to May 31, 1995, may be expanded only if it  
28 is an authorized animal feeding operation structure as  
29 provided in section 455B.163.

30 Sec. 5. Section 455B.163, unnumbered paragraph 1, Code  
31 1997, is amended to read as follows:

32 An authorized animal feeding operation constructed prior to  
33 the applicability of a requirement in section 455B.162, which  
34 does not comply with the distance-requirements-of-section  
35 455B-162-on-May-31-1995 applicable requirement, may continue

1 to operate regardless of ~~those-separation-distances~~ the  
2 requirement. The animal feeding operation may be expanded on  
3 ~~or-after-May-31, 1997~~, regardless of ~~those-separation~~  
4 ~~distances~~ the applicable requirement at any time, if either of  
5 the following applies:

6 Sec. 6. Section 455B.163, subsection 1, Code 1997, is  
7 amended to read as follows:

8 1. The authorized animal feeding operation structure as  
9 constructed or expanded complies with the applicable distance  
10 requirements of section 455B.162.

11 Sec. 7. Section 455B.171, Code Supplement 1997, is amended  
12 by adding the following new subsections:

13 NEW SUBSECTION. 1A. "Anaerobic lagoon" means the same as  
14 defined in section 455B.161.

15 NEW SUBSECTION. 3A. "Authorized animal feeding operation  
16 structure" means an animal feeding operation structure other  
17 than an unformed manure storage structure.

18 NEW SUBSECTION. 7A. "Earthen manure storage basin" means  
19 the same as defined in section 455B.161.

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

22 NEW SUBSECTION. 32A. "Unformed manure storage structure"  
23 means a covered or uncovered animal feeding operation  
24 structure, other than a formed manure storage structure, which  
25 is used to store manure from a confinement feeding operation,  
26 including but not limited to an earthen manure storage basin  
27 or anaerobic lagoon.

28 Sec. 8. Section 455B.173, subsection 13, Code 1997, is  
29 amended to read as follows:

30 13. a. Adopt, modify, or repeal rules relating to the  
31 construction or operation of animal feeding operations. The  
32 rules shall include, but are not limited to, minimum manure  
33 control requirements, requirements for obtaining permits, and  
34 departmental evaluations of animal feeding operations. The  
35 department shall not require that a person obtain a permit for

1 the construction of an animal feeding operation structure, if  
2 the structure is part of a small animal feeding operation.

3 b. The department shall collect an indemnity fee as  
4 provided in section 204.3 prior to the issuance of a  
5 construction permit. The department shall deposit moneys  
6 collected in indemnity fees in the manure storage indemnity  
7 fund created in section 204.2.

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

21 d. The department shall issue a permit for an animal  
22 feeding operation, if an application is submitted according to  
23 procedures required by the department, and the application  
24 meets standards established by the department, regardless of  
25 whether the animal feeding operation is required to obtain  
26 such a permit. An applicant for a construction permit shall  
27 not begin construction at the location of a site planned for  
28 the construction of an animal feeding operation structure,  
29 until the person has been granted a permit for the  
30 construction of the structure by the department. The  
31 department shall make a determination regarding the approval  
32 or denial of a permit within sixty days from the date that the  
33 department receives a completed application for a permit.  
34 However, the sixty-day requirement shall not apply to an  
35 application, if the applicant is not required to obtain a

1 permit in order to construct an animal feeding operation  
2 structure or to operate an animal feeding operation. The  
3 department shall deliver a copy or require the applicant to  
4 deliver a copy of the application for a construction permit to  
5 the county board of supervisors in the county where the  
6 confinement feeding operation or confinement feeding operation  
7 structure subject to the permit is to be located. The  
8 department shall not approve the application or issue a  
9 construction permit until thirty days following delivery of  
10 the application to the county board of supervisors. The  
11 department shall consider comments from the county board of  
12 supervisors, regarding compliance by the applicant with the  
13 legal requirements for the construction of the confinement  
14 feeding operation structure as provided in this chapter, and  
15 rules adopted by the department pursuant to this chapter, if  
16 the comments are delivered to the department within fourteen  
17 days after receipt of the application by the county board of  
18 supervisors.

19 e. Prior to granting a permit to a person for the  
20 construction of an animal feeding operation, the department  
21 may require the installation and operation of a hydrological  
22 monitoring system for an exclusively earthen manure storage  
23 structure, if, after an on-site inspection, the department  
24 determines that the site presents an extraordinary potential  
25 for groundwater pollution.

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

29 g. The department shall not issue a permit to a person  
30 under this subsection if an enforcement action by the  
31 department, relating to a violation of this chapter concerning  
32 a confinement feeding operation in which the person has an  
33 interest, is pending. The department shall not issue a permit  
34 to a person under this subsection for five years after the  
35 date of the last violation committed by a person or

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

13 Sec. 9. NEW SECTION. 455B.205 UNFORMED MANURE STORAGE  
14 STRUCTURES -- PROHIBITION.

15 A person shall not construct or expand an unformed manure  
16 storage structure on or after the effective date of this Act.

17 Sec. 10. EFFECTIVE DATE. This Act, being deemed of  
18 immediate importance, takes effect upon enactment.

19 EXPLANATION

20 This bill prohibits a person from constructing or expanding  
21 an unformed manure storage structure on and after the  
22 effective date of the bill. An unformed manure storage  
23 structure is defined to mean a covered or uncovered structure,  
24 other than a formed manure storage structure, which is used to  
25 store manure from a confinement feeding operation, including  
26 but not limited to an earthen manure storage basin or  
27 anaerobic lagoon. The bill maintains separation distance  
28 requirements for animal feeding operation structures which are  
29 constructed prior to the effective date of the bill. The bill  
30 becomes effective upon enactment.

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