

Angelo
Behn
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Kibbie
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Succeeded By
SF/HF 2293

SSB 3174
Agriculture

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON BEHN)

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

A BILL FOR

1 An Act relating to animal agriculture.

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

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1 Section 1. ANIMAL AGRICULTURE. It is the intent of the
2 general assembly to regulate animal agriculture.

3 EXPLANATION

4 This bill provides that it is the intent of the general
5 assembly to regulate animal agriculture.

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Substitutes for HF 2468
4/12/02
(P. 1476)

3/14/02 UNFINISHED BUSINESS CALENDAR
3/25/02 Removed from Calendar + sent to agri. Comm.
FILED FEB 25 2002

SENATE FILE 2293
BY COMMITTEE ON AGRICULTURE
S-4/9/02 Amend/Do Pass W S-5437
(SUCCESSOR TO SSB 3174)

(COMPANION TO HF 2468)

Passed Senate, Date 4/10/02 (P. 1097)
Vote: Ayes 27 Nays 13
Approved April 29, 2002

Passed House, Date 4/12/02 (P. 1490)
Vote: Ayes 81 Nays 13

A BILL FOR

1 An Act relating to animal agriculture.

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

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OF
2293

1 Section 1. ANIMAL AGRICULTURE. It is the intent of the
2 general assembly to regulate animal agriculture.

3 EXPLANATION

4 This bill provides that it is the intent of the general
5 assembly to regulate animal agriculture.

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SENATE FILE 2293

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1 Amend Senate File 2293 as follows:

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

4 "DIVISION I

5 REGULATION OF ANIMAL FEEDING OPERATIONS

6 Section 1. Section 4.1, Code 2001, is amended by
7 adding the following new subsection:

8 NEW SUBSECTION. 9A. "Internet" means the

9 federated international system that is composed of
10 allied electronic communication networks linked by
11 telecommunication channels, that uses standardized
12 protocols, and that facilitates electronic
13 communication services, including but not limited to
14 use of the world wide web; the transmission of
15 electronic mail or messages; the transfer of files and
16 data or other electronic information; and the
17 transmission of voice, image, and video.

18 Sec. 2. Section 455B.109, subsection 4, Code 2001,
19 is amended to read as follows:

20 4. All civil penalties assessed by the department
21 and interest on the penalties shall be deposited in
22 the general fund of the state. However, civil
23 penalties assessed by the department and interest on
24 the civil penalties, arising out of violations
25 committed by involving animal feeding operations under
26 division II, part 2, shall be deposited in the manure
27 storage indemnity animal agriculture compliance fund
28 as created in section 455J.2 455B.127. Civil
29 penalties assessed by the department and interest on
30 the penalties arising out of violations committed by
31 animal feeding operations under division III, which
32 may be assessed pursuant to section 455B.191, shall
33 also be deposited in the manure storage indemnity
34 animal agriculture compliance fund as created in
35 section 455J.2.

36 Sec. 3. Section 455B.110, subsection 3, Code 2001,
37 is amended by striking the subsection.

38 PART 2

39 ANIMAL FEEDING OPERATIONS

40 Sec. 4. NEW SECTION. 455B.125 COUNTY ASSESSMENT
41 OF FEES PROHIBITED.

42 A county shall not assess or collect a fee under
43 this chapter for the regulation of animal agriculture,
44 including but not limited to any fee related to the
45 filing, consideration, or evaluation of an application
46 for a construction permit pursuant to section
47 455B.200A or the filing of a manure management plan
48 pursuant to section 455B.203.

49 Sec. 5. NEW SECTION. 455B.126 ANIMAL AGRICULTURE
50 COMPLIANCE FEES -- DELINQUENCIES.

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1 If a fee imposed under this chapter for deposit
2 into the animal agriculture compliance fund is
3 delinquent, the department may charge interest on any
4 amount of the fee that is delinquent. The rate of
5 interest shall not be more than the current rate
6 published in the Iowa administrative bulletin by the
7 department of revenue and finance pursuant to section
8 421.7. The interest amount shall be computed from the
9 date that the fee is delinquent, unless the department
10 designates a later date. The interest amount shall
11 accrue for each month in which a delinquency is
12 calculated as provided in section 421.7, and counting
13 each fraction of a month as an entire month. The
14 interest amount shall become part of the amount of the
15 fee due.

16 Sec. 6. NEW SECTION. 455B.127 ANIMAL AGRICULTURE
17 COMPLIANCE FUND.

18 1. An animal agriculture compliance fund is
19 created in the state treasury under the control of the
20 department. The compliance fund is separate from the
21 general fund of the state.

22 2. The compliance fund is composed of two
23 accounts, the general account and the assessment
24 account.

25 a. The general account is composed of moneys
26 appropriated by the general assembly and moneys
27 available to and obtained or accepted by the
28 department from the United States government or
29 private sources for placement in the compliance fund.
30 Unless otherwise specifically provided in statute,
31 moneys required to be deposited in the compliance fund
32 shall be deposited into the general account. The
33 general account shall include moneys deposited into
34 the account from all of the following:

35 (1) The construction permit application fee
36 required pursuant to section 455B.200A.

37 (2) The manure management plan filing fee required
38 pursuant to section 455B.203.

39 (3) Fees paid by persons required to be certified
40 as commercial manure applicators or confinement site
41 manure applicators pursuant to section 455B.203A.

42 (4) The collection of civil penalties assessed by
43 the department and interest on civil penalties,
44 arising out of violations involving animal feeding
45 operations as provided in sections 455B.167 and
46 455B.207.

47 b. The assessment account is composed of moneys
48 collected from the annual compliance fee required
49 pursuant to section 455B.203C.

50 3. Moneys in the compliance fund are appropriated

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1 to the department exclusively to pay the expenses of
2 the department in administering and enforcing the
3 provisions of division II, part 2, and division III,
4 part 1, subpart A, as necessary to ensure that animal
5 feeding operations comply with all applicable
6 requirements of those provisions, including rules
7 adopted or orders issued by the department pursuant to
8 those provisions. The moneys shall not be
9 transferred, used, obligated, appropriated, or
10 otherwise encumbered except as provided in this
11 subsection. The department shall not transfer moneys
12 from the compliance fund's assessment account to
13 another fund or account, including but not limited to
14 the fund's general account.

15 4. Moneys in the fund, which may be subject to
16 warrants written by the director of revenue and
17 finance, shall be drawn upon the written requisition
18 of the director of the department of natural resources
19 or an authorized representative of the director.

20 5. Notwithstanding section 8.33, any unexpended
21 balance in the compliance fund at the end of the
22 fiscal year shall be retained in the fund.
23 Notwithstanding section 12C.7, subsection 2, interest,
24 earnings on investments, or time deposits of the
25 moneys in the compliance fund shall be credited to the
26 fund.

27 Sec. 7. Section 455B.161, subsections 2, 3, 4, 5,
28 9, 11, 16, 21, and 24, Code 2001, are amended to read
29 as follows:

30 2. "Anaerobic lagoon" means an ~~impoundment used in~~
31 ~~conjunction with an animal feeding operation unformed~~
32 manure storage structure, if the primary function of
33 the ~~impoundment~~ structure is to store and stabilize
34 ~~organic wastes manure~~, the ~~impoundment~~ structure is
35 designed to receive ~~wastes manure~~ on a regular basis,
36 and the ~~impoundment's~~ structure's design waste loading
37 rates provide that the predominant biological activity
38 is anaerobic. An anaerobic lagoon does not include
39 any of the following:

40 a. ~~A confinement feeding operation structure.~~

41 ~~b.~~ A runoff control basin which collects and
42 stores only precipitation-induced runoff from an
43 animal feeding operation in which animals are confined
44 to areas which are unroofed or partially roofed and in
45 which no crop, vegetation, or forage growth or residue
46 cover is maintained during the period in which animals
47 are confined in the operation.

48 ~~e.~~ b. An anaerobic treatment system ~~which~~ that
49 includes collection and treatment facilities for all
50 off gases.

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1 3. "Animal" means a ~~domesticated animal belonging~~
2 ~~to the bovine, porcine, ovine, caprine, equine, or~~
3 avian species classified as cattle, swine, horses,
4 sheep, chickens or turkeys.

5 4. "Animal feeding operation" means a lot, yard,
6 corral, building, or other area in which animals are
7 confined and fed and maintained for forty-five days or
8 more in any twelve-month period, and all structures
9 used for the storage of manure from animals in the
10 operation. ~~Two or more animal feeding operations~~
11 ~~under common ownership or management are deemed to be~~
12 ~~a single animal feeding operation if they are adjacent~~
13 ~~or utilize a common system for manure storage. An~~
14 animal feeding operation does not include a livestock
15 market.

16 5. "Animal feeding operation structure" means ~~an~~
17 ~~anaerobic lagoon or confinement feeding operation~~
18 structure a confinement building, manure storage
19 structure, or egg washwater storage structure.

20 9. "Confinement feeding operation building" or
21 "confinement building" means a building used in
22 conjunction with a confinement feeding operation to
23 house animals.

24 11. "Confinement feeding operation structure"
25 means ~~a formed manure storage~~ an animal feeding
26 operation structure, egg washwater storage structure,
27 ~~earthen manure storage basin, or confinement building.~~
28 ~~A confinement feeding operation structure does not~~
29 ~~include an anaerobic lagoon that is part of a~~
30 confinement feeding operation.

31 16. "Formed manure storage structure" means a
32 ~~structure, either covered or uncovered,~~ impoundment
33 used to store manure from a confinement an animal
34 feeding operation, which has walls and a floor
35 constructed of concrete, concrete block, wood, steel,
36 or similar materials.

37 21. "Small animal feeding operation" means an
38 animal feeding operation which has an ~~animal weight~~
39 animal unit capacity of two hundred thousand pounds or
40 ~~less for animals other than bovine, or four hundred~~
41 ~~thousand pounds~~ five hundred or less for bovine fewer
42 animal units.

43 24. "Unformed manure storage structure" means a
44 covered or uncovered ~~animal feeding operation~~
45 ~~structure in which~~ impoundment used to store manure is
46 ~~stored,~~ other than a formed manure storage structure,
47 ~~which is~~ includes an anaerobic lagoon, aerobic
48 structure, or earthen manure storage basin.

49 Sec. 8. Section 455B.161, Code 2001, is amended by
50 adding the following new subsections:

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1 NEW SUBSECTION. 6A. "Animal unit" means a unit of
2 measurement based upon the product of multiplying the
3 number of animals of each category by a special
4 equivalency factor as follows:

5	a. Slaughter or feeder cattle	1.000
6	b. Immature dairy cattle	1.000
7	c. Mature dairy cattle	1.400
8	d. Butcher or breeding swine weighing	
9	more than fifty-five pounds	0.400
10	e. Swine weighing fifteen pounds or more	
11	but not more than fifty-five pounds	0.100
12	f. Sheep or lambs	0.100
13	g. Horses	2.000
14	h. Turkeys	0.018
15	i. Broiler or layer chickens	0.010

16 NEW SUBSECTION. 6B. "Animal unit capacity" means
17 a measurement used to determine the maximum number of
18 animal units that may be maintained as part of an
19 animal feeding operation at any one time, including as
20 provided in sections 455B.161A and 455B.200B.

21 NEW SUBSECTION. 8A. "Commission" means the
22 environmental protection commission created pursuant
23 to section 455A.6.

24 NEW SUBSECTION. 18A. "Manure storage structure"
25 means a formed manure storage structure or an unformed
26 manure storage structure. A manure storage structure
27 does not include an egg washwater storage structure.

28 NEW SUBSECTION. 18B. "Public thoroughfare" means
29 a road, street, or bridge that is constructed or
30 maintained by the state or a political subdivision.

31 NEW SUBSECTION. 19A. "Qualified confinement
32 feeding operation" means a confinement feeding
33 operation having an animal unit capacity of any of the
34 following:

35 a. For a confinement feeding operation maintaining
36 animals other than swine as part of a farrowing and
37 gestating operation or farrow-to-finish operation or
38 cattle as part of a cattle operation, five thousand or
39 more animal units.

40 b. For a confinement feeding operation maintaining
41 swine as part of a farrowing and gestating operation,
42 two thousand five hundred or more animal units.

43 c. For a confinement feeding operation maintaining
44 swine as part of a swine farrow-to-finish operation,
45 five thousand four hundred or more animal units.

46 d. For a confinement feeding operation maintaining
47 cattle, eight thousand five hundred or more animal
48 units.

49 Sec. 9. Section 455B.161A, subsection 1, Code
50 2001, is amended by striking the subsection and

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1 inserting in lieu thereof the following:

2 1. Two or more animal feeding operations under
3 common ownership or management are deemed to be a
4 single animal feeding operation if they are adjacent
5 or utilize a common system for manure storage. For
6 purposes of determining whether two or more
7 confinement feeding operations are adjacent, all of
8 the following must apply:

9 a. At least one confinement feeding operation
10 structure must be constructed on or after March 21,
11 1996.

12 b. A confinement feeding operation structure which
13 is part of one confinement feeding operation is
14 separated by less than a minimum required distance
15 from a confinement feeding operation structure which
16 is part of the other confinement feeding operation.
17 The minimum required distance shall be as follows:

18 (1) (a) One thousand two hundred fifty feet for a
19 confinement feeding operation having an animal unit
20 capacity of less than three thousand animal units for
21 animals other than swine maintained as part of a swine
22 farrowing and gestating operation or farrow-to-finish
23 operation, or cattle maintained as part of a cattle
24 operation.

25 (b) One thousand two hundred fifty feet for a
26 confinement feeding operation having an animal unit
27 capacity of less than one thousand two hundred fifty
28 animal units for swine maintained as part of a
29 farrowing and gestating operation, less than two
30 thousand seven hundred animal units for swine
31 maintained as part of a farrow-to-finish operation, or
32 less than four thousand animal units for cattle
33 maintained as part of a cattle operation.

34 (2) (a) One thousand five hundred feet for a
35 confinement feeding operation having an animal unit
36 capacity of three thousand or more but less than five
37 thousand animal units for animals other than swine
38 maintained as part of a swine farrowing and gestating
39 operation or farrow-to-finish operation, or cattle
40 maintained as part of a cattle operation.

41 (b) One thousand five hundred feet for a
42 confinement feeding operation having an animal unit
43 capacity of one thousand two hundred fifty or more but
44 less than two thousand animal units for swine
45 maintained as part of a swine farrowing and gestating
46 operation, two thousand seven hundred or more but less
47 than five thousand four hundred animal units for swine
48 maintained as part of a farrow-to-finish operation, or
49 four thousand or more but less than six thousand five
50 hundred animal units for cattle maintained as part of

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1 a cattle operation.

2 (3) (a) Two thousand five hundred feet for a
3 confinement feeding operation having an animal unit
4 capacity of five thousand or more animal units for
5 animals other than swine maintained as part of a swine
6 farrowing and gestating operation or farrow-to-finish
7 operation, or cattle maintained as part of a cattle
8 operation.

9 (b) Two thousand five hundred feet for a
10 confinement feeding operation having an animal unit
11 capacity of two thousand or more animal units for
12 swine maintained as part of a swine farrowing and
13 gestating operation, five thousand four hundred animal
14 units or more for swine maintained as part of a
15 farrow-to-finish operation, or six thousand five
16 hundred or more animal units for cattle maintained as
17 part of a cattle operation.

18 Sec. 10. Section 455B.161A, Code 2001, is amended
19 by adding the following new subsections:

20 NEW SUBSECTION. 3. In calculating the animal unit
21 capacity of a confinement feeding operation, the
22 animal unit capacity shall include the animal unit
23 capacity of all confinement feeding operation
24 buildings which are part of the confinement feeding
25 operation, unless a confinement feeding operation
26 building has been abandoned.

27 NEW SUBSECTION. 4. A confinement feeding
28 operation structure is abandoned if the confinement
29 feeding operation structure has been razed, removed
30 from the site of a confinement feeding operation,
31 filled in with earth, or converted to uses other than
32 a confinement feeding operation structure so that it
33 cannot be used as a confinement feeding operation
34 structure without significant reconstruction.

35 NEW SUBSECTION. 5. All distances between
36 locations of objects provided in this part shall be
37 measured in feet from their closest points, as
38 provided by rules adopted by the department. However,
39 a distance between a public thoroughfare and a
40 confinement feeding operation structure shall be
41 measured from the portion of the right-of-way which is
42 closest to the confinement feeding operation
43 structure.

44 Sec. 11. Section 455B.162, subsection 1,
45 unnumbered paragraphs 1 and 2, Code 2001, are amended
46 to read as follows:

47 Except as provided in ~~subsection~~ subsections 3 and
48 6, and sections 455B.163 and 455B.165, this subsection
49 applies to ~~animal~~ confinement feeding operation
50 structures constructed on or after May 31, 1995, but

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1 prior to January 1, 1999; and to the expansion of
2 structures constructed prior to January 1, 1999.

3 The following table represents the minimum
4 separation distance in feet required between ~~an animal~~
5 a confinement feeding operation structure and a
6 residence not owned by the owner of the ~~animal~~
7 confinement feeding operation, or a commercial
8 enterprise, bona fide religious institution, or an
9 educational institution:

10 Sec. 12. Section 455B.162, subsection 2,
11 unnumbered paragraph 1, Code 2001, is amended to read
12 as follows:

13 Except as provided in ~~subsection~~ subsections 3 and
14 6, and sections 455B.163 and 455B.165, this subsection
15 applies to ~~animal~~ confinement feeding operation
16 structures constructed on or after January 1, 1999,
17 but prior to March 1, 2003, and to the expansion of
18 structures constructed on or after January 1, 1999,
19 but prior to March 1, 2003.

20 PARAGRAPH DIVIDED. The following table represents
21 the minimum separation distance in feet required
22 between ~~an animal~~ a confinement feeding operation
23 structure and a residence not owned by the owner of
24 the ~~animal~~ confinement feeding operation, or a
25 commercial enterprise, bona fide religious
26 institution, or an educational institution:

27 Sec. 13. Section 455B.162, subsection 3,
28 unnumbered paragraph 1, Code 2001, is amended to read
29 as follows:

30 Except as provided in subsection 6, and sections
31 455B.163 and 455B.165, this subsection applies to
32 ~~animal~~ confinement feeding operation structures
33 constructed on or after May 31, 1995, but prior to
34 March 1, 2003; to the expansion of structures
35 constructed on or after May 31, 1995, but prior to
36 March 1, 2003; and to the expansion of structures
37 constructed prior to May 31, 1995.

38 PARAGRAPH DIVIDED. The following table represents
39 the minimum separation distance in feet required
40 between ~~animal~~ a confinement feeding operation
41 ~~structures~~ structure and a public use area; or between
42 a confinement feeding operation structure and a
43 residence not owned by the owner of the ~~animal~~
44 confinement feeding operation, a commercial
45 enterprise, a bona fide religious institution, or an
46 educational institution, if the residence, commercial
47 enterprise, religious institution, or educational
48 institution is located within the corporate limits of
49 a city:

50 Sec. 14. Section 455B.162, Code 2001, is amended

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1 by adding the following new subsections:
 2 NEW SUBSECTION. 3A. Except as provided in
 3 subsections 3B and 6, and sections 455B.163 and
 4 455B.165, this subsection applies to confinement
 5 feeding operation structures constructed on or after
 6 March 1, 2003, and to the expansion of confinement
 7 feeding operation structures constructed on or after
 8 March 1, 2003.

9 The following table represents the minimum
 10 separation distance in feet required between a
 11 confinement feeding operation structure and a
 12 residence not owned by the owner of the confinement
 13 feeding operation, a commercial enterprise, a bona
 14 fide religious institution, or an educational
 15 institution:

16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44									
		For a	confinement	feeding	operation	having an	animal unit	capacity of	1,000 or more	but less than	3,000 animal	units	For a	confinement	feeding	operation	having an	animal unit	capacity of	3,000 or	more animal	units															
26	Type of structure																																				
27	Anaerobic lagoon	1,875										2,500																				3,000					
28	Uncovered earthen																																				
29	manure storage																																				
30	basin	1,875																															3,000				
31	Uncovered formed																																				
32	manure storage																																				
33	structure	1,500																																2,500			
34	Covered earthen																																				
35	manure storage																																				
36	basin	1,250																																	2,375		
37	Covered formed																																				
38	manure storage																																				
39	structure	1,250																																		2,375	
40	Confinement																																				
41	building	1,250																																			2,375
42	Egg washwater																																				
43	storage																																				
44	structure	1,000																																			2,000

45 NEW SUBSECTION. 3B. Except as provided in
 46 subsection 6, and sections 455B.163 and 455B.165, this
 47 subsection applies to confinement feeding operation
 48 structures constructed on or after March 1, 2003, and
 49 to the expansion of confinement feeding operation
 50 structures constructed on or after March 1, 2003.

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1 The following table represents the minimum
 2 separation distance in feet required between a
 3 confinement feeding operation structure and a public
 4 use area; or between a confinement feeding operation
 5 structure and a residence not owned by the owner of
 6 the confinement feeding operation, a commercial
 7 enterprise, a bona fide religious institution, or an
 8 educational institution, if the residence, commercial
 9 enterprise, religious institution, or educational
 10 institution is located within the corporate limits of
 11 a city:

12	13	14	15	16	17	18	19	20	21	22
	For a	For a	For a	confinement						
	confinement	confinement	confinement	feeding						
	feeding	feeding	feeding	operation						
	operation	operation	operation	having an						
	having an	having an	having an	animal unit						
	animal unit	animal unit	animal unit	capacity of						
	capacity of	capacity of	capacity of	1,000 or more						
	less than	less than	less than	but less than	but less than	but less than	but less than	but less than	but less than	but less than
	1,000 animal	1,000 animal	1,000 animal	3,000 animal	3,000 animal	3,000 animal	3,000 animal	3,000 animal	3,000 animal	3,000 animal
	units	units	units	units	units	units	units	units	units	units
23	<u>Type of structure</u>									
24	Confinement feeding									
25	operation									
26	structure									
27	1,875	2,500	3,000							

27 Sec. 15. Section 455B.162, subsection 4, Code
 28 2001, is amended to read as follows:

29 4. Except as provided in section 455B.165, ~~on and~~
 30 ~~after January 1, 1999, an animal~~ a confinement feeding
 31 operation structure shall not be constructed or
 32 expanded within one hundred feet from a public
 33 ~~thoroughfare, including a road, street, or bridge~~
 34 ~~which is constructed or maintained by the state or a~~
 35 ~~political subdivision.~~

36 Sec. 16. Section 455B.162, subsection 6,
 37 paragraphs a and c, Code 2001, are amended by striking
 38 the paragraphs.

39 Sec. 17. Section 455B.162, subsection 6, paragraph
 40 b, Code 2001, is amended to read as follows:

41 ~~b-~~ a. A Except as provided in paragraph "b", a
 42 qualified confinement feeding operation storing manure
 43 in a manure storage structure shall only use an animal
 44 feeding operation a manure storage structure which
 45 that employs bacterial action which is maintained by
 46 the utilization of air or oxygen, and which shall
 47 include aeration equipment. The type and degree of
 48 treatment technology required to be installed shall be
 49 based on the size of the confinement feeding
 50 operation, according to rules adopted by the
 51 department. The equipment shall be installed,

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1 operated, and maintained in accordance with the
2 manufacturer's instructions and requirements of rules
3 adopted pursuant to this subsection.

4 b. The requirements of paragraph "a" do not apply
5 to any of the following:

6 (1) A qualified confinement feeding operation
7 which includes a confinement feeding operation
8 structure constructed prior to May 31, 1995.

9 (2) A qualified confinement feeding operation that
10 stores manure on a dry matter basis.

11 Sec. 18. Section 455B.163, subsections 1 and 2,
12 Code 2001, are amended to read as follows:

13 1. a. ~~An animal~~ A confinement feeding operation
14 structure as constructed or expanded prior to January
15 1, 1999, complies with the distance requirements
16 applying to that structure as provided in section
17 455B.162, subsections 1 and 3.

18 b. ~~An animal~~ A confinement feeding operation
19 structure as constructed or expanded on or after
20 January 1, 1999, but prior to March 1, 2003, complies
21 with the distance requirements applying to that
22 structure as provided in section 455B.162, subsections
23 2 and 3.

24 c. A confinement feeding operation structure as
25 constructed or expanded on or after March 1, 2003,
26 complies with the distance requirements applying to
27 that structure as provided in section 455B.162,
28 subsections 3A and 3B.

29 2. All of the following apply to the expansion of
30 the ~~animal~~ confinement feeding operation:

31 a. No portion of the ~~animal~~ confinement feeding
32 operation after expansion is closer than before
33 expansion to a location or object for which separation
34 is required under section 455B.162.

35 b. ~~The~~ For a confinement feeding operation that
36 includes a confinement feeding operation structure
37 constructed prior to March 1, 2003, the animal weight
38 capacity of the ~~animal~~ confinement feeding operation
39 as expanded is not more than the lesser of the
40 following:

41 (1) Double its animal weight capacity on the
42 following dates:

43 (a) May 31, 1995, for an ~~animal~~ a confinement
44 feeding operation that includes a confinement feeding
45 operation structure constructed prior to January 1,
46 1999, ~~or on.~~

47 (b) January 1, 1999, for an ~~animal~~ a confinement
48 feeding operation that only includes a confinement
49 feeding operation structure constructed on or after
50 January 1, 1999, but does include a confinement

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1 feeding operation structure constructed prior to March
2 31, 2003.

3 (2) Either of the following:

4 (a) Six hundred twenty-five thousand pounds animal
5 weight capacity for animals other than bovine cattle.

6 (b) One million six hundred thousand pounds animal
7 weight capacity for bovine cattle.

8 c. For a confinement feeding operation that does
9 not include a confinement feeding operation structure
10 constructed prior to March 1, 2003, the animal unit
11 capacity of the confinement feeding operation as
12 expanded is not more than the lesser of the following:

13 (1) Double its animal unit capacity on March 1,
14 2003.

15 (2) One thousand animal units.

16 Sec. 19. Section 455B.163, subsection 3,
17 unnumbered paragraph 1, Code 2001, is amended to read
18 as follows:

19 The animal confinement feeding operation was
20 includes a confinement feeding operation structure
21 that is constructed prior to ~~January 1, 1999~~ March 1,
22 2003, and is expanded by replacing one or more
23 unformed manure storage structures with one or more
24 formed manure storage structures, if all of the
25 following apply:

26 Sec. 20. Section 455B.163, subsection 3, paragraph
27 a, Code 2001, is amended to read as follows:

28 a. The animal weight capacity or animal unit
29 capacity, whichever is applicable, is not increased
30 for that portion of the ~~animal~~ confinement feeding
31 operation that utilizes all replacement formed manure
32 storage structures.

33 Sec. 21. Section 455B.165, subsections 1, 4, and
34 5, Code 2001, are amended by striking the subsections.

35 Sec. 22. Section 455B.165, subsection 3, paragraph
36 a, Code 2001, is amended to read as follows:

37 a. ~~An animal~~ A confinement feeding operation
38 structure which is constructed or expanded, if the
39 titleholder of the land benefiting from the distance
40 separation requirement executes a written waiver with
41 the titleholder of the land where the structure is
42 located. If ~~an animal~~ a confinement feeding operation
43 structure is constructed or expanded within the
44 separation distance required between ~~an animal~~ a
45 confinement feeding operation structure and a public
46 thoroughfare as required pursuant to section 455B.162,
47 the state or a political subdivision constructing or
48 maintaining the public thoroughfare benefiting from
49 the distance separation requirement may execute a
50 written waiver with the titleholder of the land where

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1 the structure is located. The ~~animal~~ confinement
2 feeding operation structure shall be constructed or
3 expanded under such terms and conditions that the
4 parties negotiate.

5 Sec. 23. NEW SECTION. 455B.166 DEPARTMENT OF
6 NATURAL RESOURCES -- DEVELOPMENT OF COMPREHENSIVE
7 PLANS AND PROGRAMS FOR AIR QUALITY.

8 1. As used in this section, unless the context
9 otherwise requires:

10 a. "Airborne pollutant" means hydrogen sulfide,
11 ammonia, or odor.

12 b. "Separated location" means a location or object
13 from which a separation distance is required under
14 section 455B.162, other than a public thoroughfare.

15 2. The department shall conduct a comprehensive
16 field study to monitor the level of airborne
17 pollutants emitted from animal feeding operations in
18 this state, including but not limited to each type of
19 confinement feeding operation structure.

20 3. a. After the completion of the field study,
21 the department may develop comprehensive plans and
22 programs for the abatement, control, and prevention of
23 airborne pollutants originating from animal feeding
24 operations in accordance with this section. The
25 comprehensive plans and programs may be developed if
26 the baseline data from the field study demonstrates to
27 a reasonable degree of scientific certainty that
28 airborne pollutants emitted by a confinement feeding
29 operation are present at a separated location at
30 levels commonly known to cause a material and
31 verifiable adverse health effect. The department may
32 adopt any comprehensive plans or programs in
33 accordance with chapter 17A prior to implementation or
34 enforcement of an air quality standard but in no event
35 shall the plans and programs provide for the
36 enforcement of an air quality standard or emission
37 limitation prior to December 1, 2004.

38 b. Any air quality standard established by the
39 department for animal feeding operations under the
40 comprehensive plans and programs shall be based on
41 distances measured from a confinement feeding
42 operation structure to a separated location. In
43 providing for the enforcement of the standards, the
44 department shall take all initial measurements at the
45 separated location. If the department determines that
46 a violation of the standards exists, the department
47 may conduct an investigation to trace the source of
48 the airborne pollutant, including by taking
49 measurements at the property line of the separated
50 location. This section does not prohibit the

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1 department from entering the premises of an animal
2 feeding operation in compliance with section 455B.103.
3 The department shall comply with standard biosecurity
4 requirements customarily required by the animal
5 feeding operation which are necessary in order to
6 control the spread of disease among an animal
7 population.

8 c. The department shall establish recommended best
9 management practices, mechanisms, processes, or
10 infrastructure under the comprehensive plans and
11 programs in order to reduce the airborne pollutants
12 emitted from an animal feeding operation.

13 d. The department shall provide a procedure for
14 the approval and monitoring of alternative or
15 experimental practices, mechanisms, processes, or
16 infrastructure to reduce the airborne pollutants
17 emitted from an animal feeding operation, which may be
18 incorporated as part of the comprehensive plans and
19 programs developed under this section.

20 Sec. 24. NEW SECTION. 455B.167 CIVIL PENALTY.

21 A person who violates this part shall be subject to
22 a civil penalty which shall be established, assessed,
23 and collected in the same manner as provided in
24 section 455B.109. Any civil penalty collected shall
25 be deposited in the animal agriculture compliance fund
26 created in section 455B.127.

27 Sec. 25. Section 455B.171, subsections 2, 3, 4, 5,
28 6, 8, 20, 43, and 47, Code 2001, are amended by
29 striking the subsections.

30 Sec. 26. Section 455B.191, subsection 8, Code
31 2001, is amended to read as follows:

32 8. Moneys assessed and collected in civil
33 penalties and interest earned on civil penalties,
34 arising out of a violation involving an animal feeding
35 operation, shall be deposited in the ~~manure storage~~
36 indemnity animal agriculture compliance fund as
37 created in section ~~455J.2~~ 455B.127.

SUBPART B

ANIMAL FEEDING OPERATIONS

39
40 Sec. 27. Section 455B.200, Code 2001, is amended
41 to read as follows:

42 455B.200 GENERAL.

43 1. The commission shall establish by rule adopted
44 pursuant to chapter 17A, requirements relating to the
45 construction, including expansion, or operation of
46 animal feeding operations, including related animal
47 feeding operation structures. The requirements shall
48 include but are not limited to minimum manure control,
49 the issuance of permits, and departmental
50 investigations, inspections, and testing.

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1 2. Any provision referring generally to compliance
2 with the requirements of this chapter as applied to
3 animal feeding operations also includes compliance
4 with requirements in rules adopted by the commission
5 pursuant to this section, orders issued by the
6 department as authorized under this chapter, and the
7 terms and conditions applicable to permits or manure
8 management plans required under this subpart.

9 However, for purposes of approving or disapproving an
10 application for a construction permit as provided in
11 section 455B.200E, conditions for the approval of an
12 application based on results produced by a master
13 matrix are not requirements of this chapter until the
14 department approves or disapproves an application
15 based on those results.

16 3. The department and the attorney general shall
17 enforce the provisions of this chapter in the same
18 manner as provided in division I, unless otherwise
19 provided in this section.

20 Sec. 28. Section 455B.200A, subsections 1 through
21 4, Code 2001, are amended to read as follows:

22 1. The department shall ~~issue~~ approve or
23 disapprove applications for permits for the
24 construction, including the expansion, of ~~animal~~
25 feeding operation structures, including structures
26 which are part of confinement feeding operations
27 operation structures, as provided by rules adopted
28 pursuant to section 455B.200 in this chapter. The A
29 person shall not begin construction of a confinement
30 feeding operation structure requiring a permit under
31 this section, unless the department ~~shall issue~~ a
32 first approves the person's application and issues to
33 the person a construction permit ~~to an animal feeding~~
34 operation if an application is submitted according to
35 procedures required by the department and. The
36 department shall provide conditions for requiring when
37 a person must obtain a construction permit.

38 a. Except as provided in paragraph "b", a person
39 must obtain a permit to construct any of the
40 following:

41 (1) A confinement feeding operation structure if
42 after construction its confinement feeding operation
43 would have an animal unit capacity of at least one
44 thousand animal units.

45 (2) The confinement feeding operation structure is
46 an unformed manure storage structure.

47 b. A person is not required to obtain a permit to
48 construct a confinement feeding operation structure,
49 if any of the following apply:

50 (1) The confinement feeding operation structure,

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1 if constructed, would be part of a small animal
2 feeding operation.

3 (2) The confinement feeding operation structure is
4 part of a confinement feeding operation which is owned
5 by a research college conducting research activities
6 as provided in section 455B.206.

7 2. The department shall issue a construction
8 permit upon approval of an application. The
9 department shall approve the application ~~meets~~
10 ~~standards established by the department, if the~~
11 ~~application is submitted to the county board of~~
12 ~~supervisors in the county where the proposed~~
13 ~~confinement feeding operation is to be located as~~
14 ~~required pursuant to section 455B.200E, and the~~
15 ~~application meets the requirements of this chapter.~~
16 If a county submits an approved recommendation
17 pursuant to a construction evaluation resolution filed
18 with the department, the application must also achieve
19 a satisfactory rating produced by the master matrix
20 used by the board or department under section
21 455B.200E. The department shall approve the
22 application regardless of whether the ~~animal feeding~~
23 ~~operation applicant is required to obtain such to be~~
24 ~~issued a construction permit. The department shall~~
25 ~~not require that a person obtain a permit for the~~
26 ~~construction of an animal feeding operation structure~~
27 ~~if the structure is part of a small animal feeding~~
28 ~~operation. For purposes of this section, an animal~~
29 ~~feeding operation structure includes a manure storage~~
30 ~~structure.~~

31 ~~2- 3. The department shall not ~~issue~~ approve an~~
32 ~~application for a construction permit for the~~
33 ~~construction of an animal feeding operation structure~~
34 ~~which is part of a confinement feeding operation~~
35 unless the ~~person~~ applicant submits all of the
36 following:

37 a. An indemnity fee as provided in section 455J.3
38 ~~which~~ that the department shall deposit into the
39 manure storage indemnity fund created in section
40 455J.2.

41 b. A manure management plan as provided in section
42 455B.203 and manure management plan filing fee as
43 provided in section 455B.203C.

44 c. A construction permit application fee as
45 provided in section 455B.203C.

46 3A. The applicant may submit a master matrix as
47 completed by the applicant.

48 ~~3- 4. a. A confinement feeding operation meets~~
49 ~~threshold requirements under this paragraph if the~~
50 ~~confinement feeding operation after construction of a~~

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1 proposed confinement feeding operation would have a
2 minimum animal unit capacity of the following:

3 (1) Three thousand animal units for animals other
4 than swine maintained as part of a swine farrowing and
5 gestating operation or farrow-to-finish operation or
6 cattle maintained as part of a cattle operation.

7 (2) One thousand two hundred fifty animal units
8 for swine maintained as part of a swine farrowing and
9 gestating operation.

10 (3) Two thousand seven hundred fifty animal units
11 for swine maintained as part of a farrow-to-finish
12 operation.

13 (4) Four thousand animal units for cattle
14 maintained as part of a cattle operation.

15 b. The department shall not ~~issue~~ approve an
16 application for a construction permit ~~for the~~
17 construction of unless the following apply:

18 (1) If the application is for a permit to
19 construct an unformed manure storage structure, the
20 application must include a statement approved by a
21 professional engineer certifying that the construction
22 of the unformed manure storage structure complies with
23 the construction design standards required in this
24 subpart.

25 (2) If the application is for a permit to
26 construct three or more animal confinement feeding
27 operation structures unless the applicant files, the
28 application must include a statement approved by a
29 professional engineer registered pursuant to chapter
30 542B certifying providing that the construction of the
31 animal confinement feeding operation structures will
32 not impede the drainage through established drainage
33 tile lines which cross property boundary lines unless
34 measures are taken to reestablish the drainage prior
35 to completion of construction. For a confinement
36 feeding operation that meets threshold requirements,
37 the statement must be approved by a professional
38 engineer. Otherwise, if the application is for a
39 permit to construct a formed manure storage structure,
40 the statement must be part of the construction design
41 statement as provided in section 455B.200C.

42 (3) If the application is for a permit to
43 construct a formed manure storage structure, other
44 than for a confinement feeding operation meeting
45 threshold requirements, the applicant must include a
46 construction design statement as provided in section
47 455B.200C. An application for a permit to construct a
48 formed manure storage structure as part of a
49 confinement feeding operation that meets threshold
50 requirements must include a statement approved by a

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1 professional engineer certifying that the construction
2 of the formed manure storage structure complies with
3 the requirements of this subpart.

4 (4) The department may only require that an
5 application for a permit to construct a formed manure
6 storage structure or egg washwater storage structure
7 that is part of a confinement feeding operation
8 meeting threshold requirements include an engineering
9 report, construction plans, or specifications prepared
10 by a licensed professional engineer or the natural
11 resources conservation service of the United States
12 department of agriculture.

13 ~~4. 5. Prior~~ As a condition to issuing a permit to
14 a person approving an application for the construction
15 of an animal feeding operation a construction permit,
16 the department may require any of the following:

17 a. The installation of a related pollution control
18 device or practice, including but not limited to the
19 installation and operation of a hydrological water
20 pollution monitoring system for an exclusively earthen
21 unformed manure storage structure according to rules
22 which shall be adopted by the department.

23 b. The department's approval of the installation
24 of any proposed system to permanently lower the
25 groundwater table at a site as part of the
26 construction of an unformed manure storage structure,
27 as is necessary to ensure that the unformed manure
28 storage structure does not pollute groundwater
29 sources, including providing for standards as provided
30 in section 455B.205.

31 Sec. 29. Section 455B.200A, subsections 5 through
32 8, Code 2001, are amended by striking the subsections.

33 Sec. 30. Section 455B.200B, unnumbered paragraph
34 1, Code 2001, is amended to read as follows:

35 For purposes of this ~~part~~ subpart, all of the
36 following shall apply:

37 Sec. 31. Section 455B.200B, subsection 1, Code
38 2001, is amended by striking the subsection and
39 inserting in lieu thereof the following:

40 1. Two or more animal feeding operations under
41 common ownership or management are deemed to be a
42 single animal feeding operation if they are adjacent
43 or utilize a common area or system for manure
44 disposal. In addition, for purposes of determining
45 whether two or more confinement feeding operations are
46 adjacent, all of the following must apply:

47 a. At least one confinement feeding operation
48 structure must be constructed on and after May 21,
49 1998.

50 b. A confinement feeding operation structure which

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1 is part of one confinement feeding operation is
2 separated by less than a minimum required distance
3 from a confinement feeding operation structure which
4 is part of the other confinement feeding operation.

5 The minimum required distance shall be as follows:

6 (1) One thousand two hundred fifty feet for
7 confinement feeding operations having a combined
8 animal unit capacity of less than one thousand animal
9 units.

10 (2) Two thousand five hundred feet for confinement
11 feeding operations having a combined animal unit
12 capacity of one thousand animal units or more.

13 Sec. 32. Section 455B.200B, Code 2001, is amended
14 by adding the following new subsections:

15 NEW SUBSECTION. 3. In calculating the animal unit
16 capacity of a confinement feeding operation, the
17 animal unit capacity shall include the animal unit
18 capacity of all confinement feeding operation
19 buildings which are part of the confinement feeding
20 operation, unless a confinement feeding operation
21 building has been abandoned as provided in section
22 455B.161A.

23 NEW SUBSECTION. 4. All distances between
24 locations or objects provided in this subpart shall be
25 measured in feet from their closest points.

26 NEW SUBSECTION. 5. a. The department shall
27 designate by rule each one hundred year floodplain in
28 this state according to the location of the one
29 hundred year floodplain. A person shall not be
30 prohibited from constructing a confinement feeding
31 operation on a one hundred year floodplain unless the
32 one hundred year floodplain is designated by rule in
33 accordance with this subsection.

34 b. (1) Until the effective date of rules adopted
35 by the department to designate the location of each
36 one hundred year floodplain in this state, a person
37 shall not construct a confinement feeding operation
38 structure on land that contains a soil type classified
39 as alluvial unless the one of the following applies:

40 (a) If the person does not apply for a
41 construction permit as provided in section 455B.200A,
42 the person must petition the department for a
43 declaratory order pursuant to section 17A.9 to
44 determine whether the location of the proposed
45 confinement feeding operation structure is located on
46 a one hundred year floodplain. The department shall
47 issue a declaratory order in response to the petition,
48 notwithstanding any other provision provided in
49 section 17A.9 to the contrary, within thirty days from
50 the date that the petition is filed with the

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1 department.

2 (b) If the person does apply for a construction
3 permit as provided in section 455B.200A, the person
4 must identify that the land contains a soil type
5 classified as alluvial. The department shall
6 determine whether the land is located on a one hundred
7 year floodplain.

8 (2) The department shall provide in its
9 declaratory order or its approval or disapproval of a
10 construction permit application a determination
11 regarding whether the confinement feeding operation is
12 to be located on a one hundred year floodplain,
13 whether the confinement feeding operation may be
14 constructed at the location, and any conditions for
15 the construction.

16 (3) This paragraph "b" is repealed on the
17 effective date that rules are adopted by the
18 department pursuant to paragraph "a". The department
19 shall provide a caption on the adopted rule as
20 published in the Iowa administrative bulletin as
21 provided in section 17A.4, stating that this paragraph
22 is repealed as provided in this subparagraph
23 subdivision. The director of the department shall
24 deliver a copy of the adopted rule to the Iowa Code
25 editor.

26 NEW SUBSECTION. 6. As used in this subpart,
27 unless the context otherwise requires:

28 a. "Critical public area" means land as designated
29 by the department pursuant to rules adopted pursuant
30 to chapter 17A, if all of the following apply:

31 (1) The land is part of a public park, preserve,
32 or recreation area that is owned or managed by the
33 federal government; by the department, including under
34 chapter 461A or 465C; or by a political subdivision.

35 (2) The land has a unique scenic, cultural,
36 archaeological, scientific, or historic significance
37 or contains a rare or valuable ecological system.

38 b. "Designated wetland" means land designated as a
39 protected wetland by the United States department of
40 the interior or the department of natural resources,
41 including but not limited to a protected wetland as
42 defined in section 456B.1, if the land is owned and
43 managed by the federal government or the department of
44 natural resources. However, a designated wetland does
45 not include land where an agricultural drainage well
46 has been plugged causing a temporary wetland or land
47 within a drainage district or levee district.

48 c. "Document" means any form required to be
49 processed by the department under this subpart
50 regulating animal feeding operations, including but

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1 not limited to applications or related materials for
2 permits as provided in section 455B.200A, manure
3 management plans as provided in section 455B.203,
4 comment or evaluation by a county board of supervisors
5 considering an application for a construction permit,
6 the department's analysis of the application including
7 using and responding to a master matrix pursuant to
8 section 455B.200E, and notices required under those
9 sections.

10 d. "High-quality water resource" means that part
11 of a water source or wetland that the department has
12 designated as any of the following:

13 (1) A high-quality water (Class "HQ") or a high-
14 quality resource water (Class "HQR") according to 567
15 IAC ch. 61, in effect on January 1, 2001.

16 (2) A protected water area system, according to a
17 state plan adopted by the department in effect on
18 January 1, 2001.

19 e. "Karst terrain" means land having karst
20 formations that exhibit surface and subterranean
21 features of a type produced by the dissolution of
22 limestone, dolomite, or other soluble rock and
23 characterized by closed depressions, sinkholes, or
24 caves.

25 f. "Major water source" means a water source that
26 is a lake, reservoir, river, or stream located within
27 the territorial limits of the state, or any marginal
28 river area adjacent to the state, if the water source
29 is capable of supporting a floating vessel capable of
30 carrying one or more persons during a total of a six-
31 month period in one out of ten years, excluding
32 periods of flooding which has been identified by rules
33 adopted by the commission.

34 g. "One hundred year floodplain" means the land
35 adjacent to a major water source, if there is at least
36 a one percent chance that the land will be inundated
37 in any one year, according to calculations adopted by
38 rules adopted pursuant to section 455B.200. In making
39 the calculations, the department shall consider
40 available maps or data compiled by the federal
41 emergency management agency.

42 h. "Professional engineer" means a person engaged
43 in the practice of engineering as defined in section
44 542B.2 who is issued a certificate of licensure as a
45 professional engineer pursuant to section 542B.17.

46 i. "Water of the state" means the same as defined
47 in section 455B.171.

48 j. "Water source" means a lake, river, reservoir,
49 creek, stream, ditch, or other body of water or
50 channel having definite banks and a bed with water

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1 flow, except lakes or ponds without outlet to which
2 only one landowner is riparian.

3 Sec. 33. NEW SECTION. 455B.200C CONSTRUCTION
4 DESIGN STATEMENT -- FORMED MANURE STORAGE STRUCTURES.

5 1. a. Except as provided in paragraph "b", a
6 person shall not construct a formed manure storage
7 structure, unless the person submits a construction
8 design statement for filing with the department.

9 b. The following persons are not required to
10 submit a construction design statement with the
11 department:

12 (1) A person who constructs a formed manure
13 storage structure as part of a small animal feeding
14 operation.

15 (2) A person who submits a statement approved by a
16 professional engineer certifying that the construction
17 of the formed manure storage structure complies with
18 the construction design standards required in this
19 subpart, including a person required to submit such a
20 statement as part of an application for a construction
21 permit pursuant to section 455B.200A.

22 2. The construction design statement must include
23 all of the following:

24 a. A summary description of the type of formed
25 manure storage structure proposed to be constructed,
26 including whether such formed manure storage structure
27 is to be constructed of concrete.

28 b. (1) If the formed manure storage structure is
29 to be constructed of concrete, a statement by the
30 person responsible for constructing the formed manure
31 storage structure certifying that such person will
32 construct the formed manure storage structure in
33 accordance with the construction design standards
34 required in this subpart.

35 (2) If the formed manure storage structure is not
36 to be constructed of concrete, a statement by the
37 person responsible for constructing the formed manure
38 storage structure certifying that such person will
39 construct the formed manure storage structure in
40 accordance with the construction design standards
41 required in this subpart.

42 c. If a construction permit is required pursuant
43 to section 455B.200A for the construction of three or
44 more confinement feeding operation structures that
45 include a formed manure storage structure, the
46 contractor must provide that the construction of the
47 formed manure storage structure will not impede
48 drainage through established drainage tile lines which
49 cross property boundary lines unless measures are
50 taken to reestablish the drainage prior to completion

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1 of construction.

2 d. A manure management plan as required in section
3 455B.203 which may be submitted as part of an
4 application for a construction permit as provided in
5 section 455B.200A.

6 3. Unless the construction design statement is
7 part of a construction permit application as provided
8 in section 455B.200A, the department shall file the
9 construction design statement. Otherwise, the
10 department shall approve or disapprove the
11 construction design statement as part of the
12 construction permit application. The construction
13 design statement shall be considered filed on the date
14 that it is first received by the department. The
15 department may request information from the person
16 submitting the construction design statement if the
17 department determines that it is incorrect or
18 incomplete. Within thirty days after filing the
19 construction design statement, the department shall
20 notify the person that the construction design
21 statement is filed and request any additional
22 information.

23 Sec. 34. NEW SECTION. 455B.200D DOCUMENT
24 PROCESSING REQUIREMENTS.

25 1. The department shall adopt and promulgate forms
26 required to be completed in order to comply with this
27 subpart including forms for documents that the
28 department shall make available on the internet.

29 2. a. The department shall provide for procedures
30 for the receipt, filing, processing, and return of
31 documents in an electronic format, including but not
32 limited to the transmission of documents by the
33 internet. The department shall provide for
34 authentication of the documents that may include
35 electronic signatures as provided in chapter 554D.

36 b. The department shall to every extent feasible
37 provide for the processing of permits and manure
38 management plans required under this subpart using
39 electronic systems, including programming, necessary
40 to ensure the completeness and accuracy of the
41 documents in accordance with the requirements of this
42 subpart.

43 Sec. 35. NEW SECTION. 455B.200E CONSTRUCTION
44 PERMIT APPLICATION PROCEDURE -- COMMENTS -- MASTER
45 MATRIX.

46 1. a. The department shall deliver a copy or
47 require the applicant to deliver a copy of the
48 application for a permit to construct, including
49 expanding, a confinement feeding operation structure
50 pursuant to section 455B.200A, including supporting

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1 documents, to the county board of supervisors in the
2 county where the confinement feeding operation
3 structure subject to the permit is proposed to be
4 constructed.

5 b. The county auditor or other county officer
6 designated by the county board of supervisors may
7 accept the application on behalf of the board. If the
8 department requires the applicant to deliver a copy of
9 the application to the county board of supervisors,
10 the board shall notify the department that the board
11 has received the application according to procedures
12 required by the department.

13 2. Regardless of whether the county board of
14 supervisors has adopted a construction evaluation
15 resolution, the county may provide comment to the
16 department on a construction permit application for a
17 confinement feeding operation structure.

18 a. The board shall provide for comment as follows:

19 (1) The board shall publish a notice that the
20 board has received the application in a newspaper
21 having a general circulation in the county.

22 (2) The notice shall include all of the following:

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

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

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

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

32 (e) The time when and the place where the
33 application may be examined as provided in section
34 22.2.

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

37 b. The board may hold a public hearing to receive
38 public comments regarding the application. The county
39 board of supervisors may submit comments by the board
40 and the public to the department as provided in this
41 section, including but not limited to all of the
42 following:

43 (1) The existence of an object or location not
44 included in the application that benefits from a
45 separation distance requirement as provided in section
46 455B.162 or 455B.204.

47 (2) The suitability of soils and the hydrology of
48 the site where construction of a confinement feeding
49 operation structure is proposed.

50 (3) The availability of land for the application

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1 of manure originating from the confinement feeding
2 operation.

3 (4) Whether the construction of a proposed
4 confinement feeding operation structure will impede
5 drainage through established tile lines, laterals, or
6 other improvements which are constructed to facilitate
7 the drainage of land not owned by the person applying
8 for the construction permit.

9 3. A county board of supervisors may adopt a
10 construction evaluation resolution relating to the
11 construction of a confinement feeding operation
12 structure. The board must submit such resolution to
13 the department for filing. If the board has submitted
14 such resolution to the department, the board may
15 evaluate the construction permit application and
16 submit an adopted recommendation to the department to
17 approve or disapprove a construction application
18 permit as provided in this subsection. The board must
19 make its decision to recommend approval or disapproval
20 of the permit application as provided in this
21 subsection.

22 a. For the expansion of a confinement feeding
23 operation that includes a confinement feeding
24 operation structure constructed prior to April 1,
25 2002, the board shall not evaluate a construction
26 permit application for the construction or expansion
27 of a confinement feeding operation structure if after
28 the expansion of the confinement feeding operation,
29 its animal unit capacity is one thousand six hundred
30 sixty-six animal units or less.

31 b. The board must conduct an evaluation of the
32 application using the master matrix as provided in
33 section 455B.200F. The board's recommendation may be
34 based on the master matrix as provided or may be based
35 on comments under this section regardless of the
36 results of the master matrix.

37 c. In completing the master matrix, the board
38 shall not score criteria on a selective basis. The
39 board must score all criteria which is part of the
40 master matrix according to the terms and conditions
41 relating to construction as specified in the
42 application or commitments for manure management that
43 are to be incorporated into a manure management plan
44 as provided in section 455B.203.

45 d. The board's adopted recommendation to the
46 department shall include the specific reasons and any
47 supporting documentation for the decision to recommend
48 approval or disapproval of the application.

49 4. The department must receive the county board of
50 supervisor's comments or evaluation for approval or

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1 disapproval of an application for a construction
2 permit not later than thirty days following the
3 applicant's delivery of the application to the
4 department. Regardless of whether the department
5 receives comments or an evaluation by a county board
6 of supervisors, the department must approve or
7 disapprove an application for a construction permit
8 within sixty days following the applicant's delivery
9 of the application to the department. However, the
10 applicant may deliver a notice requesting a
11 continuance. Upon receipt of a notice, the time
12 required for the county or department to act upon the
13 application shall be suspended for the period provided
14 in the notice, but for not more than thirty days after
15 the department's receipt of the notice. The applicant
16 may submit more than one notice. However, the
17 department may provide that an application is
18 terminated if no action is required by the department
19 for one year following delivery of the application to
20 the board. The department may also provide for a
21 continuance when it considers the application. The
22 department shall provide notice to the applicant and
23 the board of the continuance. The time required for
24 the department to act upon the application shall be
25 suspended for the period provided in the notice, but
26 for not more than thirty days. However, the
27 department shall not provide for more than one
28 continuance.

29 5. a. The department shall approve an application
30 for a construction permit if the board of supervisors
31 which has filed a county construction evaluation
32 resolution submits an adopted recommendation to
33 approve the construction permit application which may
34 be based on a satisfactory rating produced by the
35 master matrix to the department and the department
36 determines that the application meets the requirements
37 of this chapter. The department shall disapprove an
38 application that does not satisfy the requirements of
39 this chapter regardless of the adopted recommendation
40 of the board. The department shall consider any
41 timely filed comments made by the board as provided in
42 this section to determine if an application meets the
43 requirements of this chapter.

44 b. If the board submits to the department an
45 adopted recommendation to disapprove an application
46 for a construction permit that is based on a rating
47 produced by the master matrix, the department shall
48 first determine if the application meets the
49 requirements of this chapter as provided in section
50 455B.200. The department shall disapprove an

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1 application that does not satisfy the requirements of
2 this chapter regardless of any result produced by
3 using the master matrix. If the application meets the
4 requirements of this chapter, the department shall
5 conduct an independent evaluation of the application
6 using the master matrix. The department shall approve
7 the application if it achieves a satisfactory rating
8 according to the department's evaluation. The
9 department shall disapprove the application if it
10 produces an unsatisfactory rating regardless of
11 whether the application satisfies the requirements of
12 this chapter. The department shall consider any
13 timely filed comments made by the board as provided in
14 this section to determine if an application meets the
15 requirements of this chapter.

16 c. If the county board of supervisors does not
17 submit a construction evaluation resolution to the
18 department, fails to submit an adopted recommendation,
19 submits only comments, or fails to submit comments,
20 the department shall approve the application if the
21 application meets the requirements of this chapter as
22 provided in section 455B.200.

23 6. The department may conduct an inspection of the
24 site on which the construction is proposed after
25 providing at a minimum twenty-four hours notice or
26 upon receiving consent from the construction permit
27 applicant. The county board of supervisors that has
28 adopted a construction evaluation resolution may
29 designate a county employee to accompany a
30 departmental official during the site inspection. The
31 county employee shall have the same right to access to
32 the site's real estate as the departmental official
33 conducting the inspection during the period that the
34 county employee accompanies the departmental official.
35 The departmental official and the county employee
36 shall comply with standard biosecurity requirements
37 customarily required by the confinement feeding
38 operation that are necessary in order to control the
39 spread of disease among an animal population.

40 7. Upon written request by a county resident, the
41 county board of supervisors shall forward to the
42 county resident a copy of the board's adopted
43 recommendation, any county comments to the department
44 on the permit application, and the department's
45 responses, as provided in chapter 22.

46 8. a. The department shall deliver a notice to
47 the applicant within three days of the department's
48 decision to approve or disapprove an application for a
49 construction permit. If the board of supervisors has
50 submitted an adopted recommendation to the department

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1 for the approval or disapproval of a construction
2 permit application as provided in this section, the
3 department shall notify the board of the department's
4 decision to approve or disapprove the application at
5 the same time.

6 b. (1) The applicant may contest the department's
7 decision by requesting a hearing and may elect to have
8 the hearing conducted before an administrative law
9 judge pursuant to chapter 17A or before the
10 commission. If the applicant and a board of
11 supervisors are both contesting the department's
12 decision, the applicant may request that the
13 commission conduct the hearing on a consolidated
14 basis. The commission shall hear the case according
15 to procedures established by rules adopted by the
16 department. The commission may hear the case as a
17 contested case proceeding under chapter 17A. The
18 department, upon petition by the applicant, shall
19 deliver to the administrative law judge or the
20 commission a copy of the board of supervisors'
21 recommendation together with the results produced by
22 its master matrix and any supporting data or documents
23 submitted with the results, comments submitted by the
24 board to the department, and the department's
25 evaluation of the application including the results
26 produced by its matrix and any supporting data or
27 documents. If the commission hears the case, its
28 decision shall be the department's final agency
29 action. The commission shall render a decision within
30 thirty-five days from the date that the applicant or
31 board files a demand for a hearing.

32 (2) A county board of supervisors that has
33 submitted an adopted recommendation to the department
34 may contest the department's decision by requesting a
35 hearing before the commission. The commission shall
36 hear the case according to procedures established by
37 rules adopted by the department. The commission may
38 hear the case as a contested case proceeding under
39 chapter 17A. The board may request that the
40 department submit a copy of the department's
41 evaluation of the application including the results
42 produced by its matrix and any supporting data or
43 documents. The decision by the commission shall be
44 the department's final agency action. The commission
45 shall render a decision within thirty-five days from
46 the date that the board initiates the proceeding.

47 c. Judicial review of the decision of either the
48 department or the commission may be sought in
49 accordance with the terms of chapter 17A.

50 9. An applicant for a construction permit may

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1 withdraw the permit application from consideration by
2 the department at any time by filing a written request
3 with the department. The filing of the request shall
4 not prejudice the right of the applicant to resubmit
5 the application.

6 Sec. 36. NEW SECTION. 455B.200F MASTER MATRIX.

7 1. The department shall adopt rules for the
8 development and use of a master matrix. The purpose
9 of the master matrix is to provide a comprehensive
10 assessment mechanism in order to produce a
11 statistically verifiable basis for determining whether
12 to approve or disapprove an application for the
13 construction, including expansion, of a confinement
14 feeding operation structure requiring a permit
15 pursuant to section 455B.200A.

16 a. The master matrix shall be used to establish
17 conditions for the construction of a confinement
18 feeding operation structure and for the implementation
19 of manure management practices, which conditions shall
20 be included in the approval of the construction permit
21 or the original manure management plan as applicable.
22 The master matrix shall be used to determine all of
23 the following:

24 (1) The appropriate location to construct a
25 confinement feeding operation structure, including the
26 proximity and orientation of a proposed confinement
27 feeding operation structure to objects or locations
28 for which separation distances are required pursuant
29 to sections 455B.162 and 455B.204.

30 (2) The appropriate type of a confinement feeding
31 operation structure required to be constructed,
32 including the type and size of the manure storage
33 structure, or the installation of a related pollution-
34 control device.

35 b. The master matrix shall be designed to produce
36 quantifiable results based on the scoring of objective
37 criteria according to an established value scale.
38 Each criterion shall be assigned points corresponding
39 to the value scale. The master matrix shall consider
40 risks and factors mitigating risks if the confinement
41 feeding operation structure were constructed according
42 to the application.

43 c. The master matrix may be a computer model.
44 However, the master matrix must be a practical tool
45 for use by persons when completing applications and by
46 persons when scoring applications. To every extent
47 feasible, the master matrix shall include criteria
48 presented in the form of questions that may be readily
49 scored according to ascertainable data and upon which
50 reasonable persons familiar with the location of a

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1 proposed construction site would not ordinarily
2 disagree.

3 2. The master matrix shall include criteria
4 valuing environmental and community impacts, for use
5 by county boards of supervisors and the department.
6 The master matrix shall include definite point
7 selections for all criteria provided in the master
8 matrix. The master matrix shall provide only for
9 scoring of positive points and shall not provide for
10 deduction of points. The master matrix shall provide
11 for a minimum threshold score required to receive a
12 satisfactory rating. The master matrix shall be
13 structured to ensure that it feasibly provides for a
14 satisfactory rating. Criteria valuing environmental
15 impacts shall account for animal agriculture's
16 relationship to quality of the environment and the
17 conservation of natural resources, and may include
18 factors that refer to all of the following:

- 19 (a) Topography.
- 20 (b) Surface water drainage characteristics.
- 21 (c) The suitability of the soils and the hydrology
22 or hydrogeology of the site.
- 23 (d) The proximity to public use areas and critical
24 public areas.
- 25 (e) The proximity to water sources, including
26 high-quality water resources.

27 Sec. 37. Section 455B.201, Code 2001, is amended
28 by adding the following new subsection:

29 NEW SUBSECTION. 2A. The department may require
30 that the owner of a confinement feeding operation
31 install and operate a water pollution monitoring
32 system as part of an unformed manure storage
33 structure.

34 Sec. 38. Section 455B.203, subsections 1 and 2,
35 Code 2001, are amended to read as follows:

36 1. The following persons shall submit a manure
37 management plan, including an original manure
38 management plan and an updated manure management plan,
39 as required in this section to the department:

40 a. The owner of a confinement feeding operation,
41 other than a small animal feeding operation, if ~~the~~
42 ~~animal~~ any of the following apply:

43 (1) The confinement feeding operation was
44 constructed after May 31, 1985, regardless of whether
45 the confinement feeding operation structure was
46 required to be constructed pursuant to a construction
47 permit approved by rules adopted by the department.

48 ~~b. (2) The owner of a confinement feeding~~
49 ~~operation, if the confinement feeding operation is~~
50 ~~required to be constructed pursuant to a permit issued~~

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1 ~~by the department~~ The owner constructs a manure
2 storage structure, regardless of whether the person is
3 required to be issued a permit for the construction
4 pursuant to section 455B.200A or whether the person
5 has submitted a prior manure management plan.

6 ~~e-~~ b. A person who applies manure from a
7 confinement feeding operation, other than a small
8 animal feeding operation, which is located in another
9 state, if the manure is applied on land located in
10 this state.

11 1A. Not more than one confinement feeding
12 operation shall be covered by a single manure
13 management plan.

14 1B. The owner of a confinement feeding operation
15 who is required to submit a manure management plan
16 under this section shall submit an updated manure
17 management plan to the department on an annual basis.
18 The department shall provide for a date that each
19 updated manure management plan is required to be
20 submitted to the department. The department may
21 provide for staggering the dates on which updated
22 manure management plans are due. To satisfy the
23 requirements of an updated manure management plan, an
24 owner of a confinement feeding operation may, in lieu
25 of a submitting a complete plan, file a document
26 stating that the manure management plan has not
27 changed, or state all of the changes made since the
28 original manure management plan or a previous updated
29 manure management plan was submitted and approved.

30 1C. The department shall deliver a copy of the
31 manure management plan or require the person
32 submitting the manure management plan to deliver a
33 copy of the manure management plan to all of the
34 following:

35 a. The county board of supervisors in the county
36 where the manure storage structure owned by the person
37 is located.

38 b. The county board of supervisors in the county
39 where the manure storage structure is proposed to be
40 constructed. If the person is required to be issued a
41 permit for the construction of the manure storage
42 structure as provided in section 455B.200A, the manure
43 management plan shall accompany the application for
44 the construction permit as provided in section
45 455B.200A.

46 c. The county board of supervisors in the county
47 where the manure is to be applied.

48 The manure management plan shall be filed with the
49 county board of supervisors. The county auditor or
50 other county officer may accept the manure management

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1 plan on behalf of the board.

2 2. A person shall not remove manure from a manure
3 storage structure which is part of a confinement
4 feeding operation for which a manure management plan
5 is required under this section, unless the department
6 approves a manure management plan, including an
7 original manure management plan and an updated manure
8 management plan, as required in this section. The
9 manure management plan shall be submitted by the owner
10 of the confinement feeding operation as provided by
11 the department on forms prescribed by the department
12 in accordance with section 455B.200D. The owner of a
13 confinement feeding operation required to submit a
14 manure management plan for the construction of a
15 manure storage structure may remove manure from
16 another manure storage structure that is constructed,
17 if the department has approved a manure management
18 plan covering that manure storage structure. The
19 department may adopt rules allowing a person to remove
20 manure from a manure storage structure until the
21 manure management plan is approved or disapproved by
22 the department according to terms and conditions
23 required by rules adopted by the department. The
24 department shall approve or disapprove a manure
25 management plan within sixty days of the date that the
26 department receives a completed plan.

27 2A. The department shall not approve an original
28 manure management plan unless the plan is accompanied
29 by a manure management plan filing fee required
30 pursuant to section 455B.203C. The department shall
31 not approve an updated manure management plan unless
32 the updated manure management plan is accompanied by
33 an annual compliance fee required pursuant to section
34 455B.203C.

35 2B. a. The department shall not issue approve an
36 application for a permit for the construction of to
37 construct a confinement feeding operation or a related
38 animal feeding operation structure unless the
39 applicant owner of the confinement feeding operation
40 applying for approval submits a an original manure
41 management plan together with an the application for
42 the construction permit as provided in section
43 455B.200A.

44 b. The department shall not file a construction
45 design statement as provided in section 455B.200C,
46 unless the owner of the confinement feeding operation
47 structure submits an original manure management plan
48 together with the construction design statement. The
49 construction design statement and manure management
50 plan may be submitted as part of a construction permit

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1 as provided in section 455B.200A.

2 2C. A manure management plan must be authenticated
3 by the person required to submit the manure management
4 plan as required by the department in accordance with
5 section 455B.200D.

6 2D. The department shall approve or disapprove a
7 manure management plan according to procedures
8 established by the department:

9 a. For an original manure management plan
10 submitted due to the construction of a confinement
11 feeding operation structure, the department shall
12 approve or disapprove the manure management plan as
13 follows:

14 (1) If the confinement feeding operation structure
15 is constructed pursuant to a construction permit
16 issued pursuant to section 455B.200A, the manure
17 management plan shall be approved or disapproved as
18 part of the construction permit application.

19 (2) If the confinement feeding operation structure
20 is not constructed pursuant to a construction permit
21 issued pursuant to section 455B.200A, the manure
22 management plan shall be approved or disapproved
23 within sixty days from the date that the department
24 receives the manure management plan.

25 b. For an original manure management plan
26 submitted for a reason other than the construction of
27 a confinement feeding operation structure, the manure
28 management plan shall be approved within sixty days
29 from the date that the department receives the manure
30 management plan.

31 c. For an updated manure management plan, the
32 manure management plan shall be approved within thirty
33 days from the date that the department receives the
34 updated manure management plan.

35 Sec. 39. Section 455B.203, subsection 3, paragraph
36 a, Code 2001, is amended to read as follows:

37 a. Restrictions on the application of manure based
38 on all of the following:

39 (1) Calculations necessary to determine the land
40 area required for the application of manure from a
41 confinement feeding operation based on nitrogen use
42 levels in order to obtain optimum crop yields
43 according to a crop schedule specified in the manure
44 management plan, and according to requirements adopted
45 by the department ~~after receiving recommendations from~~
46 ~~the animal agriculture consulting organization~~
47 ~~provided for in 1995 Iowa Acts, chapter 195, section~~
48 ~~37.~~

49 (2) (a) A phosphorus index. The department shall
50 establish a phosphorus index by rule in order to

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1 determine the manner and timing of the application to
2 a land area of manure originating from a confinement
3 feeding operation. The phosphorus index shall provide
4 for the application of manure on a field basis. The
5 phosphorus index shall be used to determine
6 application rates, based on the number of pounds of
7 phosphorus that may be applied per acre and
8 application practices. The phosphorus index shall be
9 based on the field office technical guide for Iowa as
10 published by the United States department of
11 agriculture, natural resources conservation service,
12 which sets forth nutrient management standards.

13 (b) The department shall develop a state
14 comprehensive nutrient management strategy. Prior to
15 developing the state comprehensive nutrient management
16 strategy, the department shall complete all of the
17 following:

18 (i) The development of a comprehensive state
19 nutrient budget for the maximum volume, frequency, and
20 concentration of nutrients for each watershed that
21 addresses all significant sources of nutrients in a
22 water of this state on a watershed basis.

23 (ii) The assessment of the available nutrient
24 control technologies required to identify and assess
25 their effectiveness.

26 (iii) The development and adoption of
27 administrative rules pursuant to chapter 17A required
28 to establish a numeric water quality standard for
29 phosphorus.

30 (c) Regardless of the development of the state
31 comprehensive nutrient management strategy as provided
32 in subparagraph subdivision (b), the department shall
33 adopt rules required to establish a phosphorus index.
34 The department shall cooperate with the United States
35 department of agriculture natural resource
36 conservation service technical committee for Iowa to
37 refine and calibrate the phosphorus index in adopting
38 the rules. However, in no instance shall the
39 phosphorus index require an application rate that is
40 less than the phosphorus use levels necessary to
41 obtain optimum crop yields according to a crop
42 schedule specified in the manure management plan.
43 Rules adopted by the department pursuant to this
44 subparagraph shall become effective on July 1, 2003.

45 (d) The department shall conduct a study that
46 considers the effects on waters of this state from
47 phosphorus originating from municipal and industrial
48 sources and from farm and lawn and garden use. The
49 department shall report the results of its study to
50 the general assembly by January 1, 2004.

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1 (e) A person submitting a manure management plan
2 shall include a phosphorus index as part of the manure
3 management plan as follows:

4 (i) A person who has submitted an original manure
5 management plan prior to April 1, 2002, shall not be
6 required to submit a manure management plan update
7 which includes a phosphorus index, until on and after
8 the four-year anniversary date that the department's
9 rules adopted to implement the phosphorus index become
10 effective.

11 (ii) A person required to submit an original
12 manure management plan on and after April 1, 2002, but
13 prior to the date that is sixty days after the
14 department's rules adopted to implement the phosphorus
15 index become effective, shall not be required to
16 submit a manure management plan update that includes a
17 phosphorus index until on and after the two-year
18 anniversary date that the department's rules adopted
19 to implement the phosphorus index become effective.

20 (iii) A person required to submit an original
21 manure management plan on and after the date that is
22 sixty days after the department's rules adopted to
23 implement the phosphorus index become effective shall
24 include the phosphorus index as part of the original
25 manure management plan and updated manure management
26 plans.

27 Subparagraph subdivisions (b) through (e) and this
28 paragraph are repealed on the date that any person who
29 has submitted an original manure management plan prior
30 to April 1, 2002, is required to submit a manure
31 management plan update which includes a phosphorus
32 index as provided in subparagraph subdivision (c),
33 subparagraph subdivision part (i). The department
34 shall publish a notice in the Iowa administrative
35 bulletin published immediately prior to that date, and
36 the director of the department shall deliver a copy of
37 the notice to the Iowa Code editor.

38 Sec. 40. Section 455B.203, subsection 4, Code
39 2001, is amended to read as follows:

40 4. A ~~person~~ confinement feeding operation
41 classified as a habitual violator ~~or a confinement~~
42 ~~feeding operation in which a habitual violator owns a~~
43 ~~controlling interest,~~ as provided in section 455B.191,
44 shall submit a manure management plan to the
45 department on an annual basis, which must be approved
46 by the department for the following year of operation.
47 The manure management plan shall be a replacement
48 original manure management plan rather than a manure
49 management plan update. However, the habitual
50 violator required to submit a replacement original

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1 manure management plan must submit an annual
2 compliance fee in the same manner as if the habitual
3 violator were submitting an updated manure management
4 plan.

5 Sec. 41. Section 455B.203, subsection 7, Code
6 2001, is amended to read as follows:

7 7. A person submitting required to authenticate a
8 manure management plan submitted to the department who
9 is found in violation of the terms and conditions of
10 the plan shall not be subject to an enforcement action
11 other than the assessment of a civil penalty pursuant
12 to section ~~455B.191~~ 455B.207.

13 Sec. 42. Section 455B.203A, subsection 6,
14 paragraph b, Code 2001, is amended by striking the
15 paragraph.

16 Sec. 43. NEW SECTION. 455B.203C COMPLIANCE FEES.

17 1. The department shall establish, assess, and
18 collect all of the following compliance fees:

19 a. A construction permit application fee that is
20 required to accompany an application submitted to the
21 department for approval to construct a confinement
22 feeding operation structure as provided in section
23 455B.200A. The amount of the construction permit
24 application fee shall not exceed two hundred fifty
25 dollars.

26 b. A manure management plan filing fee that is
27 required to accompany an original manure management
28 plan submitted to the department for approval as
29 provided in section 455B.203. However, the manure
30 management plan required to be filed as part of an
31 application for a construction permit shall be paid
32 together with the construction permit application fee.
33 The amount of the manure management plan filing fee
34 shall not exceed two hundred fifty dollars.

35 c. An annual compliance fee that is required to
36 accompany an updated manure management plan submitted
37 to the department for approval as provided in section
38 455B.203. The amount of the annual compliance fee
39 shall not exceed a rate of fifteen cents per animal
40 unit based on the animal unit capacity of the
41 confinement feeding operation covered by the manure
42 management plan. If the person filing the manure
43 management plan is a contract producer, as provided in
44 chapter 202, the contractor shall be assessed the
45 annual compliance fee.

46 d. Fees paid by persons required by the department
47 to be certified as commercial manure applicators or
48 confinement site manure applicators pursuant to
49 section 455B.203A.

50 2. a. Except as provided in paragraph "b", fees

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1 collected by the department shall be deposited into
2 the animal agriculture compliance fund created in
3 section 455B.127. Moneys collected from all fees
4 other than the annual compliance fee shall be
5 deposited into the compliance fund's general account.
6 Moneys collected from the annual compliance fee shall
7 be deposited into the compliance fund's assessment
8 account.

9 b. Receipts that are required to be received by
10 the department from persons required to be certified
11 pursuant to section 455B.203A may be used to
12 compensate a person who teaches continuing
13 instructional courses in lieu of deposit into the
14 compliance fund.

15 3. At the end of each fiscal year the department
16 shall determine the balance of unencumbered and
17 unobligated moneys in the assessment account of the
18 animal agriculture compliance fund created pursuant to
19 section 455B.127. If on that date the balance of
20 unencumbered and unobligated moneys in the account is
21 one million dollars or more, the department shall
22 adjust the rate of the annual compliance fee for the
23 following fiscal year. The adjusted rate for the
24 annual compliance fee shall be based on the
25 department's estimate of the amount required to ensure
26 that at the end of the following fiscal year the
27 balance of unencumbered and unobligated moneys in the
28 assessment account is not one million dollars or more.

29 Sec. 44. Section 455B.204, subsection 1, Code
30 2001, is amended by striking the subsection.

31 Sec. 45. Section 455B.204, subsections 2 through
32 4, Code 2001, are amended to read as follows:

33 2. Except as provided in subsection ~~3~~ 4, the
34 following shall apply:

35 a. ~~An animal~~ A confinement feeding operation
36 structure shall not be constructed closer than five
37 hundred feet away from a the surface intake, of an
38 agricultural drainage well. A confinement feeding
39 operation structure shall not be constructed closer
40 than one thousand feet from a wellhead, or cistern of
41 an agricultural drainage well, or known sinkhole.
42 However, the department may adopt rules requiring an
43 increased separation distance under this paragraph in
44 order to protect the integrity of a water of this
45 state. The increased separation distance shall not be
46 more than two thousand feet. If the department
47 exercises its discretion to increase the separation
48 distance requirement, the department shall not approve
49 an application for the construction of a confinement
50 feeding operation structure within that separation

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1 distance as provided in section 455B.200A.

2 ~~b. An animal~~ A confinement feeding operation
3 structure shall not be constructed if the ~~animal~~
4 confinement feeding operation structure as constructed
5 is closer than any of the following:

6 (1) ~~Two~~ Five hundred feet away from a ~~watercourse~~
7 water source other than a major water source.

8 (2) ~~Five hundred~~ One thousand feet away from a
9 major water source.

10 (3) Two thousand five hundred feet away from a
11 designated wetland.

12 c. (1) A ~~watercourse~~ water source, other than a
13 major water source, shall not be constructed,
14 expanded, or diverted, if the ~~watercourse~~ water source
15 as constructed, expanded, or diverted is closer than
16 ~~two five~~ five hundred feet away from ~~an animal~~ a
17 confinement feeding operation structure.

18 ~~d.~~ (2) A major water source shall not be
19 constructed, expanded, or diverted, if the major water
20 source as constructed, expanded, or diverted is closer
21 than ~~five hundred~~ one thousand feet from ~~an animal~~
22 feeding a confinement operation structure.

23 (3) A designated wetland shall not be established,
24 if the designated wetland is closer than two thousand
25 five hundred feet away from a confinement feeding
26 operation structure.

27 3. A confinement feeding operation structure shall
28 not be constructed on land that is part of a one
29 hundred year floodplain as designated by rules adopted
30 by the department pursuant to section 455B.200B.

31 ~~3.~~ 4. A separation distance required in subsection
32 2 shall not apply to any of the following:

33 a. A location or object and a farm pond or
34 privately owned lake, as defined in section 462A.2.

35 b. A confinement feeding operation building, an
36 egg washwater storage structure, or a manure storage
37 structure constructed with a secondary containment
38 barrier. The department shall adopt rules providing
39 for the construction and use of a secondary
40 containment barrier, including construction design
41 standards.

42 ~~4. All distances between locations or objects~~
43 ~~shall be measured from their closest points, as~~
44 ~~provided by rules adopted by the department.~~

45 Sec. 46. Section 455B.204A, Code 2001, is amended
46 to read as follows:

47 455B.204A ~~DISPOSAL~~ APPLICATION OF MANURE WITHIN
48 DESIGNATED AREAS -- ADOPTION OF RULES.

49 1. The department shall adopt rules relating to
50 the ~~disposal~~ application of manure in close proximity

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1 to a designated area.

2 2. A Except as otherwise provided in this
3 subsection, a person shall not ~~dispose of~~ apply manure
4 on ~~cropland~~ land located within two hundred feet from
5 a designated area, unless one of the following
6 applies:

7 ~~1-~~ a. The manure is land applied by injection or
8 incorporation ~~within twenty-four hours following the~~
9 application on the same date as the manure was land
10 applied.

11 ~~2-~~ b. An area of permanent vegetation cover,
12 including filter strips and riparian forest buffers,
13 exists for fifty feet surrounding the designated area
14 other than an unplugged agricultural drainage well or
15 surface intake to an unplugged agricultural drainage
16 well, and ~~that~~ the area of permanent vegetation cover
17 is not subject to manure application.

18 c. The department adopts rules requiring an
19 increased separation distance for the application of
20 manure located in proximity to a high quality water
21 resource in order to protect the integrity of the high
22 quality water resource. However, the department shall
23 not provide for an increased separation distance
24 requirement that is more than four times the
25 separation distance requirement otherwise applicable
26 under this section.

27 As used in this section, "designated area" means a
28 known sinkhole, or a cistern, abandoned well,
29 unplugged agricultural drainage well, agricultural
30 drainage well surface inlet, drinking water well,
31 designated wetland, or lake, or a farm pond or
32 privately owned lake as defined in section 462A.2
33 water source. However, a "designated area" does not
34 include a terrace tile inlet.

35 Sec. 47. Section 455B.205, subsection 1, Code
36 2001, is amended to read as follows:

37 1. The department shall ~~establish by rule~~
38 engineering adopt rules requiring construction design
39 standards for ~~the construction of~~ unformed manure
40 storage structures required to be constructed pursuant
41 to a construction permit issued ~~under~~ pursuant to
42 section 455B.200A.

43 Sec. 48. Section 455B.205, subsection 2,
44 unnumbered paragraph 1, Code 2001, is amended to read
45 as follows:

46 The construction design standards for unformed
47 manure storage structures established by the
48 department shall account for special design
49 characteristics of ~~animal~~ confinement feeding
50 operations, including all of the following:

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1 Sec. 49. Section 455B.205, Code 2001, is amended
2 by adding the following new subsection:
3 NEW SUBSECTION. 2A. A person shall not construct
4 an unformed manure storage structure on karst terrain
5 or on an area that drains into a known sinkhole.

6 Sec. 50. NEW SECTION. 455B.205A CONSTRUCTION
7 DESIGN STANDARDS -- FORMED MANURE STORAGE STRUCTURES.
8 The department shall adopt rules establishing
9 construction design standards for formed manure
10 storage structures that are part of confinement
11 feeding operations other than small animal feeding
12 operations.

13 1. The department may provide for different
14 standards based on criteria developed by the
15 department, which may include any of the following:

16 a. The animal unit capacity of the manure storage
17 structure's confinement feeding operation or the
18 manure storage structure's manure volume capacity.

19 b. Whether the manure storage structure stores
20 manure in an exclusively dry form.

21 c. Whether the manure storage structure is part of
22 a confinement feeding operation building.

23 d. The use of concrete, including its use for the
24 structure's footings, walls, or floor.

25 2. The construction design standards shall be
26 based, to every extent possible, on uniform standards
27 such as available standards promulgated by the
28 American society for testing and materials. The
29 department may require that all or any part of a
30 formed manure storage structure be constructed of
31 concrete.

32 3. The construction design standards for concrete
33 shall provide for all of the following:

34 a. The concrete's minimum compressive strength
35 calculated on a pounds-per-square-inch basis.

36 b. The use of reinforcement, including but not
37 limited to the grade, amount, and location of steel
38 rebar or fiberglass, wire mesh or fabric, or similar
39 materials set in the concrete, or the use of exterior
40 braces to support joints.

41 c. The depth of footings.

42 d. The thickness of the footings, the floor and
43 walls.

44 4. A person shall only construct a formed manure
45 storage structure on karst terrain or an area which
46 drains into a known sinkhole pursuant to upgraded
47 construction design standards necessary to ensure that
48 the structure does not pollute groundwater sources.

49 Sec. 51. NEW SECTION. 455B.207 CIVIL PENALTY.

50 A person who violates this subpart shall be subject

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1 to a civil penalty which shall be established,
2 assessed, and collected in the same manner as provided
3 in section 455B.191. Any civil penalty collected
4 shall be deposited in the animal agriculture
5 compliance fund created in section 455B.127.

6 Sec. 52. Section 455I.1, unnumbered paragraph 1,
7 Code 2001, is amended by striking the unnumbered
8 paragraph.

9 Sec. 53. Section 455J.1, subsections 1 through 5
10 and subsections 7 and 8, Code 2001, are amended by
11 striking the subsections.

12 Sec. 54. Section 455J.3, subsection 1, unnumbered
13 paragraph 1, Code 2001, is amended to read as follows:

14 If the confinement feeding operation has an animal
15 ~~weight unit~~ capacity of less than ~~six hundred twenty-~~
16 ~~five thousand pounds~~ one thousand animal units, the
17 following shall apply:

18 Sec. 55. Section 455J.3, subsection 2, unnumbered
19 paragraph 1, Code 2001, is amended to read as follows:

20 If the confinement feeding operation has an animal
21 ~~weight unit~~ capacity of ~~six hundred twenty-five~~
22 ~~thousand~~ one thousand or more pounds animal units but
23 less than ~~one million two hundred fifty thousand~~
24 ~~pounds~~ three thousand animal units, the following
25 shall apply:

26 Sec. 56. Section 455J.3, subsection 3, unnumbered
27 paragraph 1, Code 2001, is amended to read as follows:

28 If the confinement feeding operation has an animal
29 ~~weight unit~~ capacity of ~~one million two hundred fifty~~
30 ~~thousand~~ three thousand or more pounds animal units,
31 the following shall apply:

32 Sec. 57. Section 455J.4, Code 2001, is amended to
33 read as follows:

34 455J.4 MANURE MANAGEMENT PLAN -- INDEMNITY FEE
35 REQUIRED.

36 An indemnity fee shall be assessed upon persons
37 required to submit a an original manure management
38 plan as provided in section 455B.203, but not required
39 to obtain a construction permit pursuant to section
40 455B.200A. A person required to submit a replacement
41 original manure management plan shall not be assessed
42 an indemnity fee. The amount of the ~~fees~~ fee shall be
43 ten cents per animal unit of capacity for the
44 confinement feeding ~~operations~~ operation covered by
45 the manure management plan.

46 Sec. 58. NEW SECTION. 481A.151 RESTITUTION FOR
47 POLLUTION CAUSING INJURY TO WILD ANIMALS.

48 1. A person who is liable for polluting a water of
49 this state in violation of state law, including this
50 chapter, shall also be liable to pay restitution to

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1 the department for injury caused to a wild animal by
2 the pollution. The amount of the restitution shall
3 also include the department's administrative costs for
4 investigating the incident. The administration of
5 this section shall not result in a duplication of
6 damages collected by the department under section
7 455B.392, subsection 1, paragraph "c".

8 2. The commission shall adopt rules providing for
9 procedures for investigations and the administrative
10 assessment of restitution amounts. The rules shall
11 establish an opportunity to appeal a departmental
12 action including by a contested case proceeding under
13 chapter 17A. A final administrative decision
14 assessing an amount of restitution may be enforced by
15 the attorney general at the request of the director.

16 3. Rules adopted by the commission shall provide
17 for methods used to determine the extent of an injury
18 and the monetary values for the loss of injured wild
19 animals based on species.

20 a. The rules shall provide for methods used to
21 count dead fish and to calculate restitution values.
22 The rules may incorporate methods and values published
23 by the American fisheries society. To every extent
24 practicable, the values shall be based on the
25 estimates of lost recreational angler opportunities
26 where applicable. As an alternative method of
27 valuation, the rules may provide that for fish species
28 that are protected by catch limits, possession limits,
29 size limits, or closed seasons applicable to anglers,
30 liquidated damages apply. The amount of the
31 liquidated damages shall not exceed fifteen dollars
32 per fish. For fish species that are classified by the
33 commission as endangered or threatened, the rules may
34 establish liquidated damages not to exceed one
35 thousand dollars per fish.

36 b. The rules shall provide guidelines for
37 estimating the extent of loss of a species that is
38 affected by a pollution incident but which would not
39 be practical to count in sample areas. The rules may
40 establish liquidated damage amounts for species whose
41 replacement cost is difficult to determine.

42 4. Moneys collected by the department in
43 restitution shall be deposited into the state fish and
44 game protection fund. The moneys shall be used
45 exclusively to support restoration or improvement of
46 fisheries, including but not limited to aquatic
47 habitat improvement projects as provided in rules
48 adopted by the commission. However, moneys collected
49 from restitution paid for investigative costs shall be
50 used as determined by the director.

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1 Sec. 59. FORMED MANURE STORAGE STRUCTURES --
2 CONSTRUCTION DESIGN STANDARDS. Until the effective
3 date of rules adopted by the department providing
4 construction design standards for formed manure
5 storage structures as provided in section 455B.205A,
6 as enacted in this Act, the department's rules
7 providing construction design standards used in the
8 construction of formed manure storage structures shall
9 apply to formed manure storage structures as provided
10 in section 455B.205A, regardless of whether a formed
11 manure storage structure must be constructed pursuant
12 to a permit issued under section 455B.200A, as amended
13 by this Act. However, this section does not apply to
14 a manure storage structure that stores manure
15 exclusively on a dry-matter basis.

16 Sec. 60. INTERIM APPROVAL OF CONSTRUCTION PERMITS
17 FOR CONFINEMENT FEEDING OPERATION STRUCTURES -- COUNTY
18 PARTICIPATION AND RIGHTS OF APPLICANTS AND COUNTY
19 BOARDS OF SUPERVISORS. This section applies to an
20 applicant for a construction permit pursuant to
21 section 455B.200A, as amended by this Act, and to a
22 county board of supervisors that submits comments
23 regarding a permit for the construction of a
24 confinement feeding operation structure pursuant to
25 section 455B.200A, as amended by this Act.
26 Notwithstanding section 455B.200E, as enacted in this
27 Act, all of the following shall apply:

28 1. The department shall not approve the
29 application until thirty days following delivery of
30 the application to the county board of supervisors.

31 2. The department shall consider and respond to
32 comments submitted by the county board of supervisors
33 regarding compliance by the applicant with the legal
34 requirements for approving the construction permit in
35 the same manner as provided pursuant to section
36 455B.200A, Code of Iowa 2001.

37 3. The department shall notify the county board of
38 supervisors prior to conducting an inspection of the
39 site on which the construction is proposed in the
40 permit application, and the county may accompany a
41 departmental official during the site inspection, in
42 the same manner as provided in section 455B.200A, Code
43 of Iowa 2001.

44 4. Upon written request by a county resident, the
45 county board of supervisors shall forward a copy of
46 the board's comments and the department's responses to
47 the county resident as provided in chapter 22.

48 5. The department shall notify the applicant and
49 county board of supervisors of the county in which a
50 confinement feeding operation structure subject to a

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1 construction permit is proposed to be constructed.
2 The notice shall state the department's decision to
3 approve or disapprove an application for the
4 construction permit which shall be delivered to the
5 applicant and board in the same manner as provided for
6 counties in section 455B.200A, Code of Iowa 2001. The
7 applicant may contest the department's decision by
8 filing a demand for a hearing before an administrative
9 law judge or the environmental protection commission.
10 The board may contest the department's decision by
11 filing a demand for a hearing before the commission.
12 The applicant shall contest the decision and the
13 commission shall conduct the proceeding and render a
14 decision in the same manner as provided in section
15 455B.200E, as enacted by this Act.

16 Sec. 61. ESTABLISHMENT OF A MASTER MATRIX --
17 TECHNICAL ADVISORY COMMITTEE.

18 1. The department of natural resources shall adopt
19 rules establishing a master matrix as required
20 pursuant to section 455B.200F according to
21 recommendations made to the department by a technical
22 advisory committee established pursuant to this
23 section. The technical advisory committee shall be
24 composed of all of the following:

- 25 a. A designee of the secretary of agriculture.
- 26 b. A designee of the director of the department of
27 natural resources.
- 28 c. A designee of the president of the university
29 of Iowa.
- 30 d. A designee of the president of Iowa state
31 university.
- 32 e. A representative of the Iowa environmental
33 council.
- 34 f. A representative of the Iowa state association
35 of counties.
- 36 g. A representative of the Iowa farm bureau
37 federation.
- 38 h. A representative of the Iowa's farmers union.
- 39 i. Two representatives of organizations
40 representing livestock producers who shall be jointly
41 designated to the department of natural resources by
42 the Iowa pork producers association, the Iowa
43 cattlemens' association, the Iowa dairy products
44 association, the Iowa poultry association, and the
45 Iowa turkey federation.

46 The department of natural resources shall provide
47 administrative support to the committee. The attorney
48 general shall appoint an assistant attorney general to
49 provide the committee with legal counsel and
50 assistance.

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1 2. In establishing the scoring system for the
2 master matrix, only positive points shall be used.
3 The master matrix shall be designed as a menu of items
4 with positive points assigned to each item within the
5 selection list. The matrix shall not include any
6 deduction of points.

7 3. The department shall adopt rules pursuant to
8 chapter 17A in order to carry out the requirements of
9 this section. Based on the committee's
10 recommendations to establish a master matrix, the
11 department shall provide a draft of a notice of
12 intended action to the environmental protection
13 commission not later than during its September 2002
14 meeting. The department's notice of intended action
15 shall not be published later than in the November 27,
16 2002, issue of the Iowa administrative bulletin. The
17 notice of intended action required under this section
18 shall include a statement of the terms or substance of
19 the intended action in the manner provided for in
20 section 17A.4. The rules shall take effect on March
21 1, 2003.

22 Sec. 62. DEPARTMENT OF NATURAL RESOURCES --
23 APPROVAL OF APPLICATIONS FOR CONSTRUCTION PERMITS --
24 USING INTERIM MATRIX.

25 1. Notwithstanding sections 455B.200A and
26 455B.200F, the department shall approve or disapprove
27 an application for a permit to construct a confinement
28 feeding operation structure pursuant to section
29 455B.200A, if an application is submitted according to
30 procedures required by the department, the application
31 meets standards established under chapter 455B, as
32 amended by this Act, and the application complies with
33 the requirements of this section. This section does
34 not apply to the expansion of a confinement feeding
35 operation that includes a confinement feeding
36 operation structure constructed prior to April 1,
37 2002, due to the construction or expansion of a
38 confinement feeding operation structure if after the
39 expansion of the confinement feeding operation, its
40 animal unit capacity is one thousand six hundred
41 sixty-six animal units or less.

42 2. This section applies on and after the date that
43 the department publishes a notice in the Iowa
44 administrative bulletin commencing its evaluation of
45 applications under this section.

46 3. The department shall approve or disapprove an
47 application based on an interim matrix. The interim
48 matrix shall be used to award points as provided in
49 this subsection. In order to be issued a construction
50 permit, a person must achieve one hundred points. The

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1 points shall be awarded as follows:

2 a. The following criteria shall apply to
3 separation distances. The separation distances
4 provided in this paragraph shall apply in addition to
5 separation distances required for confinement feeding
6 operation structures or for the application of manure
7 originating from confinement feeding operations as
8 provided in chapter 455B, divisions II and III, as
9 provided in the 2001 Code of Iowa, unless otherwise
10 provided in this paragraph "a".

11 (1) The following criteria shall apply to require
12 additional separation distances between a proposed
13 confinement feeding operation structure and a
14 residence not owned by the owner of the confinement
15 feeding operation, a commercial enterprise, a bona
16 fide religious institution, or an educational
17 institution as provided in section 455B.162:

18 (a) Two hundred fifty or more feet but less than
19 five hundred feet: five points.

20 (b) Five hundred or more feet but less than seven
21 hundred fifty feet: ten points.

22 (c) Seven hundred fifty or more feet but less than
23 one thousand feet: fifteen points.

24 (d) One thousand or more feet but less than one
25 thousand two hundred fifty feet: twenty points.

26 (e) One thousand two hundred fifty or more feet:
27 twenty-five points.

28 (2) The following criteria shall apply to require
29 additional separation distances between a proposed
30 confinement feeding operation structure and a public
31 use area as provided in section 455B.162 or a primary
32 highway as defined in section 306C.10:

33 (a) Two hundred fifty or more feet but less than
34 five hundred feet: five points.

35 (b) Five hundred or more feet but less than seven
36 hundred fifty feet: ten points.

37 (c) Seven hundred fifty or more feet but less than
38 one thousand feet: fifteen points.

39 (d) One thousand or more feet but less than one
40 thousand two hundred fifty feet: twenty points.

41 (e) One thousand two hundred fifty or more feet:
42 twenty-five points.

43 (3) The following criteria shall apply to require
44 additional separation distances between a proposed
45 confinement feeding operation structure and a major
46 water source as provided in section 455B.204 or a
47 high-quality water resource as defined in section
48 455B.200B, as enacted in this Act:

49 (a) Two hundred fifty or more feet but less than
50 five hundred feet: five points.

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- 1 (b) Five hundred or more feet but less than seven
2 hundred fifty feet: ten points.
- 3 (c) Seven hundred fifty or more feet but less than
4 one thousand feet: fifteen points.
- 5 (d) One thousand or more feet but less than one
6 thousand two hundred fifty feet: twenty points.
- 7 (e) One thousand two hundred fifty or more feet:
8 twenty-five points.
- 9 (4) The following criteria shall apply to require
10 additional separation distances between a proposed
11 confinement feeding operation structure and a critical
12 public area as defined in section 455B.200B,
13 subsection 6, as enacted by this Act:
- 14 (a) One thousand or more feet but less than one
15 thousand two hundred fifty feet: twenty points.
- 16 (b) One thousand two hundred fifty or more feet:
17 twenty-five points.
- 18 (5) The following criteria shall apply to require
19 an additional separation distance of five hundred or
20 more feet between a proposed confinement feeding
21 operation structure and a watercourse, other than a
22 major water source, as provided in section 455B.204:
23 five points.
- 24 (6) The following criteria shall apply to require
25 additional separation distances between the
26 application of manure originating from a confinement
27 feeding operation and a residence not owned by the
28 owner of the confinement feeding operation, or a
29 commercial enterprise, bona fide religious
30 institution, or an educational institution as provided
31 in section 455B.162:
- 32 (a) Two hundred fifty or more feet but less than
33 five hundred feet: five points.
- 34 (b) Five hundred or more feet but less than seven
35 hundred fifty feet: ten points.
- 36 (c) Seven hundred fifty or more feet but less than
37 one thousand feet: fifteen points.
- 38 (d) One thousand or more feet but less than one
39 thousand two hundred fifty feet: twenty points.
- 40 (e) One thousand two hundred fifty or more feet:
41 twenty-five points.
- 42 An applicant who incorporates manure by injection
43 shall be entitled to the following: fifteen points.
- 44 (7) The following criteria shall apply to require
45 an additional separation distance between the
46 application of manure originating from a confinement
47 feeding operation and a public use area as provided in
48 section 455B.162 or a primary highway as defined in
49 section 306C.10:
- 50 (a) Two hundred fifty or more feet but less than

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- 1 five hundred feet: five points.
2 (b) Five hundred or more feet but less than seven
3 hundred fifty feet: ten points.
4 (c) Seven hundred fifty or more feet but less than
5 one thousand feet: fifteen points.
6 (d) One thousand or more feet but less than one
7 thousand two hundred fifty feet: twenty points.
8 (e) One thousand two hundred fifty or more feet:
9 twenty-five points.
10 (8) The following criteria shall apply to require
11 additional separation distances between the
12 application of manure originating from a confinement
13 feeding operation and a critical public area as
14 defined in section 455B.200B, subsection 6, as enacted
15 in this Act:
16 (a) One thousand or more feet but less than one
17 thousand two hundred fifty feet: twenty points.
18 (b) One thousand two hundred fifty or more feet:
19 twenty-five points.
20 An applicant who incorporates manure by injection
21 shall be entitled to the following: fifteen points.
22 (9) The following criteria shall apply to require
23 additional separation distances between the
24 application of manure originating from a confinement
25 feeding operation and a major water source:
26 (a) One thousand or more feet but less than one
27 thousand two hundred fifty feet: twenty points.
28 (b) One thousand two hundred fifty or more feet:
29 twenty-five points.
30 (10) The following criteria shall apply to require
31 additional separation distances between the
32 application of manure originating from a confinement
33 feeding operation and a high-quality water resource as
34 defined in section 455B.200B, as enacted in this Act:
35 (a) Five hundred or more feet but less than seven
36 hundred fifty feet: ten points.
37 (b) Seven hundred fifty or more feet but less than
38 one thousand feet: fifteen points.
39 (c) One thousand or more feet but less than one
40 thousand two hundred fifty feet: twenty points.
41 (d) One thousand two hundred fifty or more feet:
42 twenty-five points.
43 (11) The following criteria shall apply to require
44 additional separation distances required for the
45 application of manure originating from a confinement
46 feeding operation and a watercourse other than a major
47 water source as provided in section 455B.204: five
48 points.
49 b. The following points shall be awarded if a
50 confinement feeding operation is located on land owned

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- 1 or operated by the same family for three or more
2 years: fifteen points.
- 3 c. The following points shall be awarded if the
4 owner of the confinement feeding operation owns the
5 animals maintained by the confinement feeding
6 operation and provides substantial structure: ten
7 points.
- 8 d. The following criteria shall apply to a
9 confinement feeding operation located on land owned by
10 one of the following persons:
- 11 (1) A person who resides on the land: five
12 points.
- 13 (2) A person who closest resides to the proposed
14 confinement feeding operation structure: ten points.
- 15 (3) A person who performs the majority of the
16 physical work which significantly contributes to the
17 operation: ten points.
- 18 (4) A person who is involved in making substantial
19 improvements to the confinement feeding operation, if
20 the improvements do not provide for expansion by more
21 than one hundred fifty percent of the animal unit
22 capacity of the confinement feeding operation: ten
23 points.
- 24 (5) A person who qualifies as a beginning farmer
25 as defined in section 175.2: fifteen points.
- 26 e. The following criteria shall apply to an owner
27 of a confinement feeding operation who provides for
28 the following manure management practices:
- 29 (1) The incorporation of manure within twenty-four
30 hours: five points.
- 31 (2) The use of a cover over a manure storage
32 structure or a natural crust or oil sprinkling: five
33 points.
- 34 (3) Participation in the United States department
35 of agriculture natural resource and conservation
36 program referred to as the "filter strip program at 33
37 feet": ten points.
- 38 (4) The installation of a filter designed to
39 reduce odors from exhaust fans: ten points.
- 40 (5) The utilization of feed or feed additives
41 containing high phytase corn: ten points.
- 42 (6) The utilization of a biofilter or impermeable
43 cover: ten points.
- 44 (7) The utilization of a methane digester
45 (recovery) system for energy or an anaerobic digester:
46 twenty-five points.
- 47 (8) The utilization of landscaping or other
48 similar controls approved by the department: ten
49 points.
- 50 (9) The establishment or expansion of a filter

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1 strip from thirty-three feet or more up to one hundred
2 twenty feet: fifteen points.

3 (10) The construction of a secondary containment
4 structure: fifteen points.

5 (11) The construction of a manure storage
6 structure beneath a confinement feeding operation
7 structure building: ten points.

8 (12) Participation in the United States department
9 of agriculture natural resource and conservation
10 service program referred to as the "contour buffer
11 strip program": twenty-five points.

12 Sec. 63. 1995 Iowa Acts, chapter 195, section 37,
13 as amended by 1998 Iowa Acts, chapter 1209, section
14 40, is repealed.

15 Sec. 64. INTERIM APPROVAL OF APPLICATIONS FOR
16 CONSTRUCTION PERMITS -- REPEAL. The section of this
17 Act providing for the interim approval of applications
18 for construction permits by the department of natural
19 resources is repealed March 1, 2003.

20 Sec. 65. INTERIM COUNTY PARTICIPATION REPEAL. The
21 section of this Act providing for interim county
22 participation in the approval of construction permits
23 for confinement feeding operation structures is
24 repealed March 1, 2003, and the rights of applicants'
25 boards of supervisors to contest departmental
26 decisions. However, the provisions of the section
27 shall continue to apply to applications received by a
28 county board of supervisors prior to March 1, 2002.

DIVISION II

DIRECTIONS TO CODE EDITOR,
CHANGE THE NAME OF TERMS AND
TRANSFER TO NEW TITLE

33 Sec. 66. CHANGE OF NAME OF TERMS.

34 1. The Code editor is directed to change the term
35 "animal feeding operation structure" or "an animal
36 feeding operation structure" to "confinement feeding
37 operation structure" or "a confinement feeding
38 operation structure" wherever the term appears in
39 section 455B.161A, subsection 2, Code 2001; section
40 455B.162, subsection 3, Code 2001; section 455B.163,
41 subsection 3, paragraph "d", Code 2001; section
42 455B.165, subsection 3, paragraph "b", and subsections
43 6 and 8, Code 2001; section 455B.200B, subsection 2,
44 Code 2001; and section 455B.202, subsection 2,
45 paragraphs "c" and "d", Code 2001.

46 2. The Code editor is directed to change the term
47 "animal feeding operation structures" to "confinement
48 feeding operation structures" wherever the term
49 appears in section 455B.161A, subsection 2, paragraph
50 "c", Code 2001; section 455B.200B, subsection 2, Code

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1 2001; and section 455B.162, unnumbered paragraph 1,
2 Code 2001.

3 3. The Code editor is directed to change the term
4 "animal feeding operation" or "an animal feeding
5 operation" to "confinement feeding operation" or "a
6 confinement feeding operation" wherever it appears in
7 section 455B.163, unnumbered paragraph 1, Code 2001;
8 section 455B.163, subsection 3, paragraph "c", Code
9 2001; section 455B.165, subsection 6, Code 2001; and
10 section 455B.205, subsection 3, paragraph "b", Code
11 2001.

12 4. The Code editor is directed to change the
13 phrase "confinement feeding operation structure or
14 anaerobic lagoon which is part of a confinement
15 feeding operation" to "confinement feeding operation
16 structure" wherever the phrase appears in section
17 455B.191, subsection 7, Code 2001.

18 5. The Code editor is directed to change the
19 phrase "an animal feeding operation structure which is
20 part of a confinement feeding operation" to "a
21 confinement feeding operation structure" wherever the
22 phrase appears in section 455B.202, subsection 2, Code
23 2001.

24 6. The Code editor is directed to change the term
25 "bovine" to "cattle" wherever the term appears in Code
26 section 455B.162, Code 2001.

27 Sec. 67. DIRECTIONS TO THE CODE EDITOR.

28 1. The Code editor is directed to transfer and
29 consolidate provisions concerning animal agriculture
30 into new chapter 456D, consistent with this section
31 and the authority of the Code editor pursuant to
32 chapter 2B. As part of this transfer and
33 consolidation, the Code editor shall divide the
34 chapters into subchapters as follows:

35 a. Subchapter 1 shall include a new section
36 stating the following: This chapter shall be known
37 and may be cited as the "Animal Agriculture Compliance
38 Act". Section 455B.161, as amended by this Act, shall
39 be transferred to subchapter 1. Section 455B.171,
40 subsections 7, 33, and 44, shall be transferred and
41 consolidated into section 455B.161 as transferred to
42 subchapter 1. Section 455J.1, subsections 4, 6, and
43 9, shall be transferred and consolidated into section
44 455B.161 as transferred to subchapter 1. Section
45 455B.200B, subsection 6, as enacted by this Act, shall
46 be consolidated into section 455B.161 as transferred
47 to subchapter 1. Section 455B.200, as amended by this
48 Act, shall also be transferred to subchapter 1.

49 b. Chapter 455B, division II, part 2, including
50 sections amended or enacted by this Act, with the

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1 exception of section 455B.164, shall be transferred to
2 new chapter 456D, as subchapter 2.

3 c. Chapter 455B, division III, part 1, subpart A,
4 as enacted in this Act, with the exception of section
5 455B.200, as amended by this Act, and section
6 455B.207, as enacted by this Act, shall be transferred
7 to new chapter 456D, as subchapter 3.

8 d. Sections 455B.125 through 455B.127, as enacted
9 by this Act, shall be transferred to new chapter 456D,
10 as subchapter 4.

11 e. Chapter 455J, with the exception of section
12 455J.1, shall be transferred to new chapter 456D, as
13 subchapter 5.

14 f. Section 455B.110, as amended by this Act, is
15 transferred to new chapter 456D, as subchapter 6.
16 Sections 455B.167, and 455B.207, as enacted by this
17 Act; section 455B.191, subsection 7, Code 2001, and
18 section 455B.191, subsection 8, as amended by this
19 Act; and section 455B.104, subsection 2, are
20 transferred as new sections to new subchapter 6.

21 2. The Code editor is directed to transfer chapter
22 455I to new chapter 456C. Subchapter 1 shall include
23 section 455I.1, subsections 1 through 4 and 6 through
24 13, Code 2001. Subchapter 2 shall include a new
25 section stating the following: As used in this
26 subchapter, unless the context otherwise requires,
27 "department" means the department of natural
28 resources. Subchapter 2 shall include sections 455I.2
29 through 455I.7. Subchapter 3 shall include a new
30 section stating the following: As used in this
31 subchapter, unless the context otherwise requires,
32 "department" means the department of agriculture and
33 land stewardship. The Code editor is directed to
34 transfer sections 159.28 through 159.29B, Code 2001,
35 to new chapter 456C, subchapter 3.

36 Sec. 68. Section 455B.164, Code 2001, is repealed.

37 DIVISION III

38 RETROACTIVE APPLICABILITY AND EFFECTIVE DATES

39 Sec. 69. RETROACTIVE APPLICATION.

40 1. If the provisions of this Act would apply to
41 require that a person must be issued a construction
42 permit as provided in section 455B.200A, as amended by
43 this Act, upon the enactment of this Act, for the
44 construction of a confinement feeding operation
45 structure, the requirements of section 455B.200A, as
46 amended by this Act, shall apply retroactively as
47 provided in this section. The provisions of this
48 section shall apply retroactively only if all of the
49 following are satisfied:

50 a. An application for a permit to construct the

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1 confinement feeding operation structure was submitted
2 to the department on or after April 1, 2002, but prior
3 to the enactment of this Act, regardless of whether
4 the department has approved the application; a manure
5 management plan was submitted to the department
6 without a construction permit as provided in 567 IAC
7 65.16(2) on or after April 1, 2002, but prior to the
8 enactment of this Act regardless of whether the
9 department has approved the manure management plan; or
10 construction of a confinement feeding operation
11 structure has not begun upon the enactment of this Act
12 and the person would otherwise be required to submit a
13 manure management plan prior to the construction of
14 the confinement feeding operation structure as
15 provided in section 455B.203, as amended in this Act.

16 b. The department has not received evidence that
17 an applicant or person submitting or required to
18 submit a manure management plan as provided in
19 subsection 2, has incurred commitments based on a
20 reliance of the law as the law existed on March 31,
21 2002. The commitments must constitute a legal
22 obligation for performance by the person to construct
23 a confinement feeding operation structure.

24 2. This Act shall not apply retroactively other
25 than as provided in this section. The department
26 shall approve or disapprove a pending construction
27 permit application or manure management plan not
28 subject to subsection 1 and a person may construct a
29 confinement feeding operation structure according to
30 the applicable requirements of the 2001 Code of Iowa
31 and rules adopted by the department and in effect on
32 March 31, 2002.

33 3. Until March 1, 2003, the department shall use
34 the interim matrix as provided in this Act in lieu of
35 the master matrix required to be used pursuant to
36 section 455B.200E.

37 Sec. 70. EFFECTIVE DATES.

38 1. Except as provided in subsections 2 and 3, this
39 Act, being deemed of immediate importance, takes
40 effect upon enactment.

41 2. The sections of this Act amending sections
42 455B.162, 455B.163, 455B.204, and 455B.204A, take
43 effect on March 1, 2003. Sections 455B.200C and
44 455B.200E, as enacted in this Act, take effect on
45 March 1, 2003.

46 3. Notwithstanding section 455B.203, as amended by
47 this Act, a person shall not be required to submit a
48 manure management plan update earlier than March 1,
49 2003. The department shall adopt rules necessary to
50 administer this Act including these sections on and

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1 after the enactment of this Act."

2 2. Title page, line 1, by inserting after the
3 word "agriculture" the following: ", providing for
4 fees, providing for penalties, and including
5 retroactive applicability and effective date
6 provisions".

7 3. By renumbering, redesignating, and correcting
8 internal references as necessary.

By COMMITTEE ON AGRICULTURE
JERRY BEHN, Chairperson

S-5437 FILED APRIL 9, 2002

adopted
4/10/02
p. 1097

SENATE FILE 2293

S-5443

1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:
3 1. Page 5, line 38, by inserting after the word
4 "thousand" the following: "three hundred thirty-
5 three".
6 2. Page 11, by striking lines 13 through 15, and
7 inserting the following:
8 "1. a. ~~An animal~~ For a confinement feeding
9 operation structure as constructed or expanded prior
10 to January 1, 1999, any construction or expansion of a
11 confinement feeding operation structure complies with
12 the distance requirements".
13 3. Page 11, by striking lines 18 through 20, and
14 inserting the following:
15 "b. ~~An animal~~ For a confinement feeding operation
16 structure as constructed or expanded on or after
17 January 1, 1999, but prior to March 1, 2003, any
18 construction or expansion of a confinement feeding
19 operation structure complies".
20 4. Page 11, by striking lines 24 and 25, and
21 inserting the following:
22 "c. For a confinement feeding operation
23 constructed on or after March 1, 2003, any
24 construction or expansion of a confinement feeding
25 operation structure".
26 5. Page 12, lines 1 and 2, by striking the word
27 and figure "March 31" and inserting the following:
28 "March 1".
29 6. Page 13, line 28, by striking the words "a
30 confinement" and inserting the following: "an
31 animal".
32 7. Page 13, lines 36 and 37, by striking the
33 words "or emission limitation".
34 8. Page 13, lines 39 and 40, by striking the
35 words "under the comprehensive plans and programs".
36 9. Page 15, by striking lines 22 through 28, and
37 inserting the following:
38 "1. The department shall issue approve or
39 disapprove applications for permits for the
40 construction, including the expansion, of ~~animal~~
41 confinement feeding operation structures, including
42 structures which are part of confinement feeding
43 operations, as provided by rules adopted pursuant to
44 section 455B.200 this chapter. The department's
45 decision to approve or disapprove a permit for the
46 construction of a confinement feeding operation shall
47 be based on whether the application is submitted
48 according to procedures required by the department and
49 the application meets standards established by the
50 department. A".

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- 1 10. Page 17, line 1, by inserting after the word
- 2 "operation" the following: "structure".
- 3 11. Page 34, by striking lines 38 through 42 and
- 4 inserting the following: "the rules."
- 5 12. Page 36, line 42, by striking the word
- 6 "filing" and inserting by following: "submitting".
- 7 13. Page 49, line 6, by striking the words
- 8 "substant structure" and inserting the following:
- 9 "substantial labor in providing for their
- 10 maintenance".
- 11 14. Page 50, by inserting after line 11, the
- 12 following:
- 13 "____. The following points shall be awarded if the
- 14 confinement feeding operation provides for the
- 15 distribution of bulk dry animal nutrient products, the
- 16 person receiving the product agrees that the product
- 17 will be incorporated, and the person who incorporates
- 18 the manure includes the condition as part of the
- 19 person's manure management plan: twenty-five points."
- 20 15. Page 50, line 28, by striking the figure
- 21 "2002" and inserting the following: "2003".

By JEFF ANGELO**S-5443** FILED APRIL 10, 2002

ADOPTED

*p. 1076***SENATE FILE 2293****S-5444**

- 1 Amend the amendment, S-5437, to Senate File 2293,
- 2 as follows:
- 3 1. Page 34, by striking lines 45 through 50.
- 4 2. By renumbering, redesignating, and correcting
- 5 internal references as necessary.

By EUGENE S. FRAISE**S-5444** FILED APRIL 10, 2002

LOST

(p. 1076)

SENATE FILE 2293**S-5446**

1 Amend the amendment, S-5437, to Senate File 2293,
 2 as follows:
 3 1. By striking page 1, line 4 through page 54,
 4 line 1, and inserting the following:
 5 "Section 1. Section 441.21, Code Supplement 2001,
 6 is amended by adding the following new subsection:
 7 NEW SUBSECTION. 12. Beginning with valuations
 8 established on or after January 1, 2003, an animal
 9 feeding operation structure which is part of a
 10 confinement feeding operation other than a small
 11 animal feeding operation, as provided in chapter 455B,
 12 shall be assessed as an agricultural commercial
 13 building and valued at an amount equal to the market
 14 value of the structure times the agricultural
 15 productivity factor, as determined by the county
 16 assessor for the assessment year, for the county where
 17 the structure is located. The value determined under
 18 this subsection shall not be included in the aggregate
 19 whole value calculated according to the agricultural
 20 productivity formula for agricultural realty.
 21 Sec. 2. APPLICABILITY. Section 1 of this Act
 22 applies to assessment years beginning on or after
 23 January 1, 2003."
 24 2. Page 54, by striking lines 2 through 6, and
 25 inserting following:
 26 "____. Title page, line 1, by inserting after the
 27 word "agriculture" the following: "and providing for
 28 the assessment of agricultural feeding operation
 29 structures for purposes of property taxation and for
 30 the applicability of the assessment".
 31 3. By renumbering as necessary.

By MIKE SEXTON

S-5446 FILED APRIL 10, 2002

LOST

p. 1076

SENATE FILE 2293**S-5447**

1 Amend the amendment, S-5437, to Senate File 2293,
 2 as follows:
 3 1. Page 50, by inserting after line 11, the
 4 following:
 5 "Sec. ____ . Section 657.11, Code 2001, is
 6 repealed."
 7 2. By renumbering as necessary.

By JACK HOLVECK

ROBERT E. DVORSKY

MICHAEL E. GRONSTAL

PATRICIA HARPER

JOE BOLKCOM

JOHNIE HAMMOND

BETTY A. SOUKUP

S-5447 FILED APRIL 10, 2002

LOST

p. 1076

SENATE FILE 2293**S-5448**

1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:
3 1. Page 48, by inserting after line 9, the
4 following:
5 "An applicant who incorporates manure by injection
6 shall be entitled to the following: fifteen points."
7 2. Page 48, by striking lines 20 and 21.
8 3. By renumbering, redesignating, and correcting
9 internal references as necessary.

By MARY A. LUNDBY

S-5448 FILED APRIL 10, 2002

ADOPTED

(P.1076)

SENATE FILE 2293**S-5449**

1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:
3 1. Page 50, by inserting after line 11, the
4 following:
5 "Sec. ____ . Sections 200.22 and 206.34, Code 2001,
6 are repealed."
7 2. By renumbering as necessary.

By JOE BOLKCOM

S-5449 FILED APRIL 10, 2002

WITHDRAWN

(P.1081)

SENATE FILE 2293

S-5450

1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:

3 1. Page 1, by inserting after line 17 the
4 following:

5 "Sec. ____ . Section 200.18, subsection 2, Code
6 2001, is amended to read as follows:

7 2. A person violating this chapter, other than
8 section 200.23, or rules adopted by the secretary
9 pursuant to this chapter shall be guilty of a simple
10 misdemeanor. However, a person who tampers with,
11 possesses, or transports anhydrous ammonia or
12 anhydrous ammonia equipment commits a serious
13 misdemeanor under section 124.401F.

14 Sec. ____ . NEW SECTION. 200.23 MUNICIPAL
15 FERTILIZER APPLICATION.

16 1. A person shall not apply a fertilizer to
17 property which meets all of the following criteria:

18 a. The property is located in a city.

19 b. The property is within fifty feet of any creek,
20 stream, river, drainage ditch, pond, or lake in this
21 state.

22 2. A person who violates a provision of this
23 section is subject to a civil penalty of five hundred
24 dollars for each violation.

25 3. This section shall not apply to the application
26 of a fertilizer to property which is agricultural land
27 that is principally used for farming as those terms
28 are defined in section 9H.1.

29 Sec. ____ . Section 206.22, subsection 2, Code 2001,
30 is amended to read as follows:

31 2. Any person violating any provision of this
32 chapter other than section 206.11, subsection 1,
33 paragraph "a", or section 206.26, shall be guilty of a
34 serious misdemeanor; provided, that any offense
35 committed more than five years after a previous
36 conviction shall be considered a first offense; and
37 provided, further, that in any case where a registrant
38 was issued a warning by the secretary pursuant to the
39 provisions of this chapter, such registrant shall upon
40 conviction of a violation of any provision of this
41 chapter other than section 206.11, subsection 1,
42 paragraph "a", or section 206.26, be guilty of a
43 serious misdemeanor; and the registration of the
44 article with reference to which the violation occurred
45 shall terminate automatically. An article, the
46 registration of which has been terminated, ~~may~~ shall
47 not again be registered unless the article, its
48 labeling, and other material required to be submitted
49 appear to the secretary to comply with all the
50 requirements of this chapter.

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Page 2

1 Sec. ____ . NEW SECTION. 206.26 MUNICIPAL
2 PESTICIDE APPLICATION.
3 1. A person shall not apply a pesticide to
4 property which meets all of the following criteria:
5 a. The property is located in a city.
6 b. The property is within fifty feet of any creek,
7 stream, river, drainage ditch, pond, or lake in this
8 state.
9 2. A person who violates a provision of this
10 section is subject to a civil penalty of five hundred
11 dollars for each violation.
12 3. This section shall not apply to the application
13 of a pesticide to property which is agricultural land
14 that is principally used for farming as those terms
15 are defined in section 9H.1."
16 2. Page 54, line 3, by inserting before the word
17 ", providing" the following: "and the environment".
18 3. By renumbering, redesignating, and correcting
19 internal references as necessary.

By JOE BOLKCOM**S-5450** FILED APRIL 10, 2002

RULED OUT OF ORDER

(P. 1077)

SENATE FILE 2293**S-5451**

1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:
3 1. Page 23, by striking lines 12 through 22, and
4 inserting the following: "construction permit
5 application. However, for a construction design
6 statement that is not part of a construction permit
7 application, the department shall not file the
8 statement unless it is complete. The department shall
9 notify the person submitting the construction design
10 statement of any of the following:
11 a. The construction design statement has been
12 filed.
13 b. The department is delaying filing the
14 construction design statement because it is incorrect
15 or incomplete, or the department requires further
16 information regarding the contractor's
17 qualifications."
18 2. By renumbering as necessary.

By JOHN P. KIBBIE
BETTY A. SOUKUP
EUGENE S. FRAISE**S-5451** FILED APRIL 10, 2002

LOST

(P. 1077)

SENATE FILE 2293**S-5452**

1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:
3 1. Page 53, line 49, and inserting after the
4 figure "2003." the following: "However, on and after
5 the enactment of this Act, until March 1, 2003, the
6 department shall provide for an interim assessment of
7 the annual compliance fee in the same manner as
8 provided in section 455B.203C, as enacted in this Act,
9 which shall be deposited in the assessment account of
10 the animal agriculture compliance fund as provided in
11 section 455B.127, as enacted in this Act."
12 2. By renumbering as necessary.

By JOHN P. KIBBIE
BETTY A. SOUKUP
EUGENE S. FRAISE

S-5452 FILED APRIL 10, 2002
WITHDRAWN

(p. 1082)

SENATE FILE 2293**S-5453**

- 1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:
3 1. Page 40, by inserting after line 48 the
4 following:
5 "Sec. ____ . NEW SECTION. 455B.205B MORATORIUM --
6 CONSTRUCTION OF CONFINEMENT FEEDING OPERATION
7 STRUCTURES.
8 1. Except as provided in subsection 2, all of the
9 following shall apply:
10 a. A person shall not construct, including expand,
11 a confinement feeding operation structure.
12 b. The department shall not issue a permit as
13 otherwise provided in section 455B.200A for the
14 construction, including expansion, of a confinement
15 feeding operation structure.
16 2. Subsection 2 does not apply to any of the
17 following:
18 a. Construction of a confinement feeding operation
19 structure, if after construction the confinement
20 feeding operation is a small animal feeding operation.
21 b. Construction of a confinement feeding operation
22 structure that does not increase the maximum animal
23 unit capacity of the confinement feeding operation.
24 c. Construction that is ordered by the department
25 in order to remedy a clear, present, and impending
26 danger to the public health or the environment.
27 d. Construction of a confinement feeding operation
28 structure that begins prior to the enactment of this
29 Act.
30 3. This section is repealed on July 1, 2003."
31 2. By renumbering as necessary.

By JOHNIE HAMMOND
MIKE CONNOLLY

S-5453 FILED APRIL 10, 2002

LOST

(p. 1080)

SENATE FILE 2293**S-5454**

- 1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:
3 1. Page 53, by striking lines 41 through 43, and
4 inserting the following: "Sections 455B.200C and".
5 2. By renumbering as necessary.

By BETTY A. SOUKUP
EUGENE S. FRAISE
JOHN P. KIBBIE

S-5454 FILED APRIL 10, 2002

WITHDRAWN

(p. 1096)

SENATE FILE 2293**S-5455**

1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:
3 1. Page 53, line 23, by inserting after the word
4 "structure." the following: "The applicant or other
5 person required to submit the evidence to the
6 department must submit such evidence not later than
7 twenty-one days after the effective date of this Act."
8 2. By renumbering, redesignating, and correcting
9 internal references as necessary.

By JEFF ANGELO
JOHN P. KIBBIE

S-5455 FILED APRIL 10, 2002

ADOPTED

(P 1081)

SENATE FILE 2293**S-5456**

1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:
3 1. Page 36, by striking lines 10 through 12, and
4 inserting the following: "the plan shall ~~not~~ be
5 subject to an enforcement action ~~other than~~ limited to
6 one of the following:
7 a. The assessment of a civil penalty pursuant to
8 section 455B.191.
9 b. The invalidity of the manure management plan or
10 the imposition of any probationary term required as a
11 condition for the continued validity of the manure
12 management plan. The department may require that the
13 person amend the manure management plan in a manner
14 that is more stringent than otherwise required under
15 this section, for the duration of the probationary
16 period."
17 2. By renumbering as necessary.

By EUGENE S. FRAISE

S-5456 FILED APRIL 10, 2002

LOST

(P 1080)

SENATE FILE 2293

S-5457

1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:
DIV 3 1. Page 1, by inserting after line 39, the
A 4 following:
5 "Sec. ____ . NEW SECTION. 455B.124 CONFINEMENT
6 FEEDING OPERATIONS -- SITING ORDINANCE.
7 1. a. Notwithstanding sections 331.304A and
8 335.2, a county may adopt a confinement feeding
9 operations siting ordinance, pursuant to section
10 331.302. The purpose of the ordinance shall be to
11 allow approval of the siting of a confinement feeding
12 operation regardless of whether the county has adopted
13 an ordinance under chapter 335.
14 b. The ordinance shall apply to the siting of a
15 confinement feeding operation structure other than a
16 small animal feeding operation.
17 c. The ordinance shall authorize a county to
18 approve the site of the construction or expansion of a
19 confinement feeding operation, including confinement
20 feeding operation buildings and related animal feeding
21 operation structures in order to preserve and protect
22 natural resources, including water sources and fragile
23 environmental locations; lessen congestion and
24 overcrowding of confinement feeding operations,
25 especially near cities; and to protect the health and
26 welfare of the public.
27 d. The ordinance shall provide for methods and
28 procedures required for submission of proposals,
29 review of proposals, and approval of a site. In
30 administering the ordinance, the county shall
31 establish a confinement feeding operations siting
32 commission which shall review each proposal for the
33 construction or expansion of a confinement feeding
34 operation, and recommend to the county board of
35 supervisors that the board approve or disapprove the
36 proposal. The board shall appoint five persons as
37 members of the commission. Four members shall not
38 reside in a city, and one member shall reside in a
39 city. At least three of the members shall be persons
40 who are or were actively engaged in animal
41 agriculture. The commission shall make its
42 recommendation to the board within forty-five days
43 after the date that the board receives a complete
44 proposal. The board shall approve or disapprove a
45 proposal within forty-five days after the date that
46 the board receives the commission's recommendation
47 regarding approval or disapproval."
48 2. Page 15, by striking lines 9 through 15.
49 3. Page 16, by striking lines 16 through 21 and
50 inserting the following: "The department shall

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Page 2

- DIV 1 approve the.
- 2 4. Page 16, by striking lines 46 and 47.
- 3 5. Page 20, by striking lines 28 through 37.
- 4 6. Page 23, by striking lines 44 and 45, and
- 5 inserting the following: "PERMIT APPLICATION
- 6 PROCEDURE."
- 7 7. Page 24, by striking lines 13 through 15 and
- 8 inserting the following:
- 9 "2. A county board of supervisors may provide
- 10 comment to the".
- 11 8. Page 25, by striking lines 9 through 48.
- 12 9. Page 25, line 50, by striking the words "or
- 13 evaluation".
- 14 10. Page 26, line 5, by striking the words "or an
- 15 evaluation".
- 16 11. By striking page 26, line 29, through page
- 17 27, line 22.
- 18 12. Page 27, by striking lines 27 and 28, and
- 19 inserting the following: "applicant. The county
- 20 board of supervisors may".
- 21 13. Page 28, by striking lines 17 through 27, and
- 22 inserting the following: "contested case proceeding
- 23 under chapter 17A. If the commission hears the case,
- 24 its".
- 25 14. Page 28, by striking lines 39 through 43, and
- 26 inserting the following: "chapter 17A. The decision
- 27 by the commission shall be".
- 28 15. By striking page 29, line 6, through page 30,
- 29 line 26.
- DIV 30 16. By striking page 44, line 16, through page
- B 31 50, line 11.
- DIV 32 17. Page 50, by striking lines 15 through 19.
- A 33 18. Page 53, by striking lines 33 through 36.

By AMANDA RAGAN

JOHN P. KIBBIE

MIKE CONNOLLY

JOHNIE HAMMOND

BILL FINK

PATRICIA HARPER

ROBERT E. DVORSKY

BETTY A. SOUKUP

MICHAEL E. GRONSTAL

S-5457 FILED APRIL 10, 2002

DIV A - LOST; DIV B - WITHDRAWN

(P.1077)

SENATE FILE 2293

S-5458

DIV
A

1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:

3 1. Page 16, by inserting after line 6, the
4 following:

5 " . The department may disapprove an application
6 for a construction permit if the department determines
7 that a confinement feeding operation structure poses a
8 significant risk to the environment or public health.
9 The department's determination shall be based on any
10 of the following:

11 a. The animal unit capacity of the confinement
12 feeding operation if the structure were constructed.

13 b. The type of confinement feeding operation
14 structure proposed to be constructed and the type of
15 any related pollution control device or practice
16 proposed to be installed or used, including but not
17 limited to engineering standards for the construction
18 of a manure storage structure as provided in section
19 455B.205 or 455B.205A.

20 c. The proximity to the proposed construction site
21 of any of the following:

22 (1) Human population areas with weight provided to
23 this factor based on the population density of such
24 areas.

25 (2) Fragile land areas including but not limited
26 to wetlands, floodplains, or areas with rare or
27 valuable ecosystems.

28 (3) Water sources including major water sources
29 used as drinking water supplies; watersheds; and
30 aquifers and their recharge areas.

31 (4) Public use areas or areas of unique scenic or
32 historic significance.

33 d. The availability of land required for the
34 application of manure originating from the confinement
35 feeding operation as provided in section 455B.203.

36 e. The geology and hydrology of the site,
37 including but not limited to the risk of pollution to
38 surface and subsurface water caused by a breach in a
39 manure storage structure or leaching or runoff from
40 manure applied on land located in proximity to the
41 confinement feeding operation.

42 f. The impact of the confinement feeding
43 operation, after construction of the proposed
44 confinement feeding operation structure, on the
45 services of any city located in proximity to the
46 confinement feeding operation or the county in which
47 the confinement feeding operation is located.

48 g. The extent to which the applicant has complied
49 with requirements under this division for other animal
50 feeding operations owned by the applicant.

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Page 2

- DIV 1 h. The availability of alternative construction
2 sites, including an analysis of cost comparisons."
3 2. Page 25, by inserting after line 8, the
4 following:
5 "() Whether the construction of a proposed
6 confinement feeding operation structure poses a
7 significant risk to the environment or public health."
8 3. Page 43, line 36, by inserting after the
9 figure "2001." the following: "The board may provide
10 comments that the confinement feeding operation poses
11 a significant risk to the environment or public
12 health."
DIV 13 4. By striking page 45, line 22 through page 50,
B 14 line 11.
DIV 15 5. Page 50, by striking lines 15 through 19.
A 16 6. By renumbering as necessary.

By JOHN P. KIBBIE**S-5458 FILED APRIL 10, 2002**

DIV A - LOST; DIV B - WITHDRAWN

(P. 1079)

SENATE FILE 2293

S-5459

1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:

3 1. Page 39, by striking lines 2 through 26 and
4 inserting the following:

5 "2. A Except as otherwise provided in this
6 subsection, a person shall not dispose of apply manure
7 on eroplant land located within two hundred feet from
8 a designated area, unless one of the following
9 applies:

10 1. ~~The manure is applied by injection or~~
11 ~~incorporation within twenty-four hours following the~~
12 ~~application.~~

13 2. ~~An area of permanent vegetation cover exists~~
14 ~~for fifty feet surrounding the designated area and~~
15 ~~that area is not subject to manure application.~~

16 a. The department may require a decreased
17 separation distance for the application of manure on
18 land where a water quality improvement practice has
19 been installed, including filter strips and riparian
20 forest buffers. The allowance of a decreased
21 separation distance shall to every extent consistent
22 with sound water quality practices be modeled on
23 conservation practices required to be designed,
24 constructed, and maintained according to technical
25 standards for this state published by the United
26 States department of agriculture, natural resources
27 conservation service.

28 b. The department may require an increased
29 separation distance for the application of manure
30 located in proximity to a high-quality water resource
31 in order to protect the integrity of the high-quality
32 water resource. However, the department shall not
33 provide for an increased separation distance
34 requirement that is more than four times the
35 separation distance requirement otherwise applicable
36 under this section."

37 2. By renumbering as necessary.

By BETTY A. SOUKUP
JOHN P. KIBBIE
EUGENE S. FRAISE

S-5459 FILED APRIL 10, 2002

LOST

(p. 1080)

SENATE FILE 2293**S-5461**

1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:
3 1. Page 13, line 50, by inserting after the word
4 "location" the following: "and at the property line
5 of the confinement feeding operation".
6 2. By renumbering, redesignating, and correcting
7 internal references as necessary.

By JEFF ANGELO**S-5461** FILED APRIL 10, 2002

RULED OUT OF ORDER

*(P. 1086)***SENATE FILE 2293****S-5463**

1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:
3 1. Page 38, line 27, by striking the words "A
4 confinement" and inserting the following:
5 "a. Except as provided in paragraph "b", a
6 confinement".
7 2. Page 38, by inserting after line 30, the
8 following:
9 "b. A confinement feeding operation structure may
10 be constructed on land that is part of a one hundred
11 year floodplain if the finished floor of the structure
12 is located above the level of the floodplain's average
13 water mark during a flood occurrence and the
14 confinement feeding operation is constructed pursuant
15 to all requirements of law, including but not limited
16 to construction or operation under permit, the
17 establishment of encroachment limits, floodplain
18 regulations, and zoning ordinances."
19 2. By renumbering, redesignating, and correcting
20 internal references as necessary.

By STEVE KING**S-5463** FILED APRIL 10, 2002

WITHDRAWN

*(P. 1087)***SENATE FILE 2293****S-5464**

1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:
3 1. Page 33, line 5, by inserting after the figure
4 "455B.200D." the following: "The manure management
5 plan must also be authenticated by an active
6 contractor as provided in chapter 202 who owns the
7 animals maintained as part of the confinement feeding
8 operation."

By JOHN P. KIBBIE**S-5464** FILED APRIL 10, 2002

LOST

(P. 1087)

SENATE FILE 2293

S-5466

1 Amend the amendment, S-5437, to Senate File 2293 as
2 follows:

3 1. Page 45, by striking lines 22 through 24 and
4 inserting the following:

5 "Sec. ____ INTERIM SITING OF CONFINEMENT FEEDING
6 OPERATION STRUCTURES."

7 2. By striking page 45, line 32, through page 50,
8 line 11, and inserting the following: "amended by
9 this Act. A county board of supervisors may adopt a
10 confinement feeding operations siting ordinance,
11 pursuant to section 331.302. The purpose of the
12 ordinance shall be to allow approval of the siting of
13 a confinement feeding operation structure regardless
14 of whether the board has adopted an ordinance under
15 chapter 335.

16 b. The ordinance shall apply to the siting of
17 confinement feeding operation structures which are
18 part of confinement feeding operations. However, the
19 ordinance shall not apply to a small animal feeding
20 operation.

21 c. The ordinance shall authorize a county to
22 approve the site of the construction or expansion of a
23 confinement feeding operation, including confinement
24 feeding operation buildings and related animal feeding
25 operation structures in order to preserve and protect
26 natural resources, including water sources and fragile
27 environmental locations; lessen congestion and
28 overcrowding of confinement feeding operations,
29 especially near cities; and to protect the health and
30 welfare of the public.

31 3. The county's decision shall be based on all of
32 the following:

33 a. The animal unit capacity of the confinement
34 feeding operation if the structure were constructed.

35 b. The type of confinement feeding operation
36 structure proposed to be constructed and the type of
37 any related pollution control device or practice
38 proposed to be installed or used, including but not
39 limited to engineering standards for the construction
40 of a manure storage structure as provided in section
41 455B.205 or 455B.205A.

42 c. The proximity to the proposed construction site
43 of any of the following:

44 (1) Human population areas with weight provided to
45 this factor based on the population density of such
46 areas.

47 (2) Fragile land areas including but not limited
48 to wetlands, floodplains, or areas with rare or
49 valuable ecosystems.

50 (3) Water sources including major water sources

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Page 2

1 used as drinking water supplies; watersheds; and
2 aquifers and their recharge areas.

3 (4) Public use areas or areas of unique scenic or
4 historic significance.

5 d. The availability of land required for the
6 application of manure originating from the confinement
7 feeding operation as provided in section 455B.203.

8 e. The geology and hydrology of the site,
9 including but not limited to the risk of pollution to
10 surface and subsurface water caused by a breach in a
11 manure storage structure or leaching or runoff from
12 manure applied on land located in proximity to the
13 confinement feeding operation.

14 f. The impact of the confinement feeding
15 operation, after construction of the proposed
16 confinement feeding operation structure, on the
17 services of any city located in proximity to the
18 confinement feeding operation or the county in which
19 the confinement feeding operation is located.

20 g. The extent to which the applicant has complied
21 with requirements under this division for other animal
22 feeding operations owned by the applicant.

23 h. The availability of alternative construction
24 sites, including an analysis of cost comparisons.

25 4. The ordinance shall provide for methods and
26 procedures required for submission of proposals,
27 review of proposals, and approval of a site. The
28 department shall evaluate a proposal prior to
29 consideration by a county. The department shall
30 forward a written response to the board. In
31 administering the ordinance, the board shall establish
32 a confinement feeding operations siting commission
33 which shall review each proposal for the construction
34 or expansion of a confinement feeding operation, and
35 recommend to the county board of supervisors that the
36 board approve or disapprove the proposal. The board
37 shall appoint five persons as members of the
38 commission. Four members shall not reside in a city,
39 and one member shall reside in a city. At least three
40 of the members shall be persons who are or were
41 actively engaged in animal agriculture. The
42 commission shall make its recommendation to the board
43 within forty-five days after the date that the board
44 receives a complete proposal. The board shall approve
45 or disapprove a proposal within forty-five days after
46 the date that the board receives the commission's
47 recommendation regarding approval or disapproval."

48 3. Page 50, by striking lines 15 through 19 and
49 inserting the following:

50 "Sec. ____ . INTERIM PROCESS REPEALED. The section

S-5466

S-5466

Page 3

1 of this Act providing for the interim siting of
2 confinement feeding operation structures by county
3 boards of supervisors is repealed March 1, 2003."
4 4. By renumbering as necessary.

By BETTY A. SOUKUP
PATRICIA HARPER
JOHNIE HAMMOND
ROBERT E. DVORSKY
BILL FINK

STEVEN D. HANSEN
MICHAEL E. GRONSTAL
EUGENE S. FRAISE
JOE BOLKCOM
MATT MCCOY

S-5466 FILED APRIL 10, 2002

WITHDRAWN

(P.1096)

SENATE FILE 2293**S-5470**

1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:
3 1. Page 16, line 2, by inserting after the word
4 "operation." the following: "However, the person must
5 obtain a permit under this section if the confinement
6 feeding operation structure is an unformed manure
7 storage structure."

By MIKE SEXTON**S-5470** FILED APRIL 10, 2002

ADOPTED

(P.1087)

SENATE FILE 2293**S-5473**

1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:

3 1. Page 38, line 27, by striking the words "A
4 confinement" and inserting the following:

5 "a. Except as provided in paragraph "b", a
6 confinement".

7 2. Page 38, by inserting after line 30, the
8 following:

9 "b. A confinement feeding operation structure may
10 be constructed on land that is part of a one hundred
11 year floodplain if the finished floor of the
12 confinement feeding operation building or the
13 freeboard level of a manure storage structure is
14 located at least one foot above the level of the
15 floodplain's average water mark during a flood
16 occurrence and the confinement feeding operation is
17 constructed pursuant to all requirements of law,
18 including but not limited to construction or operation
19 under permit, the establishment of encroachment
20 limits, floodplain regulations, and zoning
21 ordinances."

22 3. By renumbering, redesignating, and correcting
23 internal references as necessary.

By STEVE KING
MIKE SEXTON

HUBERT M. HOUSER
RICHARD F. DRAKE

S-5473 FILED APRIL 10, 2002

WITHDRAWN

*(P. 1096)***SENATE FILE 2293****S-5474**

1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:

3 1. Page 22, by striking line 22, and inserting
4 the following:

5 "2. The construction design statement must be
6 prepared by a contractor who posts a bond with the
7 department equaling at least one hundred thousand
8 dollars. The construction design statement must
9 include".

By THOMAS FIEGEN

S-5474 FILED APRIL 10, 2002

LOST

(P. 1086)

SENATE FILE 2293**S-5477**

1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:

3 1. Page 38, line 27, by striking the words "A
4 confinement" and inserting the following:

5 "a. Except as provided in paragraph "b", a
6 confinement".

7 2. Page 38, by inserting after line 30, the
8 following:

9 "b. A confinement feeding operation structure may
10 be constructed on land that is part of a one hundred
11 year floodplain if the finished floor of the
12 confinement feeding operation building or the
13 freeboard level of a manure storage structure is
14 located at least one foot above the level of the
15 floodplain's average water mark during a flood
16 occurrence and the confinement feeding operation is
17 constructed pursuant to all requirements of law,
18 including but not limited to construction or operation
19 under permit, the establishment of encroachment
20 limits, floodplain regulations, and zoning ordinances.

21 3A. When constructing a confinement feeding
22 operation structure, regardless of its location
23 including its proximity to a water of the state, a
24 monitoring system must be installed as part of the
25 structure. The system shall provide for the placement
26 of tile around the perimeter of the structure's
27 foundation and the placement of vertical risers in
28 order to monitor possible contamination."

29 3. By renumbering, redesignating, and correcting
30 internal references as necessary.

By STEVE KING

S-5477 FILED APRIL 10, 2002

LOST

P. 1094

SENATE FILE 2293**S-5480**

1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:

3 1. Page 13, line 50, by striking the word
4 "location." and inserting the following: "location
5 and at the property line of the confinement feeding
6 operation. However, if two or more confinement
7 feeding operations may be the source of the emission,
8 the department shall take measurements from a location
9 that is an equal distance from the confinement feeding
10 operations."

11 2. By renumbering, redesignating, and correcting
12 internal references as necessary.

By JEFF ANGELO
JERRY BEHN
MIKE SEXTON

S-5480 FILED APRIL 11, 2002

RULED OUT OF ORDER

(P. 1095)

SENATE FILE 2293**S-5481**

1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:
3 1. Page 14, by inserting after line 29, the
4 following:
5 "Sec. ____ . NEW SECTION. 455B.189 DISCHARGE POINT
6 IDENTIFICATION.
7 The department, pursuant to this division, shall
8 consult with municipalities and industrial national
9 pollutant discharge elimination system permit holders
10 and develop guidelines regarding public identification
11 of sites where national pollutant discharge
12 elimination system permitted discharges occur to state
13 waters."

By JOE BOLKCOM

S-5481 FILED APRIL 11, 2002
WITHDRAWN

(P. 1095)

SENATE FILE 2293

S-5482

- 1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:
- 3 1. Page 25, lines 17 and 18, by striking the
4 words "application permit" and inserting the
5 following: "permit application".
- 6 2. Page 36, line 44, by inserting before the word
7 "contractor" the following: "active".
- 8 3. Page 42, by inserting after line 50, the
9 following:
10 "Sec. ____ . MANURE STORAGE INDEMNITY FUND --
11 TEMPORARY TRANSFER. Notwithstanding section 455J.2,
12 the department is authorized to temporarily transfer
13 any amount of the unobligated and unencumbered balance
14 of the manure storage indemnity fund as provided under
15 section 455J.2 to the general account of the animal
16 agriculture compliance fund as created in section
17 455B.127, as enacted in this Act, for use as provided
18 in section 455B.127. The department shall return the
19 amount transferred under this section to the manure
20 storage indemnity fund according to a schedule
21 established by the department upon the collection of
22 compliance fees deposited into the animal agriculture
23 compliance fund pursuant to section 455B.203C.
24 Notwithstanding section 455B.127, the department may
25 return moneys from the assessment account of the
26 animal agriculture compliance fund to the manure
27 storage indemnity fund if at any time moneys are not
28 sufficiently available to make the return from the
29 general account of the animal agriculture compliance
30 fund."
- 31 4. Page 52, line 48, by striking the word
32 "section" and inserting the following: "Act".
- 33 5. By renumbering as necessary.

By JEFF ANGELO
JOHN P. KIBBIE

S-5482 FILED APRIL 11, 2002

ADOPTED

(p. 1095)

SENATE FILE 2293

S-5483

1 Amend the amendment, S-5437, to Senate File 2293 as
2 follows:

3 1. Page 45, line 26, by inserting after the
4 figure "455B.200F," the following: "unless a county
5 board of supervisors adopts a confinement feeding
6 operations siting ordinance as provided in this Act,".

7 2. Page 50, by inserting after line 11 the
8 following:

9 "Sec. ____ . INTERIM SITING OF CONFINEMENT FEEDING
10 OPERATION STRUCTURES.

11 1. a. A county board of supervisors may adopt a
12 confinement feeding operations siting ordinance,
13 pursuant to section 331.302. The purpose of the
14 ordinance shall be to allow approval of the siting of
15 a confinement feeding operation structure regardless
16 of whether the board has adopted an ordinance under
17 chapter 335. The department shall deliver a copy of
18 the ordinance to the department as required by the
19 department.

20 b. The ordinance shall apply to the siting of
21 confinement feeding operation structures which are
22 part of confinement feeding operations. However, the
23 ordinance shall not apply to a small animal feeding
24 operation.

25 c. The ordinance shall authorize a county to
26 approve the site of the construction or expansion of a
27 confinement feeding operation, including confinement
28 feeding operation structures in order to preserve and
29 protect natural resources, including water sources and
30 fragile environmental locations; lessen congestion and
31 overcrowding of confinement feeding operations,
32 especially near cities; and to protect the health and
33 welfare of the public.

34 2. The county's decision shall be based on all of
35 the following:

36 a. The animal unit capacity of the confinement
37 feeding operation if the structure were constructed.

38 b. The type of confinement feeding operation
39 structure proposed to be constructed and the type of
40 any related pollution control device or practice
41 proposed to be installed or used, including but not
42 limited to engineering standards for the construction
43 of a manure storage structure as provided in section
44 455B.205 or 455B.205A.

45 c. The proximity to the proposed construction site
46 of any of the following:

47 (1) Human population areas with weight provided to
48 this factor based on the population density of such
49 areas.

50 (2) Fragile land areas including but not limited

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Page 2

1 to wetlands, floodplains, or areas with rare or
2 valuable ecosystems.

3 (3) Water sources including major water sources
4 used as drinking water supplies; watersheds; and
5 aquifers and their recharge areas.

6 (4) Public use areas or areas of unique scenic or
7 historic significance.

8 d. The availability of land required for the
9 application of manure originating from the confinement
10 feeding operation as provided in section 455B.203.

11 e. The geology and hydrology of the site,
12 including but not limited to the risk of pollution to
13 surface and subsurface water caused by a breach in a
14 manure storage structure or leaching or runoff from
15 manure applied on land located in proximity to the
16 confinement feeding operation.

17 f. The impact of the confinement feeding
18 operation, after construction of the proposed
19 confinement feeding operation structure, on the
20 services of any city located in proximity to the
21 confinement feeding operation or the county in which
22 the confinement feeding operation is located.

23 g. The extent to which the applicant has complied
24 with requirements under this division for other animal
25 feeding operations owned by the applicant.

26 h. The availability of alternative construction
27 sites, including an analysis of cost comparisons.

28 3. The ordinance shall provide for methods and
29 procedures required for submission of proposals,
30 review of proposals, and approval of a site. The
31 department shall evaluate a proposal prior to
32 consideration by a county. The department shall
33 forward a written response to the board. In
34 administering the ordinance, the board shall establish
35 a confinement feeding operations siting commission
36 which shall review each proposal for the construction
37 or expansion of a confinement feeding operation, and
38 recommend to the county board of supervisors that the
39 board approve or disapprove the proposal. The board
40 shall appoint five persons as members of the
41 commission. Four members shall not reside in a city,
42 and one member shall reside in a city. At least three
43 of the members shall be persons who are or were
44 actively engaged in animal agriculture. The
45 commission shall make its recommendation to the board
46 within forty-five days after the date that the board
47 receives a complete proposal. The board shall approve
48 or disapprove a proposal within forty-five days after
49 the date that the board receives the commission's
50 recommendation regarding approval or disapproval."

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Page 3

- 1 3. Page 50, by inserting after line 19 the
2 following:
3 "Sec. ____ INTERIM COUNTY SITING OF CONFINEMENT
4 FEEDING OPERATION STRUCTURES REPEALED. The section of
5 this Act providing for the interim siting of
6 confinement feeding operation structures by county
7 boards of supervisors is repealed March 1, 2003."
8 4. By renumbering as necessary.

By BETTY A. SOUKUP**S-5483** FILED APRIL 11, 2002

LOST

(P.1096)

SENATE FILE 2293**S-5484**

- 1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:
3 1. Page 13, line 40, by inserting after the words
4 "based on" the following: "and enforced at".
5 2. Page 13, by striking lines 48 through 50, and
6 inserting the following: "the airborne pollutant."
7 This section does not prohibit the".

By JEFF ANGELO**S-5484** FILED APRIL 11, 2002

ADOPTED

(P.1095)

SENATE FILE 2293**S-5485**

- 1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:
3 1. Page 48, by striking lines 43 and 44 and
4 inserting the following:
5 "() The following points shall be awarded if an
6 additional separation distance is required for the".
7 2. Page 49, line 41, by striking the words "high
8 phytase corn" and inserting the following: "low
9 phytase corn or the feeding of phytase".
10 3. Page 53, line 45, by inserting after the
11 figure "2003." the following: "The provisions of
12 section 455B.205A, as enacted by this Act, as the
13 provisions apply to confinement feeding operations
14 storing manure exclusively on a dry matter basis, take
15 effect upon the effective date of rules adopted to
16 implement section 455B.205A."

By JEFF ANGELO**S-5485** FILED APRIL 11, 2002

ADOPTED

(P.1097)

SENATE FILE 2293**S-5486**

1 Amend the amendment, S-5437, to Senate File 2293,
2 as follows:
3 1. Page 52, by inserting after line 35, the
4 following:
5 "____. The Code editor is directed to replace the
6 date "March 1, 2003" to the date that is the effective
7 date of this Act wherever it appears in this Act other
8 than the section provided in division III of this Act
9 providing for effective dates."
10 2. Page 53, by striking lines 41 through 45, and
11 inserting the following:
12 "____. Section 455B.200E, as enacted in this Act,
13 takes effect on March 1, 2003."
14 3. By renumbering as necessary.

By BETTY A. SOUKUP

S-5486 FILED APRIL 11, 2002

WITHDRAWN

(p. 1097)

Legislative Fiscal Bureau

Fiscal Note

SF 2293 – Animal Agriculture (LSB 6912 SV)

Analyst: Deb Kozel (Phone: (515) 281-6767) (deb.kozel@legis.state.ia.us)

Fiscal Note Version - New

Requested by Senator Mark Ziemann

Description

Senate File 2293 changes the regulations for animal feeding operations. The Bill creates the Animal Agriculture Compliance Fund that receives fee revenue from operators and is used for programs administered by the Department of Natural Resources. Appropriations from the State or federal government can be added to the Fund as well as private donations and fines collected from penalties.

Assumptions

1. The Bill requires animal feeding operations to pay an annual fee of \$0.15 per animal unit to fund FTE positions for enforcement of the regulations outlined in the Bill. There are approximately 6.0 million animal units in the State that will generate \$900,000 per year in fees. These fees will fund an additional 12.0 FTE positions within the Department of Natural Resources.
2. Animal feeding operations with more than 500 animal units are required to submit an annual manure management plan and pay a filing fee of \$250. The average number of new plans received each year is 250 for a total of \$63,000 in revenue.
3. Prior to construction, animal feeding operations with 1,000 or more animal units are required to obtain a construction permit. The cost of a construction permit is \$250 and the average number of permits received each year is 50 for a total of \$13,000 in revenue.
4. Fees will be charged for the certification of manure applicators. The proposed fee for a Confinement Site Applicator is \$100 for a three-year period and the proposed fee for a commercial applicator is \$200 per year. The current fee is \$50. There are approximately 900 tests administered each year. Using the proposed fee amounts, the estimated revenue is \$255,000 per year.
5. The Bill specifies fines collected for civil penalties are deposited into the General Account of the Animal Agriculture Compliance Fund. During FY 2001, there was \$165,000 collected in fines related to animal feeding operations.
6. The Bill requires the Department of Natural Resources to conduct a comprehensive field study to monitor airborne pollutants emitted from animal feeding operations. The estimated cost to complete the study and to purchase equipment is \$500,000.
7. The estimated cost of the manure applicator certification program is \$160,000. This includes a contract with Iowa State University for \$140,000 for educational programs and \$20,000 for testing and other administrative expenses.
8. The Bill requires the Department to process manure management plans using electronic files. The estimated cost for development of an electronic system available on the Internet is \$135,000.
9. The Bill requires the Department to complete comprehensive nutrient management strategy. The estimated cost is \$250,000 each year for FY 2003 and FY 2004.
10. The Bill requires the Department to complete an assessment of nutrient control technologies. The estimated cost is \$125,000 each year for FY 2003 and FY 2004.
11. The Bill requires the Department to develop water quality standards for phosphorus and complete a study that analyzes the effects of phosphorus originating from municipal and industrial sources and from farm, lawn care, and garden uses on waterbodies in the

State. The estimated cost for the standard development and completion of the study is \$100,000 each year for FY 2003, FY 2004 and FY 2005.

12. The Bill requires manure management plans to include phosphorus application rates. The estimated cost to develop a phosphorus index, provide information to producers, and to review manure management plans is \$200,000.
13. The Bill specifies monthly interest rate can be charged on delinquent fees or fines. The Department must use the current interest rate as published in the Iowa Administrative Bulletin.
14. The Bill specifies operations that pollute State waterbodies and kill wild animals are responsible for the cost of the wildlife replacement and for costs incurred during the investigation. Funds will be deposited into the Fish and Game Protection Fund.
15. The Bill establishes a Master Matrix Technical Advisory Committee to assist in the development of the master matrix.

Fiscal Impact

The total fiscal impact for Senate File 2293 is as follows:

	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>Subsequent Years</u>
Revenue:				
Animal Agriculture Assessment Account				
Annual Animal Unit Fees	\$ 900,000	\$ 900,000	\$ 900,000	\$ 900,000
Manure Management Permits	62,500	62,500	62,500	62,500
Construction Permits	12,500	12,500	12,500	12,500
Certified Manure Applicators	255,000	255,000	255,000	255,000
Fines from Civil Penalties	165,000	165,000	165,000	165,000
Federal Funding -- Env. Protection Agency	475,000	475,000	100,000	0
Environment First Fund Appropriation	500,000	0	0	0
Total Revenue	\$ 2,370,000	\$ 1,870,000	\$ 1,495,000	\$ 1,395,000
FTES	12.00	12.00	12.00	12.00
Expenditures:				
Enforcement FTE positions	\$ 900,000	\$ 900,000	\$ 900,000	\$ 900,000
Air Monitoring Equipment/Study	500,000	0	0	0
Certified Manure Training/Contract With ISU	160,000	160,000	160,000	160,000
Online Manure Management Permits	135,000	135,000	135,000	135,000
Nutrient Management Standards	250,000	250,000	0	0
Nutrient Control Technologies	125,000	125,000	0	0
Water Quality Standards/Study	100,000	100,000	100,000	0
Manure Management Plan Review	200,000	200,000	200,000	200,000
Total Expenditures	\$ 2,370,000	\$ 1,870,000	\$ 1,495,000	\$ 1,395,000

Source

Department of Natural Resources

/s/ Dennis C Prouty

April 10, 2002

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

SENATE FILE 2293

H-8662

1 Amend Senate File 2293, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 49, by striking lines 4 through 16 and
4 inserting the following:

5 "2. A Except as otherwise provided in this
6 subsection, a person shall not dispose of apply manure
7 on eroplnd land located within two hundred feet from
8 a designated area, unless one of the following
9 applies:

10 1. ~~The manure is applied by injection or~~
11 ~~incorporation within twenty four hours following the~~
12 ~~application.~~

13 2. ~~An area of permanent vegetation cover exists~~
14 ~~for fifty feet surrounding the designated area and~~
15 ~~that area is not subject to manure application.~~

16 a. The department may adopt rules requiring a
17 decreased separation distance for the application of
18 manure on land where a water quality improvement
19 practice has been installed, including filter strips
20 and riparian forest buffers. The allowance of a
21 decreased separation distance shall to every extent
22 consistent with sound water quality practices be
23 modeled on conservation practices required to be
24 designed, constructed, and maintained according to
25 technical standards for this state published by the
26 United States department of agriculture, natural
27 resources conservation service."

28 2. Page 49, line 17, by striking the word
29 "adopts" and inserting the following: "may adopt".

30 3. By renumbering as necessary.

By FREVERT of Palo Alto

H-8662 FILED APRIL 11, 2002

Lost
4/12/02
(p. 1489)

SENATE FILE 2293**H-8666**

1 Amend Senate File 2293, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 18, by inserting after line 18 the
4 following:

5 "Sec. ____ . NEW SECTION. 455B.191A CONTAMINATION
6 OF WATER SUPPLY -- LIABILITY.

7 In addition to payment of any applicable penalty
8 under this chapter or other provision of law, a person
9 who causes the contamination of a private water supply
10 or public water supply system to the extent that
11 potable water cannot be provided to the users of the
12 private water supply or public water supply system
13 shall be liable for all costs associated with the
14 testing and repair of the water system and the costs
15 associated with providing potable water to the users
16 of the private water supply or public water supply
17 system while the water system is contaminated."

18 2. By renumbering as necessary.

By FORD of Polk

H-8666 FILED APRIL 11, 2002

*Lost
4/12/02
(p. 1487)*

SENATE FILE 2293

H-8667

1 Amend Senate File 2293, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 18, by inserting after line 11, the
4 following:

5 "Sec. ____ . Section 455B.191, subsections 1 and 2,
6 Code 2001, are amended to read as follows:

7 1. Any person who violates any provision of part 1
8 of division III of this chapter or any permit, rule,
9 standard, or order issued under part 1 of division III
10 of this chapter shall be subject to a civil penalty
11 not to exceed five twenty-five thousand dollars for
12 each day of such violation.

13 2. Any person who negligently or knowingly
14 violates section 455B.183 or section 455B.186 or any
15 condition or limitation included in any permit issued
16 under section 455B.183, or who negligently or
17 knowingly introduces into a sewer system or into a
18 publicly owned treatment works any pollutant or
19 hazardous substance which the person knew or
20 reasonably should have known could cause personal
21 injury or property damage or, other than in compliance
22 with all applicable federal and state requirements or
23 permits, negligently or knowingly causes a treatment
24 works to violate any water quality standard, effluent
25 standard, pretreatment standard or condition of a
26 permit issued to the treatment works pursuant to
27 section 455B.183 is guilty of a serious misdemeanor
28 for a negligent violation and is guilty of an
29 aggravated misdemeanor for a knowing violation. A
30 conviction for a negligent violation is punishable by
31 a fine of not more than ~~twenty-five~~ fifty thousand
32 dollars for each day of violation or by imprisonment
33 for not more than one year, or both; however, if the
34 conviction is for a second or subsequent violation
35 committed by a person under this subsection, the
36 conviction is punishable by a fine of not more than
37 ~~fifty~~ one hundred thousand dollars for each day of
38 violation or by imprisonment for not more than two
39 years, or both. A conviction for a knowing violation
40 is punishable by a fine of not more than ~~fifty~~ one
41 hundred thousand dollars for each day of violation or
42 by imprisonment for not more than two years, or both;
43 however, if the conviction is for a second or
44 subsequent violation committed by a person under this
45 subsection, the conviction is punishable by a fine of
46 not more than ~~one~~ two hundred thousand dollars for
47 each day of violation or by imprisonment for not more
48 than five years, or both. As used in this section,
49 "hazardous substance" means hazardous substance as
50 defined in section 455B.381 or section 455B.411."

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1 2. By renumbering as necessary.

By FORD of Polk

H-8667 FILED APRIL 11, 2002

*lost
4/12/02
(P 1487)*

SENATE FILE 2293

H-8680

1 Amend Senate File 2293, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. By striking page 57, line 21 through page 64,
4 line 3 and inserting the following:

5 "Sec. ____ COUNTY INTERIM SITING OF CONFINEMENT
6 FEEDING OPERATION STRUCTURES.

7 1. A county board of supervisors may adopt a
8 confinement feeding operations siting ordinance,
9 pursuant to section 331.302. The purpose of the
10 ordinance shall be to allow approval of the siting of
11 a confinement feeding operation structure regardless
12 of whether the board has adopted an ordinance under
13 chapter 335.

14 a. The ordinance shall apply to the siting of
15 confinement feeding operation structures which must
16 obtain a construction permit pursuant to section
17 455B.200A.

18 b. The ordinance shall authorize a county to
19 approve the site of the construction or expansion of a
20 confinement feeding operation structure in order to
21 preserve and protect natural resources, including
22 water sources and fragile environmental locations;
23 lessen congestion and overcrowding of confinement
24 feeding operations, especially near cities; and
25 protect the health and welfare of the public.

26 2. The county's decision shall be based on all of
27 the following:

28 a. The proximity to the proposed construction site
29 of any of the following:

30 (1) Human population areas and tourism
31 attractions.

32 (2) Fragile land areas including but not limited
33 to designated wetlands, floodplains, or areas with
34 rare or valuable ecosystems.

35 (3) Water sources including major water sources
36 used as drinking water supplies; watersheds; high-
37 quality water resources; and aquifers and their
38 recharge areas.

39 (4) Public use areas or critical public areas.

40 b. The availability of land required for the
41 application of manure originating from the confinement
42 feeding operation as provided in section 455B.203.

43 c. The geology and hydrology of the site.

44 d. The impact of the confinement feeding
45 operation, after construction of the proposed
46 confinement feeding operation structure, on the
47 services of any city located in proximity to the
48 confinement feeding operation or the county in which
49 the confinement feeding operation is located.

50 e. The extent to which the applicant has complied

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1 with requirements under this division for other animal
 2 feeding operations owned by the applicant.
 3 3. An ordinance adopted under this section shall
 4 provide for methods and procedures required for
 5 submission of proposals, review of proposals, and
 6 approval of a site for the construction or expansion
 7 of a proposed confinement feeding operation structure.
 8 In administering the ordinance, the board may
 9 establish a confinement feeding operations siting
 10 commission which shall review each proposal for the
 11 construction or expansion of a confinement feeding
 12 operation, and recommend to the county board of
 13 supervisors that the board approve or disapprove the
 14 proposal. The commission shall make its
 15 recommendation to the board and the board shall
 16 approve or disapprove a proposal within thirty days
 17 after the date that the county receives the proposal.
 18 The board shall notify the department of its decision
 19 to approve or disapprove the proposal in the same
 20 manner as required to provide comments prior to March
 21 1, 2003, as provided in this Act."

22 2. Page 64, by striking lines 7 through 10 and
 23 inserting the following:

24 "Sec. ____ . INTERIM PROCESS REPEALED. The section
 25 of this Act providing for the interim siting of
 26 confinement feeding operation structures by county
 27 boards of supervisors is repealed March 1, 2003."

28 3. By renumbering as necessary.

By KUHN of Floyd

H-8680 FILED APRIL 11, 2002

lost
4/12/02 (p. 1485)

SENATE FILE 2293

H-8685

1 Amend Senate File 2293, as amended, passed, and
 2 reprinted by the Senate, as follows:

3 1. Page 47, by inserting after line 34, the
 4 following:

5 "() One thousand feet away from a farm pond
 6 that is owned by a person other than the owner of the
 7 confinement feeding operation structure proposed to be
 8 constructed, and is used to raise a species of fish,
 9 including but not limited to fingerlings, for sale on
 10 a commercial basis."

11 2. Page 48, line 22, by inserting after the
 12 figure "462A.2." the following: "However, this
 13 paragraph does not apply to exempt a farm pond from a
 14 separation distance otherwise required in this
 15 subsection, if the farm pond is used to raise a
 16 species of fish, including but not limited to
 17 fingerlings, for sale on a commercial basis."

18 3. By renumbering as necessary.

By REYNOLDS of Van Buren

H-8685 FILED APRIL 11, 2002

lost
4/12/02 (p. 1489)

SENATE FILE 2293

H-8691

1 Amend Senate File 2293, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by inserting after line 13, the
4 following:

5 "Sec. 100. Section 441.21, Code Supplement 2001,
6 is amended by adding the following new subsection:
7 NEW SUBSECTION. 13. Beginning with valuations
8 established on or after January 1, 2003, confinement
9 feeding operation structures, as defined in section
10 455B.161, which are required to be issued a
11 construction permit pursuant to section 455B.200A, and
12 the land containing the structures, shall be valued as
13 commercial property and shall be assessed at the same
14 percentage of actual value as is all other commercial
15 property."

16 2. Page 68, by inserting after line 23, the
17 following:

18 "Sec. ____ . APPLICABILITY. Section 100 of this
19 Act, enacting section 441.21, subsection 13, applies
20 to assessment years beginning on or after January 1,
21 2003."

22 3. Title page, line 1, by inserting after the
23 word "for" the following: "tax assessments and".

24 4. By renumbering as necessary.

By SHOULTZ of Black Hawk

H-8691 FILED APRIL 12, 2002

w/d

4/12/02

(p. 1476)

SENATE FILE 2293

H-8692

1 Amend Senate File 2293, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 64, by inserting after line 3, the
 4 following:
 5 "Sec. ____ . Section 657.11, Code 2001, is
 6 repealed."
 7 2. By renumbering as necessary.

By KREIMAN of Davis

H-8692 FILED APRIL 12, 2002

*W/D
4/12/02 (p. 1487)*

SENATE FILE 2293

H-8693

1 Amend Senate File 2293, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 38, by inserting after line 13 the
 4 following:
 5 "Criteria valuing community impacts shall account
 6 for animal agriculture's relationship to economic and
 7 social conditions existing in the county, and must
 8 include factors that refer to the effect on
 9 neighboring property values."

By KREIMAN of Davis

H-8693 FILED APRIL 12, 2002

*W/D
4/12/02
(p. 1487)*

SENATE FILE 2293

H-8694

- 1 Amend Senate File 2293, as amended, passed, and
2 reprinted, by the Senate, as follows:
3 1. Page 23, by inserting after line 20, the
4 following:
5 "5A. A person required to be issued a construction
6 permit under this section must provide to the
7 department an occupational safety and health program,
8 in a manner required by the department. The program
9 must address issues associated with working in
10 confinement feeding operations, including all of the
11 following:
12 a. Medical surveillance.
13 b. Personal protective equipment.
14 c. An injury and illness prevention plan.
15 d. Engineering controls, including but not limited
16 to the installation of ventilation systems to reduce
17 hazardous exposures."
18 2. Page 64, by inserting after line 6, the
19 following:
20 "Sec. ____ . FULL-TIME EQUIVALENT POSITION
21 AUTHORIZED. The department of natural resources shall
22 support one full-time equivalent position from moneys
23 deposited in the animal agriculture compliance fund
24 established pursuant to section 455B.127, as enacted
25 in this Act, as soon as practicable after March 1,
26 2003. The full-time equivalent position shall be used
27 to fund a United States occupational safety and health
28 administration consultant to assist in providing for
29 safety and health programs for persons working in
30 confinement feeding operations."
31 3. By renumbering, redesignating, and correcting
32 internal references as necessary.

By DOTZLER of Black Hawk

H-8694 FILED APRIL 12, 2002

Lost
4/12/02
(P. 1488)

SENATE FILE 2293

H-8696

1 Amend Senate File 2293, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by inserting after line 13, the
4 following:

5 "Sec. ____ . NEW SECTION. 335.1A DEFINITIONS.

6 As used in this section, unless the context
7 otherwise requires:

8 1. "Animal unit capacity" means the same as
9 defined in section 455B.161.

10 2. "Confinement feeding operation" means the same
11 as defined in section 455B.161.

12 3. "Confinement feeding operation structure" means
13 the same as defined in section 455B.161.

14 4. "Egg washwater storage structure" means the
15 same as defined in section 455B.161.

16 5. "Farm operation" means a condition or activity
17 which occurs on farmland relating to the production of
18 farm products which may include but are not limited to
19 any of the following: the raising, harvesting,
20 drying, or storage of crops; the care or feeding of
21 livestock; the handling or transportation of crops or
22 livestock; the storage, treatment, transportation,
23 application, or disposal of livestock manure or
24 wastes; the operation of farm machinery and irrigation
25 pumps; ground and aerial seeding and spraying; and the
26 application of chemical fertilizers, conditioners,
27 insecticides, pesticides, and herbicides.

28 6. "Farm product" means a product produced from a
29 farm operation.

30 7. "Farmland" means land and buildings used in the
31 commercial production of farm products.

32 8. "Manure storage structure" means the same as
33 defined in section 455B.161.

34 9. "Small animal feeding operation" means the same
35 as defined in section 455B.161.

36 Sec. ____ . Section 335.2, Code 2001, is amended to
37 read as follows:

38 335.2 ~~FARMS EXEMPT FARM OPERATIONS EXEMPTION.~~

39 1. Except to the extent required to implement
40 section 335.27, no as provided in subsection 2, an
41 ordinance adopted under this chapter applies shall not
42 apply to land, farm farming operations, including
43 farmland and related structures such as houses, farm
44 barns, farm or outbuildings or other buildings or
45 structures which are primarily adapted, by reason of
46 nature and area, for use for agricultural purposes,
47 while so used. However, the ordinances

48 2. A county board of supervisors may apply to any
49 adopt an ordinance under this chapter which applies to
50 any of the following:

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1 a. The implementation of an agricultural land
2 preservation ordinance, as provided in section 335.27.

3 b. A structure, building, dam, obstruction,
4 deposit, or excavation in or on the flood plains of
5 any a river or stream.

6 c. The siting of a confinement feeding operation,
7 as provided in section 335.2A.

8 Sec. ____ . NEW SECTION. 335.2A CONFINEMENT
9 FEEDING OPERATIONS.

10 1. Notwithstanding section 331.304A, a county may
11 adopt a confinement feeding operations siting
12 ordinance which shall be part of other regulations
13 provided in this chapter. The ordinance shall
14 regulate the siting of confinement feeding operation
15 structures, including the construction and expansion
16 of confinement feeding operation structures. The
17 ordinance shall be subject to adoption by the county
18 board of supervisors, upon recommendation by the
19 county's zoning commission as provided in section
20 335.8. The county board of supervisors shall adopt
21 the ordinance in the same manner as other regulations
22 adopted pursuant to this chapter.

23 2. The ordinance shall include a siting plan as
24 follows:

25 a. The plan shall do all of the following:

26 (1) Preserve the availability of farmland reserved
27 for confinement feeding operations.

28 (2) Encourage efficient urban development patterns
29 that do not burden farmland reserved under the plan
30 for confinement feeding operations. The plan shall
31 attempt to prevent congestion and overcrowding of
32 confinement feeding operations, especially near
33 cities.

34 (3) Preserve and protect natural resources,
35 including water sources, fragile environmental
36 locations, and recreational areas.

37 b. The plan may provide different regulations for
38 confinement feeding operations based on all of the
39 following:

40 (1) The animal unit capacity of the confinement
41 feeding operation.

42 (2) The type of confinement feeding operation
43 structure proposed to be constructed.

44 (3) The proximity of land for the application of
45 manure which originates from the confinement feeding
46 operation.

47 3. The ordinance shall not apply to a small animal
48 feeding operation.

49 4. a. The ordinance shall not violate any
50 requirement of chapter 455B, or rules adopted by the

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1 department of natural resources pursuant to that
2 chapter. However, the ordinance may provide for
3 separation distance requirements that exceed the
4 requirements of chapter 455B, division II, part 2, or
5 section 455B.204. The separation distance requirement
6 may be based on guidelines established by the
7 department of natural resources pursuant to sections
8 455B.165 and 455B.204 and shall to every extent
9 practicable be based on the methodology established by
10 the department pursuant to those sections.

11 b. The ordinance shall be consistent with the
12 county's comprehensive plan as required by section
13 335.5, and other regulations adopted pursuant to this
14 chapter.

15 c. The ordinance shall not prohibit the operation
16 of confinement feeding operations constructed prior to
17 the effective date of the ordinance.

18 5. The ordinance shall provide for review and
19 approval or disapproval of proposals to construct
20 confinement feeding operation structures.

21 a. The ordinance shall provide for methods and
22 procedures required for timely submission, review, and
23 approval or disapproval of proposals.

24 b. The planning and zoning commission shall review
25 each proposal and recommend to the board of
26 supervisors that the proposal be approved or
27 disapproved. The board of supervisors shall approve
28 or disapprove the proposal after considering all
29 relevant information, including the commission's
30 recommendation.

31 Sec. ____ . Section 335.8, Code 2001, is amended to
32 read as follows:

33 335.8 ZONING COMMISSION APPOINTED.

34 ~~1. In order to avail itself of the powers~~
35 ~~conferred by this chapter, the~~ The board of
36 supervisors shall ~~appoint~~ establish a zoning
37 commission, ~~a. The board shall appoint members to the~~
38 commission. A majority of whose the members shall
39 reside within the county but outside the corporate
40 limits of any city, to be known as the county zoning
41 commission, to recommend. The zoning commission shall
42 do all of the following:

43 a. Recommend the boundaries of the various
44 original districts, and appropriate regulations and
45 restrictions to be enforced therein within those
46 districts. Such The commission shall, with due
47 diligence, prepare a preliminary report and hold
48 public hearings thereon on the preliminary report
49 before submitting its final report, and the. The
50 board of supervisors shall not hold its public

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1 hearings or take action until it has received the
2 final report ~~of such commission~~. After the adoption
3 of such regulations, restrictions, and boundaries of
4 districts, the zoning commission may, from time to
5 time, recommend to the board of supervisors
6 amendments, supplements, changes, or modifications.

7 b. Provide for the siting of confinement feeding
8 operations as follows:

9 (1) The zoning commission shall prepare a
10 confinement feeding operations siting ordinance
11 including a plan for siting for recommendation to the
12 board of supervisors as provided in section 335.2A.
13 The zoning commission shall prepare and recommend the
14 ordinance or any amendments, supplements, changes, or
15 modifications to the ordinance, in the same manner as
16 other regulations pursuant to paragraph "a". The
17 zoning commission shall not make a recommendation
18 without holding a public hearing in the same manner as
19 provided in section 335.6.

20 (2) The zoning commission shall review and
21 recommend the approval or disapproval of a proposal
22 for the construction of a confinement feeding
23 operation as provided in section 335.2A based on
24 compliance with the confinement feeding operations
25 siting ordinance.

26 2. The zoning commission, with the approval of the
27 board of supervisors, may contract with professional
28 consultants, regional planning commissions, the Iowa
29 department of economic development, the department of
30 natural resources, or the federal government, for
31 local planning assistance."

32 2. Page 16, by inserting after line 15, the
33 following:

34 "Sec. ____ . Section 455B.165, Code 2001, is amended
35 by adding the following new subsection:

36 NEW SUBSECTION. 9. A separation distance
37 requirement that is provided in a confinement feeding
38 operation siting ordinance adopted by a county board
39 of supervisors pursuant to section 335.2A. The
40 ordinance shall not include a requirement providing a
41 lesser separation distance than is provided for in
42 this part. If requested by a county, the department
43 shall provide recommendations with guidelines for
44 increasing required separation distances based on a
45 methodology which considers topographic, hydrologic,
46 climatic, or demographic factors."

47 3. Page 19, by striking lines 2 through 8, and
48 inserting the following: "management plans required
49 under this subpart."

50 4. Page 20, by striking lines 23 through 28 and

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- 1 inserting the following: "of this chapter. The
- 2 department shall approve the application".
- 3 5. Page 21, by striking lines 14 and 15.
- 4 6. Page 26, by striking lines 1 through 10.
- 5 7. Page 30, by striking line 6, and inserting the
- 6 following: "APPLICATION PROCEDURE."
- 7 8. Page 30, by striking lines 21 through 23 and
- 8 inserting the following:
- 9 "2. A county board of supervisors may provide
- 10 comment to the department on a construction permit".
- 11 9. By striking page 31, line 25 through page 32,
- 12 line 24.
- 13 10. Page 32, line 26, by striking the words "or
- 14 evaluation".
- 15 11. Page 32, line 30, by striking the words "or
- 16 an evaluation".
- 17 12. By striking page 33, line 16, through page
- 18 34, line 18.
- 19 13. Page 34, lines 23 and 24, by striking the
- 20 words "that has adopted a construction evaluation
- 21 resolution".
- 22 14. Page 35, by striking lines 22 through 30, and
- 23 inserting the following: "case as a contested case
- 24 proceeding under chapter 17A. If the".
- 25 15. Page 36, by striking lines 6 through 9, and
- 26 inserting the following: "proceeding under chapter
- 27 17A. The decision by the".
- 28 16. By striking page 36, line 21, through page
- 29 38, line 13.
- 30 17. Page 48, by inserting after line 18 the
- 31 following:
- 32 "3A. A county board of supervisors may increase a
- 33 separation distance requirement provided in this
- 34 section as provided in a confinement feeding operation
- 35 siting ordinance as provided in section 335.2A. The
- 36 ordinance shall not include a requirement providing a
- 37 closer separation distance than is provided for in
- 38 subsection 2. Upon request by a county, the
- 39 department shall provide recommendations to the county
- 40 as provided in section 455B.165."
- 41 18. By striking page 56, line 10, through page
- 42 64, line 3.
- 43 19. Page 64, by striking lines 7 through 10.
- 44 20. Page 68, by striking lines 21 through 23.

By SCHRADER of Marion
 REYNOLDS of Van Buren
 FALLON of Polk

H-8696 FILED APRIL 12, 2002

Last
4/12/02
(P. 1482)

SENATE FILE 2293

AN ACT

RELATING TO ANIMAL AGRICULTURE, PROVIDING FOR FEES, PROVIDING FOR PENALTIES, AND INCLUDING RETROACTIVE APPLICABILITY AND EFFECTIVE DATE PROVISIONS.

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

DIVISION I

REGULATION OF ANIMAL FEEDING OPERATIONS

Section 1. Section 4.1, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 9A. "Internet" means the federated international system that is composed of allied electronic communication networks linked by telecommunication channels, that uses standardized protocols, and that facilitates electronic communication services, including but not limited to use of the world wide web; the transmission of electronic mail or messages; the transfer of files and data or other electronic information; and the transmission of voice, image, and video.

Sec. 2. Section 455B.109, subsection 4, Code 2001, is amended to read as follows:

4. All civil penalties assessed by the department and interest on the penalties shall be deposited in the general fund of the state. However, civil penalties assessed by the department and interest on the civil penalties, arising out of violations ~~committed by~~ involving animal feeding operations under division II, part 2, shall be deposited in the ~~manure storage-indemnity animal agriculture compliance~~ fund as created in section ~~455B.2~~ 455B.127. Civil penalties assessed by the department and interest on the penalties arising out of violations committed by animal feeding operations under division III, which may be assessed pursuant to section 455B.191, shall also be deposited in the ~~manure-storage indemnity animal agriculture compliance~~ fund ~~as-created-in section-455B.2~~.

Sec. 3. Section 455B.110, subsection 3, Code 2001, is amended by striking the subsection.

PART 2

ANIMAL FEEDING OPERATIONS

Sec. 4. NEW SECTION. 455B.125 COUNTY ASSESSMENT OF FEES PROHIBITED.

A county shall not assess or collect a fee under this chapter for the regulation of animal agriculture, including but not limited to any fee related to the filing, consideration, or evaluation of an application for a construction permit pursuant to section 455B.200A or the filing of a manure management plan pursuant to section 455B.203.

Sec. 5. NEW SECTION. 455B.126 ANIMAL AGRICULTURE COMPLIANCE FEES -- DELINQUENCIES.

If a fee imposed under this chapter for deposit into the animal agriculture compliance fund is delinquent, the department may charge interest on any amount of the fee that is delinquent. The rate of interest shall not be more than the current rate published in the Iowa administrative bulletin by the department of revenue and finance pursuant to section 421.7. The interest amount shall be computed from the date that the fee is delinquent, unless the department designates a

later date. The interest amount shall accrue for each month in which a delinquency is calculated as provided in section 421.7, and counting each fraction of a month as an entire month. The interest amount shall become part of the amount of the fee due.

Sec. 6. NEW SECTION. 455B.127 ANIMAL AGRICULTURE COMPLIANCE FUND.

1. An animal agriculture compliance fund is created in the state treasury under the control of the department. The compliance fund is separate from the general fund of the state.

2. The compliance fund is composed of two accounts, the general account and the assessment account.

a. The general account is composed of moneys appropriated by the general assembly and moneys available to and obtained or accepted by the department from the United States government or private sources for placement in the compliance fund. Unless otherwise specifically provided in statute, moneys required to be deposited in the compliance fund shall be deposited into the general account. The general account shall include moneys deposited into the account from all of the following:

(1) The construction permit application fee required pursuant to section 455B.200A.

(2) The manure management plan filing fee required pursuant to section 455B.203.

(3) Fees paid by persons required to be certified as commercial manure applicators or confinement site manure applicators pursuant to section 455B.203A.

(4) The collection of civil penalties assessed by the department and interest on civil penalties, arising out of violations involving animal feeding operations as provided in sections 455B.167 and 455B.207.

b. The assessment account is composed of moneys collected from the annual compliance fee required pursuant to section 455B.203C.

3. Moneys in the compliance fund are appropriated to the department exclusively to pay the expenses of the department in administering and enforcing the provisions of division II, part 2, and division III, part 1, subpart A, as necessary to ensure that animal feeding operations comply with all applicable requirements of those provisions, including rules adopted or orders issued by the department pursuant to those provisions. The moneys shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in this subsection. The department shall not transfer moneys from the compliance fund's assessment account to another fund or account, including but not limited to the fund's general account.

4. Moneys in the fund, which may be subject to warrants written by the director of revenue and finance, shall be drawn upon the written requisition of the director of the department of natural resources or an authorized representative of the director.

5. Notwithstanding section 8.33, any unexpended balance in the compliance fund at the end of the fiscal year shall be retained in the fund. Notwithstanding section 12C.7, subsection 2, interest, earnings on investments, or time deposits of the moneys in the compliance fund shall be credited to the fund.

Sec. 7. Section 455B.161, subsections 2, 3, 4, 5, 9, 11, 16, 21, and 24, Code 2001, are amended to read as follows:

2. "Anaerobic lagoon" means an impoundment-used-in-conjunction-with-an-animal-feeding-operation unformed manure storage structure, if the primary function of the impoundment structure is to store and stabilize organic-wastes manure, the impoundment structure is designed to receive wastes manure on a regular basis, and the impoundment's structure's design waste loading rates provide that the predominant biological activity is anaerobic. An anaerobic lagoon does not include any of the following:

a. A-confinement-feeding-operation-structure.

b. A runoff control basin which collects and stores only precipitation-induced runoff from an animal feeding operation in which animals are confined to areas which are unroofed or partially roofed and in which no crop, vegetation, or forage growth or residue cover is maintained during the period in which animals are confined in the operation.

c. b. An anaerobic treatment system which that includes collection and treatment facilities for all off gases.

3. "Animal" means a ~~domesticated-animal-belonging-to-the bovine-porcine-ovine-caprine-equine-or-avian~~ species classified as cattle, swine, horses, sheep, chickens or turkeys.

4. "Animal feeding operation" means a lot, yard, corral, building, or other area in which animals are confined and fed and maintained for forty-five days or more in any twelve-month period, and all structures used for the storage of manure from animals in the operation. ~~Two-or-more-animal-feeding operations-under-common-ownership-or-management-are-deemed-to-be-a-single-animal-feeding-operation-if-they-are-adjacent-or utilize-a-common-system-for-manure-storage.~~ An animal feeding operation does not include a livestock market.

5. "Animal feeding operation structure" means ~~an-anaerobic lagoon-or-confinement-feeding-operation-structure~~ a confinement building, manure storage structure, or egg washwater storage structure.

9. "Confinement feeding operation building" or "confinement building" means a building used in conjunction with a confinement feeding operation to house animals.

11. "Confinement feeding operation structure" means a ~~formed-manure-storage~~ an animal feeding operation structure, ~~egg-washwater-storage-structure, earthen-manure-storage-basin, or-confinement-building.--A-confinement-feeding-operation structure-does-not-include-an-anaerobic-lagoon~~ that is part of a confinement feeding operation.

16. "Formed manure storage structure" means a structure, either covered or uncovered, impoundment used to store manure from a ~~confinement~~ an animal feeding operation, which has

walls and a floor constructed of concrete, concrete block, wood, steel, or similar materials.

21. "Small animal feeding operation" means an animal feeding operation which has an animal-weight animal unit capacity of ~~two-hundred-thousand-pounds-or-less-for-animals other-than-bovine-or-four-hundred-thousand-pounds~~ five hundred or less-for-bovine ~~fewer~~ animal units.

24. "Unformed manure storage structure" means a covered or uncovered ~~animal-feeding-operation-structure-in-which~~ impoundment used to store manure is stored, other than a formed manure storage structure, which ~~is~~ includes an anaerobic lagoon, aerobic structure, or earthen manure storage basin.

Sec. 8. Section 455B.161, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 6A. "Animal unit" means a unit of measurement based upon the product of multiplying the number of animals of each category by a special equivalency factor as follows:

- a. Slaughter or feeder cattle 1.000
- b. Immature dairy cattle 1.000
- c. Mature dairy cattle 1.400
- d. Butcher or breeding swine weighing more than fifty-five pounds 0.400
- e. Swine weighing fifteen pounds or more but not more than fifty-five pounds 0.100
- f. Sheep or lambs 0.100
- g. Horses 2.000
- h. Turkeys 0.018
- i. Broiler or layer chickens 0.010

NEW SUBSECTION. 6B. "Animal unit capacity" means a measurement used to determine the maximum number of animal units that may be maintained as part of an animal feeding operation at any one time, including as provided in sections 455B.161A and 455B.200B.

NEW SUBSECTION. 8A. "Commission" means the environmental protection commission created pursuant to section 455A.6.

NEW SUBSECTION. 18A. "Manure storage structure" means a formed manure storage structure or an unformed manure storage structure. A manure storage structure does not include an egg washwater storage structure.

NEW SUBSECTION. 18B. "Public thoroughfare" means a road, street, or bridge that is constructed or maintained by the state or a political subdivision.

NEW SUBSECTION. 19A. "Qualified confinement feeding operation" means a confinement feeding operation having an animal unit capacity of any of the following:

a. For a confinement feeding operation maintaining animals other than swine as part of a farrowing and gestating operation or farrow-to-finish operation or cattle as part of a cattle operation, five thousand three hundred thirty-three or more animal units.

b. For a confinement feeding operation maintaining swine as part of a farrowing and gestating operation, two thousand five hundred or more animal units.

c. For a confinement feeding operation maintaining swine as part of a swine farrow-to-finish operation, five thousand four hundred or more animal units.

d. For a confinement feeding operation maintaining cattle, eight thousand five hundred or more animal units.

Sec. 9. Section 455B.161A, subsection 1, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

1. Two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common system for manure storage. For purposes of determining whether two or more confinement feeding operations are adjacent, all of the following must apply:

a. At least one confinement feeding operation structure must be constructed on or after March 21, 1996.

b. A confinement feeding operation structure which is part of one confinement feeding operation is separated by less than a minimum required distance from a confinement feeding

operation structure which is part of the other confinement feeding operation. The minimum required distance shall be as follows:

(1) (a) One thousand two hundred fifty feet for a confinement feeding operation having an animal unit capacity of less than three thousand animal units for animals other than swine maintained as part of a swine farrowing and gestating operation or farrow-to-finish operation, or cattle maintained as part of a cattle operation.

(b) One thousand two hundred fifty feet for a confinement feeding operation having an animal unit capacity of less than one thousand two hundred fifty animal units for swine maintained as part of a farrowing and gestating operation, less than two thousand seven hundred animal units for swine maintained as part of a farrow-to-finish operation, or less than four thousand animal units for cattle maintained as part of a cattle operation.

(2) (a) One thousand five hundred feet for a confinement feeding operation having an animal unit capacity of three thousand or more but less than five thousand animal units for animals other than swine maintained as part of a swine farrowing and gestating operation or farrow-to-finish operation, or cattle maintained as part of a cattle operation.

(b) One thousand five hundred feet for a confinement feeding operation having an animal unit capacity of one thousand two hundred fifty or more but less than two thousand animal units for swine maintained as part of a swine farrowing and gestating operation, two thousand seven hundred or more but less than five thousand four hundred animal units for swine maintained as part of a farrow-to-finish operation, or four thousand or more but less than six thousand five hundred animal units for cattle maintained as part of a cattle operation.

(3) (a) Two thousand five hundred feet for a confinement feeding operation having an animal unit capacity of five thousand or more animal units for animals other than swine maintained as part of a swine farrowing and gestating

operation or farrow-to-finish operation, or cattle maintained as part of a cattle operation.

(b) Two thousand five hundred feet for a confinement feeding operation having an animal unit capacity of two thousand or more animal units for swine maintained as part of a swine farrowing and gestating operation, five thousand four hundred animal units or more for swine maintained as part of a farrow-to-finish operation, or six thousand five hundred or more animal units for cattle maintained as part of a cattle operation.

Sec. 10. Section 455B.161A, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 3. In calculating the animal unit capacity of a confinement feeding operation, the animal unit capacity shall include the animal unit capacity of all confinement feeding operation buildings which are part of the confinement feeding operation, unless a confinement feeding operation building has been abandoned.

NEW SUBSECTION. 4. A confinement feeding operation structure is abandoned if the confinement feeding operation structure has been razed, removed from the site of a confinement feeding operation, filled in with earth, or converted to uses other than a confinement feeding operation structure so that it cannot be used as a confinement feeding operation structure without significant reconstruction.

NEW SUBSECTION. 5. All distances between locations of objects provided in this part shall be measured in feet from their closest points, as provided by rules adopted by the department. However, a distance between a public thoroughfare and a confinement feeding operation structure shall be measured from the portion of the right-of-way which is closest to the confinement feeding operation structure.

Sec. 11. Section 455B.162, subsection 1, unnumbered paragraphs 1 and 2, Code 2001, are amended to read as follows:

Except as provided in subsection subsections 3 and 6, and sections 455B.163 and 455B.165, this subsection applies to animal confinement feeding operation structures constructed on

or after May 31, 1995, but prior to January 1, 1999; and to the expansion of structures constructed prior to January 1, 1999.

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

Sec. 12. Section 455B.162, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Except as provided in subsection subsections 3 and 6, and sections 455B.163 and 455B.165, this subsection applies to animal confinement feeding operation structures constructed on or after January 1, 1999, but prior to March 1, 2003, and to the expansion of structures constructed on or after January 1, 1999, but prior to March 1, 2003.

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

Sec. 13. Section 455B.162, subsection 3, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Except as provided in subsection 6, and sections 455B.163 and 455B.165, this subsection applies to animal confinement feeding operation structures constructed on or after May 31, 1995, but prior to March 1, 2003; to the expansion of structures constructed on or after May 31, 1995, but prior to March 1, 2003; and to the expansion of structures constructed prior to May 31, 1995.

PARAGRAPH DIVIDED. The following table represents the minimum separation distance in feet required between animal a confinement feeding operation structures structure and a public use area; or between a confinement feeding operation structure and a residence not owned by the owner of the animal

confinement feeding operation, a commercial enterprise, a bona fide religious institution, or an educational institution, if the residence, commercial enterprise, religious institution, or educational institution is located within the corporate limits of a city:

Sec. 14. Section 455B.162, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. Except as provided in subsections 3B and 6, and sections 455B.163 and 455B.165, this subsection applies to confinement feeding operation structures constructed on or after March 1, 2003, and to the expansion of confinement feeding operation structures constructed on or after March 1, 2003.

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

Type of structure	For a	For a	For a
	confinement feeding operation having an animal unit capacity of less than 1,000 animal units	confinement feeding operation having an animal unit capacity of 1,000 or more but less than 3,000 animal units	confinement feeding operation having an animal unit capacity of 3,000 or more animal units
Anaerobic lagoon	1,875	2,500	3,000
Uncovered earthen manure storage basin	1,875	2,500	3,000
Uncovered formed manure storage structure	1,500	2,000	2,500

Covered earthen manure storage basin	1,250	1,875	2,375
Covered formed manure storage structure	1,250	1,875	2,375
Confinement building	1,250	1,875	2,375
Egg washwater storage structure	1,000	1,500	2,000

NEW SUBSECTION. 3B. Except as provided in subsection 6, and sections 455B.163 and 455B.165, this subsection applies to confinement feeding operation structures constructed on or after March 1, 2003, and to the expansion of confinement feeding operation structures constructed on or after March 1, 2003.

The following table represents the minimum separation distance in feet required between a confinement feeding operation structure and a public use area; or between a confinement feeding operation structure and a residence not owned by the owner of the confinement feeding operation, a commercial enterprise, a bona fide religious institution, or an educational institution, if the residence, commercial enterprise, religious institution, or educational institution is located within the corporate limits of a city:

Type of structure	For a	For a	For a
	confinement feeding operation having an animal unit capacity of less than 1,000 animal units	confinement feeding operation having an animal unit capacity of 1,000 or more but less than 3,000 animal units	confinement feeding operation having an animal unit capacity of 3,000 or more animal units

Confinement feeding
operation

structure	1,875	2,500	3,000
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Sec. 15. Section 455B.162, subsection 4, Code 2001, is amended to read as follows:

4. Except as provided in section 455B.165, ~~on-and-after January 1, 1999, an animal~~ a confinement feeding operation structure shall not be constructed or expanded within one hundred feet from a public thoroughfare, including a road, street, or bridge which is constructed or maintained by the state or a political subdivision.

Sec. 16. Section 455B.162, subsection 6, paragraphs a and c, Code 2001, are amended by striking the paragraphs.

Sec. 17. Section 455B.162, subsection 6, paragraph b, Code 2001, is amended to read as follows:

~~b.~~ a. A Except as provided in paragraph "b", a qualified confinement feeding operation storing manure in a manure storage structure shall only use ~~an animal feeding operation a manure storage structure which that~~ employs bacterial action which is maintained by the utilization of air or oxygen, and which shall include aeration equipment. The type and degree of treatment technology required to be installed shall be based on the size of the confinement feeding operation, according to rules adopted by the department. The equipment shall be installed, operated, and maintained in accordance with the manufacturer's instructions and requirements of rules adopted pursuant to this subsection.

b. The requirements of paragraph "a" do not apply to any of the following:

(1) A qualified confinement feeding operation which includes a confinement feeding operation structure constructed prior to May 31, 1995.

(2) A qualified confinement feeding operation that stores manure on a dry matter basis.

Sec. 18. Section 455B.163, subsections 1 and 2, Code 2001, are amended to read as follows:

1. a. ~~An animal~~ For a confinement feeding operation structure as constructed or expanded prior to January 1, 1999, any construction or expansion of a confinement feeding operation structure complies with the distance requirements applying to that structure as provided in section 455B.162, subsections 1 and 3.

b. ~~An animal~~ For a confinement feeding operation structure as constructed or expanded on or after January 1, 1999, but prior to March 1, 2003, any construction or expansion of a confinement feeding operation structure complies with the distance requirements applying to that structure as provided in section 455B.162, subsections 2 and 3.

c. For a confinement feeding operation constructed on or after March 1, 2003, any construction or expansion of a confinement feeding operation structure complies with the distance requirements applying to that structure as provided in section 455B.162, subsections 3A and 3B.

2. All of the following apply to the expansion of the ~~animal~~ confinement feeding operation:

a. No portion of the ~~animal~~ confinement feeding operation after expansion is closer than before expansion to a location or object for which separation is required under section 455B.162.

b. ~~The~~ For a confinement feeding operation that includes a confinement feeding operation structure constructed prior to March 1, 2003, the animal weight capacity of the animal confinement feeding operation as expanded is not more than the lesser of the following:

(1) Double its animal weight capacity on the following dates:

(a) May 31, 1995, for an animal a confinement feeding operation that includes a confinement feeding operation structure constructed prior to January 1, 1999, or on,

(b) January 1, 1999, for an animal a confinement feeding operation that only includes a confinement feeding operation structure constructed on or after January 1, 1999, but does include a confinement feeding operation structure constructed prior to March 1, 2003.

(2) Either of the following:

(a) Six hundred twenty-five thousand pounds animal weight capacity for animals other than bovine cattle.

(b) One million six hundred thousand pounds animal weight capacity for bovine cattle.

c. For a confinement feeding operation that does not include a confinement feeding operation structure constructed prior to March 1, 2003, the animal unit capacity of the confinement feeding operation as expanded is not more than the lesser of the following:

(1) Double its animal unit capacity on March 1, 2003.

(2) One thousand animal units.

Sec. 19. Section 455B.163, subsection 3, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The ~~animal~~ confinement feeding operation ~~was~~ includes a confinement feeding operation structure that is constructed prior to ~~January 17, 1999~~ March 1, 2003, and is expanded by replacing one or more unformed manure storage structures with one or more formed manure storage structures, if all of the following apply:

Sec. 20. Section 455B.163, subsection 3, paragraph a, Code 2001, is amended to read as follows:

a. The animal weight capacity or animal unit capacity, whichever is applicable, is not increased for that portion of the ~~animal~~ confinement feeding operation that utilizes all replacement formed manure storage structures.

Sec. 21. Section 455B.165, subsections 1, 4, and 5, Code 2001, are amended by striking the subsections.

Sec. 22. Section 455B.165, subsection 3, paragraph a, Code 2001, is amended to read as follows:

a. ~~An animal~~ A confinement feeding operation structure which is constructed or expanded, if the titleholder of the land benefiting from the distance separation requirement executes a written waiver with the titleholder of the land where the structure is located. ~~If an animal~~ a confinement feeding operation structure is constructed or expanded within the separation distance required between ~~an animal~~ a

confinement feeding operation structure and a public thoroughfare as required pursuant to section 455B.162, the state or a political subdivision constructing or maintaining the public thoroughfare benefiting from the distance separation requirement may execute a written waiver with the titleholder of the land where the structure is located. The ~~animal~~ confinement feeding operation structure shall be constructed or expanded under such terms and conditions that the parties negotiate.

Sec. 23. NEW SECTION. 455B.166 DEPARTMENT OF NATURAL RESOURCES -- DEVELOPMENT OF COMPREHENSIVE PLANS AND PROGRAMS FOR AIR QUALITY.

1. As used in this section, unless the context otherwise requires:

a. "Airborne pollutant" means hydrogen sulfide, ammonia, or odor.

b. "Separated location" means a location or object from which a separation distance is required under section 455B.162, other than a public thoroughfare.

2. The department shall conduct a comprehensive field study to monitor the level of airborne pollutants emitted from animal feeding operations in this state, including but not limited to each type of confinement feeding operation structure.

3. a. After the completion of the field study, the department may develop comprehensive plans and programs for the abatement, control, and prevention of airborne pollutants originating from animal feeding operations in accordance with this section. The comprehensive plans and programs may be developed if the baseline data from the field study demonstrates to a reasonable degree of scientific certainty that airborne pollutants emitted by an animal feeding operation are present at a separated location at levels commonly known to cause a material and verifiable adverse health effect. The department may adopt any comprehensive plans or programs in accordance with chapter 17A prior to implementation or enforcement of an air quality standard but

in no event shall the plans and programs provide for the enforcement of an air quality standard prior to December 1, 2004.

b. Any air quality standard established by the department for animal feeding operations shall be based on and enforced at distances measured from a confinement feeding operation structure to a separated location. In providing for the enforcement of the standards, the department shall take all initial measurements at the separated location. If the department determines that a violation of the standards exists, the department may conduct an investigation to trace the source of the airborne pollutant. This section does not prohibit the department from entering the premises of an animal feeding operation in compliance with section 455B.103. The department shall comply with standard biosecurity requirements customarily required by the animal feeding operation which are necessary in order to control the spread of disease among an animal population.

c. The department shall establish recommended best management practices, mechanisms, processes, or infrastructure under the comprehensive plans and programs in order to reduce the airborne pollutants emitted from an animal feeding operation.

d. The department shall provide a procedure for the approval and monitoring of alternative or experimental practices, mechanisms, processes, or infrastructure to reduce the airborne pollutants emitted from an animal feeding operation, which may be incorporated as part of the comprehensive plans and programs developed under this section.

Sec. 24. NEW SECTION. 455B.167 CIVIL PENALTY.

A person who violates this part shall be subject to a civil penalty which shall be established, assessed, and collected in the same manner as provided in section 455B.109. Any civil penalty collected shall be deposited in the animal agriculture compliance fund created in section 455B.127.

Sec. 25. Section 455B.171, subsections 2, 3, 4, 5, 6, 8, 20, 43, and 47, Code 2001, are amended by striking the subsections.

Sec. 26. Section 455B.191, subsection 8, Code 2001, is amended to read as follows:

8. Moneys assessed and collected in civil penalties and interest earned on civil penalties, arising out of a violation involving an animal feeding operation, shall be deposited in the manure-storage-indemnity animal agriculture compliance fund as created in section ~~455B.2~~ 455B.127.

SUBPART B

ANIMAL FEEDING OPERATIONS

Sec. 27. Section 455B.200, Code 2001, is amended to read as follows:

455B.200 GENERAL.

1. The commission shall establish by rule adopted pursuant to chapter 17A, requirements relating to the construction, including expansion, or operation of animal feeding operations, including related animal feeding operation structures. The requirements shall include but are not limited to minimum manure control, the issuance of permits, and departmental investigations, inspections, and testing.

2. Any provision referring generally to compliance with the requirements of this chapter as applied to animal feeding operations also includes compliance with requirements in rules adopted by the commission pursuant to this section, orders issued by the department as authorized under this chapter, and the terms and conditions applicable to permits or manure management plans required under this subpart. However, for purposes of approving or disapproving an application for a construction permit as provided in section 455B.200E, conditions for the approval of an application based on results produced by a master matrix are not requirements of this chapter until the department approves or disapproves an application based on those results.

3. The department and the attorney general shall enforce the provisions of this chapter in the same manner as provided in division I, unless otherwise provided in this section.

Sec. 28. Section 455B.200A, subsections 1 through 4, Code 2001, are amended to read as follows:

1. The department shall ~~issue~~ approve or disapprove applications for permits for the construction, including the expansion, of animal ~~confinement~~ feeding operation structures, including structures which are part of confinement feeding operations, as provided by rules adopted pursuant to section 455B.200 ~~this chapter~~. The department's decision to approve or disapprove a permit for the construction of a confinement feeding operation shall be based on whether the application is submitted according to procedures required by the department and the application meets standards established by the department. A person shall not begin construction of a confinement feeding operation structure requiring a permit under this section, unless the department shall ~~issue a first~~ approves the person's application and issues to the person a construction permit to an animal feeding operation if an application is submitted according to procedures required by the department and. The department shall provide conditions for requiring when a person must obtain a construction permit.

a. Except as provided in paragraph "b", a person must obtain a permit to construct any of the following:

(1) A confinement feeding operation structure if after construction its confinement feeding operation would have an animal unit capacity of at least one thousand animal units.

(2) The confinement feeding operation structure is an unformed manure storage structure.

b. A person is not required to obtain a permit to construct a confinement feeding operation structure, if any of the following apply:

(1) The confinement feeding operation structure, if constructed, would be part of a small animal feeding operation. However, the person must obtain a permit under this section if the confinement feeding operation structure is an unformed manure storage structure.

(2) The confinement feeding operation structure is part of a confinement feeding operation which is owned by a research college conducting research activities as provided in section 455B.206.

2. The department shall issue a construction permit upon approval of an application. The department shall approve the application meets standards established by the department, if the application is submitted to the county board of supervisors in the county where the proposed confinement feeding operation is to be located as required pursuant to section 455B.200E, and the application meets the requirements of this chapter. If a county submits an approved recommendation pursuant to a construction evaluation resolution filed with the department, the application must also achieve a satisfactory rating produced by the master matrix used by the board or department under section 455B.200E. The department shall approve the application regardless of whether the animal feeding operation applicant is required to obtain such to be issued a construction permit. The department shall not require that a person obtain a permit for the construction of an animal feeding operation structure if the structure is part of a small animal feeding operation for purposes of this section, an animal feeding operation structure includes a manure storage structure.

2. 3. The department shall not issue approve an application for a construction permit for the construction of an animal feeding operation structure which is part of a confinement feeding operation unless the person applicant submits all of the following:

a. An indemnity fee as provided in section 455J.3 which that the department shall deposit into the manure storage indemnity fund created in section 455J.2.

b. A manure management plan as provided in section 455B.203 and manure management plan filing fee as provided in section 455B.203C.

c. A construction permit application fee as provided in section 455B.203C.

3A. The applicant may submit a master matrix as completed by the applicant.

3. 4. a. A confinement feeding operation meets threshold requirements under this paragraph if the confinement feeding

operation after construction of a proposed confinement feeding operation structure would have a minimum animal unit capacity of the following:

(1) Three thousand animal units for animals other than swine maintained as part of a swine farrowing and gestating operation or farrow-to-finish operation or cattle maintained as part of a cattle operation.

(2) One thousand two hundred fifty animal units for swine maintained as part of a swine farrowing and gestating operation.

(3) Two thousand seven hundred fifty animal units for swine maintained as part of a farrow-to-finish operation.

(4) Four thousand animal units for cattle maintained as part of a cattle operation.

b. The department shall not issue approve an application for a construction permit for the construction of unless the following apply:

(1) If the application is for a permit to construct an unformed manure storage structure, the application must include a statement approved by a professional engineer certifying that the construction of the unformed manure storage structure complies with the construction design standards required in this subpart.

(2) If the application is for a permit to construct three or more animal confinement feeding operation structures unless the applicant files, the application must include a statement approved by a professional engineer registered pursuant to chapter 542B certifying providing that the construction of the animal confinement feeding operation structures will not impede the drainage through established drainage tile lines which cross property boundary lines unless measures are taken to reestablish the drainage prior to completion of construction. For a confinement feeding operation that meets threshold requirements, the statement must be approved by a professional engineer. Otherwise, if the application is for a permit to construct a formed manure storage structure, the statement must be part of the construction design statement as provided in section 455B.200C.

(3) If the application is for a permit to construct a formed manure storage structure, other than for a confinement feeding operation meeting threshold requirements, the applicant must include a construction design statement as provided in section 455B.200C. An application for a permit to construct a formed manure storage structure as part of a confinement feeding operation that meets threshold requirements must include a statement approved by a professional engineer certifying that the construction of the formed manure storage structure complies with the requirements of this subpart.

(4) The department may only require that an application for a permit to construct a formed manure storage structure or egg washwater storage structure that is part of a confinement feeding operation meeting threshold requirements include an engineering report, construction plans, or specifications prepared by a licensed professional engineer or the natural resources conservation service of the United States department of agriculture.

4- 5. Prior As a condition to issuing a permit to a person approving an application for the construction of an animal feeding operation a construction permit, the department may require any of the following:

a. The installation of a related pollution control device or practice, including but not limited to the installation and operation of a hydrological water pollution monitoring system for an exclusively earthen unformed manure storage structure according to rules which shall be adopted by the department.

b. The department's approval of the installation of any proposed system to permanently lower the groundwater table at a site as part of the construction of an unformed manure storage structure, as is necessary to ensure that the unformed manure storage structure does not pollute groundwater sources, including providing for standards as provided in section 455B.205.

Sec. 29. Section 455B.200A, subsections 5 through 8, Code 2001, are amended by striking the subsections.

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Sec. 30. Section 455B.200B, unnumbered paragraph 1, Code 2001, is amended to read as follows:

For purposes of this part subpart, all of the following shall apply:

Sec. 31. Section 455B.200B, subsection 1, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

1. Two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common area or system for manure disposal. In addition, for purposes of determining whether two or more confinement feeding operations are adjacent, all of the following must apply:

a. At least one confinement feeding operation structure must be constructed on and after May 21, 1998.

b. A confinement feeding operation structure which is part of one confinement feeding operation is separated by less than a minimum required distance from a confinement feeding operation structure which is part of the other confinement feeding operation. The minimum required distance shall be as follows:

(1) One thousand two hundred fifty feet for confinement feeding operations having a combined animal unit capacity of less than one thousand animal units.

(2) Two thousand five hundred feet for confinement feeding operations having a combined animal unit capacity of one thousand animal units or more.

Sec. 32. Section 455B.200B, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 3. In calculating the animal unit capacity of a confinement feeding operation, the animal unit capacity shall include the animal unit capacity of all confinement feeding operation buildings which are part of the confinement feeding operation, unless a confinement feeding operation building has been abandoned as provided in section 455B.161A.

NEW SUBSECTION. 4. All distances between locations or objects provided in this subpart shall be measured in feet from their closest points.

NEW SUBSECTION. 5. a. The department shall designate by rule each one hundred year floodplain in this state according to the location of the one hundred year floodplain. A person shall not be prohibited from constructing a confinement feeding operation on a one hundred year floodplain unless the one hundred year floodplain is designated by rule in accordance with this subsection.

b. (1) Until the effective date of rules adopted by the department to designate the location of each one hundred year floodplain in this state, a person shall not construct a confinement feeding operation structure on land that contains a soil type classified as alluvial unless the one of the following applies:

(a) If the person does not apply for a construction permit as provided in section 455B.200A, the person must petition the department for a declaratory order pursuant to section 17A.9 to determine whether the location of the proposed confinement feeding operation structure is located on a one hundred year floodplain. The department shall issue a declaratory order in response to the petition, notwithstanding any other provision provided in section 17A.9 to the contrary, within thirty days from the date that the petition is filed with the department.

(b) If the person does apply for a construction permit as provided in section 455B.200A, the person must identify that the land contains a soil type classified as alluvial. The department shall determine whether the land is located on a one hundred year floodplain.

(2) The department shall provide in its declaratory order or its approval or disapproval of a construction permit application a determination regarding whether the confinement feeding operation is to be located on a one hundred year floodplain, whether the confinement feeding operation may be constructed at the location, and any conditions for the construction.

(3) This paragraph "b" is repealed on the effective date that rules are adopted by the department pursuant to paragraph "a". The department shall provide a caption on the adopted rule as published in the Iowa administrative bulletin as provided in section 17A.4, stating that this paragraph is repealed as provided in this subparagraph subdivision. The director of the department shall deliver a copy of the adopted rule to the Iowa Code editor.

NEW SUBSECTION. 6. As used in this subpart, unless the context otherwise requires:

a. "Critical public area" means land as designated by the department pursuant to rules adopted pursuant to chapter 17A, if all of the following apply:

(1) The land is part of a public park, preserve, or recreation area that is owned or managed by the federal government; by the department, including under chapter 461A or 465C; or by a political subdivision.

(2) The land has a unique scenic, cultural, archaeological, scientific, or historic significance or contains a rare or valuable ecological system.

b. "Designated wetland" means land designated as a protected wetland by the United States department of the interior or the department of natural resources, including but not limited to a protected wetland as defined in section 456B.1, if the land is owned and managed by the federal government or the department of natural resources. However, a designated wetland does not include land where an agricultural drainage well has been plugged causing a temporary wetland or land within a drainage district or levee district.

c. "Document" means any form required to be processed by the department under this subpart regulating animal feeding operations, including but not limited to applications or related materials for permits as provided in section 455B.200A, manure management plans as provided in section 455B.203, comment or evaluation by a county board of supervisors considering an application for a construction permit, the department's analysis of the application including

using and responding to a master matrix pursuant to section 455B.200E, and notices required under those sections.

d. "High-quality water resource" means that part of a water source or wetland that the department has designated as any of the following:

(1) A high-quality water (Class "HQ") or a high-quality resource water (Class "HQR") according to 567 IAC ch. 61, in effect on January 1, 2001.

(2) A protected water area system, according to a state plan adopted by the department in effect on January 1, 2001.

e. "Karst terrain" means land having karst formations that exhibit surface and subterranean features of a type produced by the dissolution of limestone, dolomite, or other soluble rock and characterized by closed depressions, sinkholes, or caves.

f. "Major water source" means a water source that is a lake, reservoir, river, or stream located within the territorial limits of the state, or any marginal river area adjacent to the state, if the water source is capable of supporting a floating vessel capable of carrying one or more persons during a total of a six-month period in one out of ten years, excluding periods of flooding which has been identified by rules adopted by the commission.

g. "One hundred year floodplain" means the land adjacent to a major water source, if there is at least a one percent chance that the land will be inundated in any one year, according to calculations adopted by rules adopted pursuant to section 455B.200. In making the calculations, the department shall consider available maps or data compiled by the federal emergency management agency.

h. "Professional engineer" means a person engaged in the practice of engineering as defined in section 542B.2 who is issued a certificate of licensure as a professional engineer pursuant to section 542B.17.

i. "Water of the state" means the same as defined in section 455B.171.

j. "Water source" means a lake, river, reservoir, creek, stream, ditch, or other body of water or channel having definite banks and a bed with water flow, except lakes or ponds without outlet to which only one landowner is riparian.

Sec. 33. NEW SECTION. 455B.200C CONSTRUCTION DESIGN STATEMENT -- FORMED MANURE STORAGE STRUCTURES.

1. a. Except as provided in paragraph "b", a person shall not construct a formed manure storage structure, unless the person submits a construction design statement for filing with the department.

b. The following persons are not required to submit a construction design statement with the department:

(1) A person who constructs a formed manure storage structure as part of a small animal feeding operation.

(2) A person who submits a statement approved by a professional engineer certifying that the construction of the formed manure storage structure complies with the construction design standards required in this subpart, including a person required to submit such a statement as part of an application for a construction permit pursuant to section 455B.200A.

2. The construction design statement must include all of the following:

a. A summary description of the type of formed manure storage structure proposed to be constructed, including whether such formed manure storage structure is to be constructed of concrete.

b. (1) If the formed manure storage structure is to be constructed of concrete, a statement by the person responsible for constructing the formed manure storage structure certifying that such person will construct the formed manure storage structure in accordance with the construction design standards required in this subpart.

(2) If the formed manure storage structure is not to be constructed of concrete, a statement by the person responsible for constructing the formed manure storage structure certifying that such person will construct the formed manure storage structure in accordance with the construction design standards required in this subpart.

c. If a construction permit is required pursuant to section 455B.200A for the construction of three or more confinement feeding operation structures that include a formed manure storage structure, the contractor must provide that the construction of the formed manure storage structure will not impede drainage through established drainage tile lines which cross property boundary lines unless measures are taken to reestablish the drainage prior to completion of construction.

d. A manure management plan as required in section 455B.203 which may be submitted as part of an application for a construction permit as provided in section 455B.200A.

3. Unless the construction design statement is part of a construction permit application as provided in section 455B.200A, the department shall file the construction design statement. Otherwise, the department shall approve or disapprove the construction design statement as part of the construction permit application. The construction design statement shall be considered filed on the date that it is first received by the department. The department may request information from the person submitting the construction design statement if the department determines that it is incorrect or incomplete. Within thirty days after filing the construction design statement, the department shall notify the person that the construction design statement is filed and request any additional information.

Sec. 34. NEW SECTION. 455B.200D DOCUMENT PROCESSING REQUIREMENTS.

1. The department shall adopt and promulgate forms required to be completed in order to comply with this subpart including forms for documents that the department shall make available on the internet.

2. a. The department shall provide for procedures for the receipt, filing, processing, and return of documents in an electronic format, including but not limited to the transmission of documents by the internet. The department shall provide for authentication of the documents that may include electronic signatures as provided in chapter 554D.

b. The department shall to every extent feasible provide for the processing of permits and manure management plans required under this subpart using electronic systems, including programming, necessary to ensure the completeness and accuracy of the documents in accordance with the requirements of this subpart.

Sec. 35. NEW SECTION. 455B.200E CONSTRUCTION PERMIT APPLICATION PROCEDURE -- COMMENTS -- MASTER MATRIX.

1. a. The department shall deliver a copy or require the applicant to deliver a copy of the application for a permit to construct, including expanding, a confinement feeding operation structure pursuant to section 455B.200A, including supporting documents, to the county board of supervisors in the county where the confinement feeding operation structure subject to the permit is proposed to be constructed.

b. The county auditor or other county officer designated by the county board of supervisors may accept the application on behalf of the board. If the department requires the applicant to deliver a copy of the application to the county board of supervisors, the board shall notify the department that the board has received the application according to procedures required by the department.

2. Regardless of whether the county board of supervisors has adopted a construction evaluation resolution, the county may provide comment to the department on a construction permit application for a confinement feeding operation structure.

a. The board shall provide for comment as follows:

(1) The board shall publish a notice that the board has received the application in a newspaper having a general circulation in the county.

(2) The notice shall include all of the following:

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

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

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

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

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

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

b. The board may hold a public hearing to receive public comments regarding the application. The county board of supervisors may submit comments by the board and the public to the department as provided in this section, including but not limited to all of the following:

(1) The existence of an object or location not included in the application that benefits from a separation distance requirement as provided in section 455B.162 or 455B.204.

(2) The suitability of soils and the hydrology of the site where construction of a confinement feeding operation structure is proposed.

(3) The availability of land for the application of manure originating from the confinement feeding operation.

(4) Whether the construction of a proposed confinement feeding operation structure will impede drainage through established tile lines, laterals, or other improvements which are constructed to facilitate the drainage of land not owned by the person applying for the construction permit.

3. A county board of supervisors may adopt a construction evaluation resolution relating to the construction of a confinement feeding operation structure. The board must submit such resolution to the department for filing. If the board has submitted such resolution to the department, the board may evaluate the construction permit application and submit an adopted recommendation to the department to approve or disapprove a construction permit application as provided in this subsection. The board must make its decision to recommend approval or disapproval of the permit application as provided in this subsection.

a. For the expansion of a confinement feeding operation that includes a confinement feeding operation structure

constructed prior to April 1, 2002, the board shall not evaluate a construction permit application for the construction or expansion of a confinement feeding operation structure if after the expansion of the confinement feeding operation, its animal unit capacity is one thousand six hundred sixty-six animal units or less.

b. The board must conduct an evaluation of the application using the master matrix as provided in section 455B.200F. The board's recommendation may be based on the master matrix as provided or may be based on comments under this section regardless of the results of the master matrix.

c. In completing the master matrix, the board shall not score criteria on a selective basis. The board must score all criteria which is part of the master matrix according to the terms and conditions relating to construction as specified in the application or commitments for manure management that are to be incorporated into a manure management plan as provided in section 455B.203.

d. The board's adopted recommendation to the department shall include the specific reasons and any supporting documentation for the decision to recommend approval or disapproval of the application.

4. The department must receive the county board of supervisor's comments or evaluation for approval or disapproval of an application for a construction permit not later than thirty days following the applicant's delivery of the application to the department. Regardless of whether the department receives comments or an evaluation by a county board of supervisors, the department must approve or disapprove an application for a construction permit within sixty days following the applicant's delivery of the application to the department. However, the applicant may deliver a notice requesting a continuance. Upon receipt of a notice, the time required for the county or department to act upon the application shall be suspended for the period provided in the notice, but for not more than thirty days after the department's receipt of the notice. The applicant

may submit more than one notice. However, the department may provide that an application is terminated if no action is required by the department for one year following delivery of the application to the board. The department may also provide for a continuance when it considers the application. The department shall provide notice to the applicant and the board of the continuance. The time required for the department to act upon the application shall be suspended for the period provided in the notice, but for not more than thirty days. However, the department shall not provide for more than one continuance.

5. a. The department shall approve an application for a construction permit if the board of supervisors which has filed a county construction evaluation resolution submits an adopted recommendation to approve the construction permit application which may be based on a satisfactory rating produced by the master matrix to the department and the department determines that the application meets the requirements of this chapter. The department shall disapprove an application that does not satisfy the requirements of this chapter regardless of the adopted recommendation of the board. The department shall consider any timely filed comments made by the board as provided in this section to determine if an application meets the requirements of this chapter.

b. If the board submits to the department an adopted recommendation to disapprove an application for a construction permit that is based on a rating produced by the master matrix, the department shall first determine if the application meets the requirements of this chapter as provided in section 455B.200. The department shall disapprove an application that does not satisfy the requirements of this chapter regardless of any result produced by using the master matrix. If the application meets the requirements of this chapter, the department shall conduct an independent evaluation of the application using the master matrix. The department shall approve the application if it achieves a satisfactory rating according to the department's evaluation.

The department shall disapprove the application if it produces an unsatisfactory rating regardless of whether the application satisfies the requirements of this chapter. The department shall consider any timely filed comments made by the board as provided in this section to determine if an application meets the requirements of this chapter.

c. If the county board of supervisors does not submit a construction evaluation resolution to the department, fails to submit an adopted recommendation, submits only comments, or fails to submit comments, the department shall approve the application if the application meets the requirements of this chapter as provided in section 455B.200.

6. The department may conduct an inspection of the site on which the construction is proposed after providing at a minimum twenty-four hours notice or upon receiving consent from the construction permit applicant. The county board of supervisors that has adopted a construction evaluation resolution may designate a county employee to accompany a departmental official during the site inspection. The county employee shall have the same right to access to the site's real estate as the departmental official conducting the inspection during the period that the county employee accompanies the departmental official. The departmental official and the county employee shall comply with standard biosecurity requirements customarily required by the confinement feeding operation that are necessary in order to control the spread of disease among an animal population.

7. Upon written request by a county resident, the county board of supervisors shall forward to the county resident a copy of the board's adopted recommendation, any county comments to the department on the permit application, and the department's responses, as provided in chapter 22.

8. a. The department shall deliver a notice to the applicant within three days of the department's decision to approve or disapprove an application for a construction permit. If the board of supervisors has submitted an adopted recommendation to the department for the approval or

disapproval of a construction permit application as provided in this section, the department shall notify the board of the department's decision to approve or disapprove the application at the same time.

b. (1) The applicant may contest the department's decision by requesting a hearing and may elect to have the hearing conducted before an administrative law judge pursuant to chapter 17A or before the commission. If the applicant and a board of supervisors are both contesting the department's decision, the applicant may request that the commission conduct the hearing on a consolidated basis. The commission shall hear the case according to procedures established by rules adopted by the department. The commission may hear the case as a contested case proceeding under chapter 17A. The department, upon petition by the applicant, shall deliver to the administrative law judge or the commission a copy of the board of supervisors' recommendation together with the results produced by its master matrix and any supporting data or documents submitted with the results, comments submitted by the board to the department, and the department's evaluation of the application including the results produced by its matrix and any supporting data or documents. If the commission hears the case, its decision shall be the department's final agency action. The commission shall render a decision within thirty-five days from the date that the applicant or board files a demand for a hearing.

(2) A county board of supervisors that has submitted an adopted recommendation to the department may contest the department's decision by requesting a hearing before the commission. The commission shall hear the case according to procedures established by rules adopted by the department. The commission may hear the case as a contested case proceeding under chapter 17A. The board may request that the department submit a copy of the department's evaluation of the application including the results produced by its matrix and any supporting data or documents. The decision by the commission shall be the department's final agency action. The

commission shall render a decision within thirty-five days from the date that the board initiates the proceeding.

c. Judicial review of the decision of either the department or the commission may be sought in accordance with the terms of chapter 17A.

9. An applicant for a construction permit may withdraw the permit application from consideration by the department at any time by filing a written request with the department. The filing of the request shall not prejudice the right of the applicant to resubmit the application.

Sec. 36. NEW SECTION. 455B.200F MASTER MATRIX.

1. The department shall adopt rules for the development and use of a master matrix. The purpose of the master matrix is to provide a comprehensive assessment mechanism in order to produce a statistically verifiable basis for determining whether to approve or disapprove an application for the construction, including expansion, of a confinement feeding operation structure requiring a permit pursuant to section 455B.200A.

a. The master matrix shall be used to establish conditions for the construction of a confinement feeding operation structure and for the implementation of manure management practices, which conditions shall be included in the approval of the construction permit or the original manure management plan as applicable. The master matrix shall be used to determine all of the following:

(1) The appropriate location to construct a confinement feeding operation structure, including the proximity and orientation of a proposed confinement feeding operation structure to objects or locations for which separation distances are required pursuant to sections 455B.162 and 455B.204.

(2) The appropriate type of a confinement feeding operation structure required to be constructed, including the type and size of the manure storage structure, or the installation of a related pollution-control device.

b. The master matrix shall be designed to produce quantifiable results based on the scoring of objective criteria according to an established value scale. Each criterion shall be assigned points corresponding to the value scale. The master matrix shall consider risks and factors mitigating risks if the confinement feeding operation structure were constructed according to the application.

c. The master matrix may be a computer model. However, the master matrix must be a practical tool for use by persons when completing applications and by persons when scoring applications. To every extent feasible, the master matrix shall include criteria presented in the form of questions that may be readily scored according to ascertainable data and upon which reasonable persons familiar with the location of a proposed construction site would not ordinarily disagree.

2. The master matrix shall include criteria valuing environmental and community impacts, for use by county boards of supervisors and the department. The master matrix shall include definite point selections for all criteria provided in the master matrix. The master matrix shall provide only for scoring of positive points and shall not provide for deduction of points. The master matrix shall provide for a minimum threshold score required to receive a satisfactory rating. The master matrix shall be structured to ensure that it feasibly provides for a satisfactory rating. Criteria valuing environmental impacts shall account for animal agriculture's relationship to quality of the environment and the conservation of natural resources, and may include factors that refer to all of the following:

- (a) Topography.
- (b) Surface water drainage characteristics.
- (c) The suitability of the soils and the hydrology or hydrogeology of the site.
- (d) The proximity to public use areas and critical public areas.
- (e) The proximity to water sources, including high-quality water resources.

Sec. 37. Section 455B.201, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. The department may require that the owner of a confinement feeding operation install and operate a water pollution monitoring system as part of an unformed manure storage structure.

Sec. 38. Section 455B.203, subsections 1 and 2, Code 2001, are amended to read as follows:

1. The following persons shall submit a manure management plan, including an original manure management plan and an updated manure management plan, as required in this section to the department:

a. The owner of a confinement feeding operation, other than a small animal feeding operation, if the animal any of the following apply:

(1) The confinement feeding operation was constructed after May 31, 1985, regardless of whether the confinement feeding operation structure was required to be constructed pursuant to a construction permit approved-by-rules-adopted-by the department.

b. (2) The owner of a confinement feeding operation, if the confinement feeding operation is required to be constructed pursuant to a permit issued by the department. The owner constructs a manure storage structure, regardless of whether the person is required to be issued a permit for the construction pursuant to section 455B.200A or whether the person has submitted a prior manure management plan.

c. b. A person who applies manure from a confinement feeding operation, other than a small animal feeding operation, which is located in another state, if the manure is applied on land located in this state.

1A. Not more than one confinement feeding operation shall be covered by a single manure management plan.

1B. The owner of a confinement feeding operation who is required to submit a manure management plan under this section shall submit an updated manure management plan to the department on an annual basis. The department shall provide

for a date that each updated manure management plan is required to be submitted to the department. The department may provide for staggering the dates on which updated manure management plans are due. To satisfy the requirements of an updated manure management plan, an owner of a confinement feeding operation may, in lieu of a submitting a complete plan, file a document stating that the manure management plan has not changed, or state all of the changes made since the original manure management plan or a previous updated manure management plan was submitted and approved.

1C. The department shall deliver a copy of the manure management plan or require the person submitting the manure management plan to deliver a copy of the manure management plan to all of the following:

a. The county board of supervisors in the county where the manure storage structure owned by the person is located.

b. The county board of supervisors in the county where the manure storage structure is proposed to be constructed. If the person is required to be issued a permit for the construction of the manure storage structure as provided in section 455B.200A, the manure management plan shall accompany the application for the construction permit as provided in section 455B.200A.

c. The county board of supervisors in the county where the manure is to be applied.

The manure management plan shall be filed with the county board of supervisors. The county auditor or other county officer may accept the manure management plan on behalf of the board.

2. A person shall not remove manure from a manure storage structure which is part of a confinement feeding operation for which a manure management plan is required under this section, unless the department approves a manure management plan, including an original manure management plan and an updated manure management plan, as required in this section. The manure management plan shall be submitted by the owner of the confinement feeding operation as provided by the department on

forms-prescribed-by-the-department in accordance with section 455B.200D. The owner of a confinement feeding operation required to submit a manure management plan for the construction of a manure storage structure may remove manure from another manure storage structure that is constructed, if the department has approved a manure management plan covering that manure storage structure. The department may adopt rules allowing a person to remove manure from a manure storage structure until the manure management plan is approved or disapproved by the department according to terms and conditions required by rules adopted by the department. The department shall approve or disapprove a manure management plan within sixty days of the date that the department receives a completed plan.

2A. The department shall not approve an original manure management plan unless the plan is accompanied by a manure management plan filing fee required pursuant to section 455B.203C. The department shall not approve an updated manure management plan unless the updated manure management plan is accompanied by an annual compliance fee required pursuant to section 455B.203C.

2B. a. The department shall not issue approve an application for a permit for the construction of to construct a confinement feeding operation or a related animal feeding operation structure unless the applicant owner of the confinement feeding operation applying for approval submits a an original manure management plan together with an the application for the construction permit as provided in section 455B.200A.

b. The department shall not file a construction design statement as provided in section 455B.200C, unless the owner of the confinement feeding operation structure submits an original manure management plan together with the construction design statement. The construction design statement and manure management plan may be submitted as part of a construction permit as provided in section 455B.200A.

2C. A manure management plan must be authenticated by the person required to submit the manure management plan as required by the department in accordance with section 455B.200D.

2D. The department shall approve or disapprove a manure management plan according to procedures established by the department:

a. For an original manure management plan submitted due to the construction of a confinement feeding operation structure, the department shall approve or disapprove the manure management plan as follows:

(1) If the confinement feeding operation structure is constructed pursuant to a construction permit issued pursuant to section 455B.200A, the manure management plan shall be approved or disapproved as part of the construction permit application.

(2) If the confinement feeding operation structure is not constructed pursuant to a construction permit issued pursuant to section 455B.200A, the manure management plan shall be approved or disapproved within sixty days from the date that the department receives the manure management plan.

b. For an original manure management plan submitted for a reason other than the construction of a confinement feeding operation structure, the manure management plan shall be approved within sixty days from the date that the department receives the manure management plan.

c. For an updated manure management plan, the manure management plan shall be approved within thirty days from the date that the department receives the updated manure management plan.

Sec. 39. Section 455B.203, subsection 3, paragraph a, Code 2001, is amended to read as follows:

a. Restrictions on the application of manure based on all of the following:

(1) Calculations necessary to determine the land area required for the application of manure from a confinement feeding operation based on nitrogen use levels in order to

obtain optimum crop yields according to a crop schedule specified in the manure management plan, and according to requirements adopted by the department after-receiving recommendations-from-the-animal-agriculture-consulting organization-provided-for-in-1995-Iowa-Acts, chapter-195, section-37.

(2) (a) A phosphorus index. The department shall establish a phosphorus index by rule in order to determine the manner and timing of the application to a land area of manure originating from a confinement feeding operation. The phosphorus index shall provide for the application of manure on a field basis. The phosphorus index shall be used to determine application rates, based on the number of pounds of phosphorus that may be applied per acre and application practices. The phosphorus index shall be based on the field office technical guide for Iowa as published by the United States department of agriculture, natural resources conservation service, which sets forth nutrient management standards.

(b) The department shall develop a state comprehensive nutrient management strategy. Prior to developing the state comprehensive nutrient management strategy, the department shall complete all of the following:

(i) The development of a comprehensive state nutrient budget for the maximum volume, frequency, and concentration of nutrients for each watershed that addresses all significant sources of nutrients in a water of this state on a watershed basis.

(ii) The assessment of the available nutrient control technologies required to identify and assess their effectiveness.

(iii) The development and adoption of administrative rules pursuant to chapter 17A required to establish a numeric water quality standard for phosphorus.

(c) Regardless of the development of the state comprehensive nutrient management strategy as provided in subparagraph subdivision (b), the department shall adopt rules

required to establish a phosphorus index. The department shall cooperate with the United States department of agriculture natural resource conservation service technical committee for Iowa to refine and calibrate the phosphorus index in adopting the rules. Rules adopted by the department pursuant to this subparagraph shall become effective on July 1, 2003.

(d) The department shall conduct a study that considers the effects on waters of this state from phosphorus originating from municipal and industrial sources and from farm and lawn and garden use. The department shall report the results of its study to the general assembly by January 1, 2004.

(e) A person submitting a manure management plan shall include a phosphorus index as part of the manure management plan as follows:

(i) A person who has submitted an original manure management plan prior to April 1, 2002, shall not be required to submit a manure management plan update which includes a phosphorus index, until on and after the four-year anniversary date that the department's rules adopted to implement the phosphorus index become effective.

(ii) A person required to submit an original manure management plan on and after April 1, 2002, but prior to the date that is sixty days after the department's rules adopted to implement the phosphorus index become effective, shall not be required to submit a manure management plan update that includes a phosphorus index until on and after the two-year anniversary date that the department's rules adopted to implement the phosphorus index become effective.

(iii) A person required to submit an original manure management plan on and after the date that is sixty days after the department's rules adopted to implement the phosphorus index become effective shall include the phosphorus index as part of the original manure management plan and updated manure management plans.

Subparagraph subdivisions (b) through (e) and this paragraph are repealed on the date that any person who has submitted an original manure management plan prior to April 1, 2002, is required to submit a manure management plan update which includes a phosphorus index as provided in subparagraph subdivision (c), subparagraph subdivision part (i). The department shall publish a notice in the Iowa administrative bulletin published immediately prior to that date, and the director of the department shall deliver a copy of the notice to the Iowa Code editor.

Sec. 40. Section 455B.203, subsection 4, Code 2001, is amended to read as follows:

4. A person confinement feeding operation classified as a habitual violator ~~or a confinement feeding operation in which a habitual violator owns a controlling interest,~~ as provided in section 455B.191~~7~~ shall submit a manure management plan to the department on an annual basis, which must be approved by the department for the following year of operation. The manure management plan shall be a replacement original manure management plan rather than a manure management plan update. However, the habitual violator required to submit a replacement original manure management plan must submit an annual compliance fee in the same manner as if the habitual violator were submitting an updated manure management plan.

Sec. 41. Section 455B.203, subsection 7, Code 2001, is amended to read as follows:

7. A person submitting required to authenticate a manure management plan submitted to the department who is found in violation of the terms and conditions of the plan shall not be subject to an enforcement action other than the assessment of a civil penalty pursuant to section ~~455B.191~~ 455B.207.

Sec. 42. Section 455B.203A, subsection 6, paragraph b, Code 2001, is amended by striking the paragraph.

Sec. 43. NEW SECTION. 455B.203C COMPLIANCE FEES.

1. The department shall establish, assess, and collect all of the following compliance fees:

a. A construction permit application fee that is required to accompany an application submitted to the department for approval to construct a confinement feeding operation structure as provided in section 455B.200A. The amount of the construction permit application fee shall not exceed two hundred fifty dollars.

b. A manure management plan filing fee that is required to accompany an original manure management plan submitted to the department for approval as provided in section 455B.203. However, the manure management plan required to be filed as part of an application for a construction permit shall be paid together with the construction permit application fee. The amount of the manure management plan filing fee shall not exceed two hundred fifty dollars.

c. An annual compliance fee that is required to accompany an updated manure management plan submitted to the department for approval as provided in section 455B.203. The amount of the annual compliance fee shall not exceed a rate of fifteen cents per animal unit based on the animal unit capacity of the confinement feeding operation covered by the manure management plan. If the person submitting the manure management plan is a contract producer, as provided in chapter 202, the active contractor shall be assessed the annual compliance fee.

d. Fees paid by persons required by the department to be certified as commercial manure applicators or confinement site manure applicators pursuant to section 455B.203A.

2. a. Except as provided in paragraph "b", fees collected by the department shall be deposited into the animal agriculture compliance fund created in section 455B.127. Moneys collected from all fees other than the annual compliance fee shall be deposited into the compliance fund's general account. Moneys collected from the annual compliance fee shall be deposited into the compliance fund's assessment account.

b. Receipts that are required to be received by the department from persons required to be certified pursuant to section 455B.203A may be used to compensate a person who

teaches continuing instructional courses in lieu of deposit into the compliance fund.

3. At the end of each fiscal year the department shall determine the balance of unencumbered and unobligated moneys in the assessment account of the animal agriculture compliance fund created pursuant to section 455B.127. If on that date the balance of unencumbered and unobligated moneys in the account is one million dollars or more, the department shall adjust the rate of the annual compliance fee for the following fiscal year. The adjusted rate for the annual compliance fee shall be based on the department's estimate of the amount required to ensure that at the end of the following fiscal year the balance of unencumbered and unobligated moneys in the assessment account is not one million dollars or more.

Sec. 44. Section 455B.204, subsection 1, Code 2001, is amended by striking the subsection.

Sec. 45. Section 455B.204, subsections 2 through 4, Code 2001, are amended to read as follows:

2. Except as provided in subsection 3 4, the following shall apply:

a. An-animal A confinement feeding operation structure shall not be constructed closer than five hundred feet away from a the surface intake, of an agricultural drainage well. A confinement feeding operation structure shall not be constructed closer than one thousand feet from a wellhead, or cistern of an agricultural drainage well, or known sinkhole. However, the department may adopt rules requiring an increased separation distance under this paragraph in order to protect the integrity of a water of this state. The increased separation distance shall not be more than two thousand feet. If the department exercises its discretion to increase the separation distance requirement, the department shall not approve an application for the construction of a confinement feeding operation structure within that separation distance as provided in section 455B.200A.

b. An-animal A confinement feeding operation structure shall not be constructed if the animal confinement feeding

operation structure as constructed is closer than any of the following:

- (1) Two Five hundred feet away from a watercourse water source other than a major water source.
- (2) Five-hundred One thousand feet away from a major water source.
- (3) Two thousand five hundred feet away from a designated wetland.

c. (1) A watercourse water source, other than a major water source, shall not be constructed, expanded, or diverted, if the watercourse water source as constructed, expanded, or diverted is closer than two five hundred feet away from an animal a confinement feeding operation structure.

d. (2) A major water source shall not be constructed, expanded, or diverted, if the major water source as constructed, expanded, or diverted is closer than five-hundred one thousand feet from an-animal-feeding a confinement operation structure.

(3) A designated wetland shall not be established, if the designated wetland is closer than two thousand five hundred feet away from a confinement feeding operation structure.

3. A confinement feeding operation structure shall not be constructed on land that is part of a one hundred year floodplain as designated by rules adopted by the department pursuant to section 455B.200B.

3- 4. A separation distance required in subsection 2 shall not apply to any of the following:

a. A location or object and a farm pond or privately owned lake, as defined in section 462A.2.

b. A confinement feeding operation building, an egg washwater storage structure, or a manure storage structure constructed with a secondary containment barrier. The department shall adopt rules providing for the construction and use of a secondary containment barrier, including construction design standards.

~~4--All-distances-between-locations-or-objects-shall-be measured-from-their-closest-points,-as-provided-by-rules adopted-by-the-department-~~

Sec. 46. Section 455B.204A, Code 2001, is amended to read as follows:

455B.204A ~~DISPOSES~~ APPLICATION OF MANURE WITHIN DESIGNATED AREAS -- ADOPTION OF RULES.

1. The department shall adopt rules relating to the ~~disposal~~ application of manure in close proximity to a designated area.

2. A Except as otherwise provided in this subsection, a person shall not dispose-of apply manure on cropland land located within two hundred feet from a designated area, unless one of the following applies:

1. a. The manure is land applied by injection or incorporation within-twenty-four-hours-following-the application on the same date as the manure was land applied.

2. b. An area of permanent vegetation cover, including filter strips and riparian forest buffers, exists for fifty feet surrounding the designated area other than an unplugged agricultural drainage well or surface intake to an unplugged agricultural drainage well, and that the area of permanent vegetation cover is not subject to manure application.

c. The department adopts rules requiring an increased separation distance for the application of manure located in proximity to a high quality water resource in order to protect the integrity of the high quality water resource. However, the department shall not provide for an increased separation distance requirement that is more than four times the separation distance requirement otherwise applicable under this section.

As used in this section, "designated area" means a known sinkhole, or a cistern, abandoned well, unplugged agricultural drainage well, agricultural drainage well surface inlet, drinking water well, designated wetland, or ~~lake-or-a-farm pond-or-privately-owned-lake-as-defined-in-section-462A-2~~ water source. However, a "designated area" does not include a terrace tile inlet.

Sec. 47. Section 455B.205, subsection 1, Code 2001, is amended to read as follows:

1. The department shall ~~establish-by-rule-engineering~~ adopt rules requiring construction design standards for the ~~construction-of unformed~~ manure storage structures required to be constructed pursuant to a construction permit issued under pursuant to section 455B.200A.

Sec. 48. Section 455B.205, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The construction design standards for unformed manure storage structures established by the department shall account for special design characteristics of animal confinement feeding operations, including all of the following:

Sec. 49. Section 455B.205, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. A person shall not construct an unformed manure storage structure on karst terrain or on an area that drains into a known sinkhole.

Sec. 50. NEW SECTION. 455B.205A CONSTRUCTION DESIGN STANDARDS -- FORMED MANURE STORAGE STRUCTURES.

The department shall adopt rules establishing construction design standards for formed manure storage structures that are part of confinement feeding operations other than small animal feeding operations.

1. The department may provide for different standards based on criteria developed by the department, which may include any of the following:

a. The animal unit capacity of the manure storage structure's confinement feeding operation or the manure storage structure's manure volume capacity.

b. Whether the manure storage structure stores manure in an exclusively dry form.

c. Whether the manure storage structure is part of a confinement feeding operation building.

d. The use of concrete, including its use for the structure's footings, walls, or floor.

2. The construction design standards shall be based, to every extent possible, on uniform standards such as available standards promulgated by the American society for testing and

materials. The department may require that all or any part of a formed manure storage structure be constructed of concrete.

3. The construction design standards for concrete shall provide for all of the following:

a. The concrete's minimum compressive strength calculated on a pounds-per-square-inch basis.

b. The use of reinforcement, including but not limited to the grade, amount, and location of steel rebar or fiberglass, wire mesh or fabric, or similar materials set in the concrete, or the use of exterior braces to support joints.

c. The depth of footings.

d. The thickness of the footings, the floor and walls.

4. A person shall only construct a formed manure storage structure on karst terrain or an area which drains into a known sinkhole pursuant to upgraded construction design standards necessary to ensure that the structure does not pollute groundwater sources.

Sec. 51. NEW SECTION. 455B.207 CIVIL PENALTY.

A person who violates this subpart shall be subject to a civil penalty which shall be established, assessed, and collected in the same manner as provided in section 455B.191. Any civil penalty collected shall be deposited in the animal agriculture compliance fund created in section 455B.127.

Sec. 52. Section 455I.1, unnumbered paragraph 1, Code 2001, is amended by striking the unnumbered paragraph.

Sec. 53. Section 455J.1, subsections 1 through 5 and subsections 7 and 8, Code 2001, are amended by striking the subsections.

Sec. 54. Section 455J.3, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

If the confinement feeding operation has an animal weight unit capacity of less than ~~six-hundred-twenty-five-thousand pounds~~ one thousand animal units, the following shall apply:

Sec. 55. Section 455J.3, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

If the confinement feeding operation has an animal weight unit capacity of ~~six-hundred-twenty-five-thousand~~ one thousand

or more pounds animal units but less than ~~one-million-two hundred-fifty-thousand-pounds~~ three thousand animal units, the following shall apply:

Sec. 56. Section 455J.3, subsection 3, unnumbered paragraph 1, Code 2001, is amended to read as follows:

If the confinement feeding operation has an animal weight unit capacity of ~~one-million-two-hundred-fifty-thousand~~ three thousand or more pounds animal units, the following shall apply:

Sec. 57. Section 455J.4, Code 2001, is amended to read as follows:

455J.4 MANURE MANAGEMENT PLAN -- INDEMNITY FEE REQUIRED.

An indemnity fee shall be assessed upon persons required to submit a an original manure management plan as provided in section 455B.203, but not required to obtain a construction permit pursuant to section 455B.200A. A person required to submit a replacement original manure management plan shall not be assessed an indemnity fee. The amount of the fees ~~fee~~ shall be ten cents per animal unit of capacity for the ~~the~~ confinement feeding operations ~~operation~~ operation covered by the manure management plan.

Sec. 58. NEW SECTION. 481A.151 RESTITUTION FOR POLLUTION CAUSING INJURY TO WILD ANIMALS.

1. A person who is liable for polluting a water of this state in violation of state law, including this chapter, shall also be liable to pay restitution to the department for injury caused to a wild animal by the pollution. The amount of the restitution shall also include the department's administrative costs for investigating the incident. The administration of this section shall not result in a duplication of damages collected by the department under section 455B.392, subsection 1, paragraph "c".

2. The commission shall adopt rules providing for procedures for investigations and the administrative assessment of restitution amounts. The rules shall establish an opportunity to appeal a departmental action including by a contested case proceeding under chapter 17A. A final

administrative decision assessing an amount of restitution may be enforced by the attorney general at the request of the director.

3. Rules adopted by the commission shall provide for methods used to determine the extent of an injury and the monetary values for the loss of injured wild animals based on species.

a. The rules shall provide for methods used to count dead fish and to calculate restitution values. The rules may incorporate methods and values published by the American fisheries society. To every extent practicable, the values shall be based on the estimates of lost recreational angler opportunities where applicable. As an alternative method of valuation, the rules may provide that for fish species that are protected by catch limits, possession limits, size limits, or closed seasons applicable to anglers, liquidated damages apply. The amount of the liquidated damages shall not exceed fifteen dollars per fish. For fish species that are classified by the commission as endangered or threatened, the rules may establish liquidated damages not to exceed one thousand dollars per fish.

b. The rules shall provide guidelines for estimating the extent of loss of a species that is affected by a pollution incident but which would not be practical to count in sample areas. The rules may establish liquidated damage amounts for species whose replacement cost is difficult to determine.

4. Moneys collected by the department in restitution shall be deposited into the state fish and game protection fund. The moneys shall be used exclusively to support restoration or improvement of fisheries, including but not limited to aquatic habitat improvement projects as provided in rules adopted by the commission. However, moneys collected from restitution paid for investigative costs shall be used as determined by the director.

Sec. 59. MANURE STORAGE INDEMNITY FUND -- TEMPORARY TRANSFER. Notwithstanding section 455J.2, the department is authorized to temporarily transfer any amount of the

unobligated and unencumbered balance of the manure storage indemnity fund as provided under section 455J.2 to the general account of the animal agriculture compliance fund as created in section 455B.127, as enacted in this Act, for use as provided in section 455B.127. The department shall return the amount transferred under this section to the manure storage indemnity fund according to a schedule established by the department upon the collection of compliance fees deposited into the animal agriculture compliance fund pursuant to section 455B.203C. Notwithstanding section 455B.127, the department may return moneys from the assessment account of the animal agriculture compliance fund to the manure storage indemnity fund if at any time moneys are not sufficiently available to make the return from the general account of the animal agriculture compliance fund.

Sec. 60. FORMED MANURE STORAGE STRUCTURES -- CONSTRUCTION DESIGN STANDARDS. Until the effective date of rules adopted by the department providing construction design standards for formed manure storage structures as provided in section 455B.205A, as enacted in this Act, the department's rules providing construction design standards used in the construction of formed manure storage structures shall apply to formed manure storage structures as provided in section 455B.205A, regardless of whether a formed manure storage structure must be constructed pursuant to a permit issued under section 455B.200A, as amended by this Act. However, this section does not apply to a manure storage structure that stores manure exclusively on a dry-matter basis.

Sec. 61. INTERIM APPROVAL OF CONSTRUCTION PERMITS FOR CONFINEMENT FEEDING OPERATION STRUCTURES -- COUNTY PARTICIPATION AND RIGHTS OF APPLICANTS AND COUNTY BOARDS OF SUPERVISORS. This section applies to an applicant for a construction permit pursuant to section 455B.200A, as amended by this Act, and to a county board of supervisors that submits comments regarding a permit for the construction of a confinement feeding operation structure pursuant to section 455B.200A, as amended by this Act. Notwithstanding section

455B.200E, as enacted in this Act, all of the following shall apply:

1. The department shall not approve the application until thirty days following delivery of the application to the county board of supervisors.
2. The department shall consider and respond to comments submitted by the county board of supervisors regarding compliance by the applicant with the legal requirements for approving the construction permit in the same manner as provided pursuant to section 455B.200A, Code of Iowa 2001.
3. The department shall notify the county board of supervisors prior to conducting an inspection of the site on which the construction is proposed in the permit application, and the county may accompany a departmental official during the site inspection, in the same manner as provided in section 455B.200A, Code of Iowa 2001.
4. Upon written request by a county resident, the county board of supervisors shall forward a copy of the board's comments and the department's responses to the county resident as provided in chapter 22.
5. The department shall notify the applicant and county board of supervisors of the county in which a confinement feeding operation structure subject to a construction permit is proposed to be constructed. The notice shall state the department's decision to approve or disapprove an application for the construction permit which shall be delivered to the applicant and board in the same manner as provided for counties in section 455B.200A, Code of Iowa 2001. The applicant may contest the department's decision by filing a demand for a hearing before an administrative law judge or the environmental protection commission. The board may contest the department's decision by filing a demand for a hearing before the commission. The applicant shall contest the decision and the commission shall conduct the proceeding and render a decision in the same manner as provided in section 455B.200E, as enacted by this Act.

Sec. 62. ESTABLISHMENT OF A MASTER MATRIX -- TECHNICAL ADVISORY COMMITTEE.

1. The department of natural resources shall adopt rules establishing a master matrix as required pursuant to section 455B.200F according to recommendations made to the department by a technical advisory committee established pursuant to this section. The technical advisory committee shall be composed of all of the following:

- a. A designee of the secretary of agriculture.
- b. A designee of the director of the department of natural resources.
- c. A designee of the president of the university of Iowa.
- d. A designee of the president of Iowa state university.
- e. A representative of the Iowa environmental council.
- f. A representative of the Iowa state association of counties.
- g. A representative of the Iowa farm bureau federation.
- h. A representative of the Iowa's farmers union.
- i. Two representatives of organizations representing livestock producers who shall be jointly designated to the department of natural resources by the Iowa pork producers association, the Iowa cattlemen's association, the Iowa dairy products association, the Iowa poultry association, and the Iowa turkey federation.

The department of natural resources shall provide administrative support to the committee. The attorney general shall appoint an assistant attorney general to provide the committee with legal counsel and assistance.

2. In establishing the scoring system for the master matrix, only positive points shall be used. The master matrix shall be designed as a menu of items with positive points assigned to each item within the selection list. The matrix shall not include any deduction of points.

3. The department shall adopt rules pursuant to chapter 17A in order to carry out the requirements of this section. Based on the committee's recommendations to establish a master matrix, the department shall provide a draft of a notice of

intended action to the environmental protection commission not later than during its September 2002 meeting. The department's notice of intended action shall not be published later than in the November 27, 2002, issue of the Iowa administrative bulletin. The notice of intended action required under this section shall include a statement of the terms or substance of the intended action in the manner provided for in section 17A.4. The rules shall take effect on March 1, 2003.

Sec. 63. DEPARTMENT OF NATURAL RESOURCES -- APPROVAL OF APPLICATIONS FOR CONSTRUCTION PERMITS -- USING INTERIM MATRIX.

1. Notwithstanding sections 455B.200A and 455B.200F, the department shall approve or disapprove an application for a permit to construct a confinement feeding operation structure pursuant to section 455B.200A, if an application is submitted according to procedures required by the department, the application meets standards established under chapter 455B, as amended by this Act, and the application complies with the requirements of this section. This section does not apply to the expansion of a confinement feeding operation that includes a confinement feeding operation structure constructed prior to April 1, 2002, due to the construction or expansion of a confinement feeding operation structure if after the expansion of the confinement feeding operation, its animal unit capacity is one thousand six hundred sixty-six animal units or less.

2. This section applies on and after the date that the department publishes a notice in the Iowa administrative bulletin commencing its evaluation of applications under this section.

3. The department shall approve or disapprove an application based on an interim matrix. The interim matrix shall be used to award points as provided in this subsection. In order to be issued a construction permit, a person must achieve one hundred points. The points shall be awarded as follows:

a. The following criteria shall apply to separation distances. The separation distances provided in this

paragraph shall apply in addition to separation distances required for confinement feeding operation structures or for the application of manure originating from confinement feeding operations as provided in chapter 455B, divisions II and III, as provided in the 2001 Code of Iowa, unless otherwise provided in this paragraph "a".

(1) The following criteria shall apply to require additional separation distances between a proposed confinement feeding operation structure and a residence not owned by the owner of the confinement feeding operation, a commercial enterprise, a bona fide religious institution, or an educational institution as provided in section 455B.162:

(a) Two hundred fifty or more feet but less than five hundred feet: five points.

(b) Five hundred or more feet but less than seven hundred fifty feet: ten points.

(c) Seven hundred fifty or more feet but less than one thousand feet: fifteen points.

(d) One thousand or more feet but less than one thousand two hundred fifty feet: twenty points.

(e) One thousand two hundred fifty or more feet: twenty-five points.

(2) The following criteria shall apply to require additional separation distances between a proposed confinement feeding operation structure and a public use area as provided in section 455B.162 or a primary highway as defined in section 306C.10:

(a) Two hundred fifty or more feet but less than five hundred feet: five points.

(b) Five hundred or more feet but less than seven hundred fifty feet: ten points.

(c) Seven hundred fifty or more feet but less than one thousand feet: fifteen points.

(d) One thousand or more feet but less than one thousand two hundred fifty feet: twenty points.

(e) One thousand two hundred fifty or more feet: twenty-five points.

(3) The following criteria shall apply to require additional separation distances between a proposed confinement feeding operation structure and a major water source as provided in section 455B.204 or a high-quality water resource as defined in section 455B.200B, as enacted in this Act:

- (a) Two hundred fifty or more feet but less than five hundred feet: five points.
- (b) Five hundred or more feet but less than seven hundred fifty feet: ten points.
- (c) Seven hundred fifty or more feet but less than one thousand feet: fifteen points.
- (d) One thousand or more feet but less than one thousand two hundred fifty feet: twenty points.
- (e) One thousand two hundred fifty or more feet: twenty-five points.

(4) The following criteria shall apply to require additional separation distances between a proposed confinement feeding operation structure and a critical public area as defined in section 455B.200B, subsection 6, as enacted by this Act:

- (a) One thousand or more feet but less than one thousand two hundred fifty feet: twenty points.
- (b) One thousand two hundred fifty or more feet: twenty-five points.

(5) The following criteria shall apply to require an additional separation distance of five hundred or more feet between a proposed confinement feeding operation structure and a watercourse, other than a major water source, as provided in section 455B.204: five points.

(6) The following criteria shall apply to require additional separation distances between the application of manure originating from a confinement feeding operation and a residence not owned by the owner of the confinement feeding operation, or a commercial enterprise, bona fide religious institution, or an educational institution as provided in section 455B.162:

- (a) Two hundred fifty or more feet but less than five hundred feet: five points.
- (b) Five hundred or more feet but less than seven hundred fifty feet: ten points.
- (c) Seven hundred fifty or more feet but less than one thousand feet: fifteen points.
- (d) One thousand or more feet but less than one thousand two hundred fifty feet: twenty points.
- (e) One thousand two hundred fifty or more feet: twenty-five points.

An applicant who incorporates manure by injection shall be entitled to the following: fifteen points.

(7) The following criteria shall apply to require an additional separation distance between the application of manure originating from a confinement feeding operation and a public use area as provided in section 455B.162 or a primary highway as defined in section 306C.10:

- (a) Two hundred fifty or more feet but less than five hundred feet: five points.
- (b) Five hundred or more feet but less than seven hundred fifty feet: ten points.
- (c) Seven hundred fifty or more feet but less than one thousand feet: fifteen points.
- (d) One thousand or more feet but less than one thousand two hundred fifty feet: twenty points.
- (e) One thousand two hundred fifty or more feet: twenty-five points.

An applicant who incorporates manure by injection shall be entitled to the following: fifteen points.

(8) The following criteria shall apply to require additional separation distances between the application of manure originating from a confinement feeding operation and a critical public area as defined in section 455B.200B, subsection 6, as enacted in this Act:

- (a) One thousand or more feet but less than one thousand two hundred fifty feet: twenty points.

(b) One thousand two hundred fifty or more feet: twenty-five points.

(9) The following criteria shall apply to require additional separation distances between the application of manure originating from a confinement feeding operation and a major water source:

(a) One thousand or more feet but less than one thousand two hundred fifty feet: twenty points.

(b) One thousand two hundred fifty or more feet: twenty-five points.

(10) The following criteria shall apply to require additional separation distances between the application of manure originating from a confinement feeding operation and a high-quality water resource as defined in section 455B.200B, as enacted in this Act:

(a) Five hundred or more feet but less than seven hundred fifty feet: ten points.

(b) Seven hundred fifty or more feet but less than one thousand feet: fifteen points.

(c) One thousand or more feet but less than one thousand two hundred fifty feet: twenty points.

(d) One thousand two hundred fifty or more feet: twenty-five points.

(11) The following points shall be awarded if an additional separation distance is required for the application of manure originating from a confinement feeding operation and a watercourse other than a major water source as provided in section 455B.204: five points.

b. The following points shall be awarded if a confinement feeding operation is located on land owned or operated by the same family for three or more years: fifteen points.

c. The following points shall be awarded if the owner of the confinement feeding operation owns the animals maintained by the confinement feeding operation and provides substantial labor in providing for their maintenance: ten points.

d. The following criteria shall apply to a confinement feeding operation located on land owned by one of the following persons:

(1) A person who resides on the land: five points.

(2) A person who closest resides to the proposed confinement feeding operation structure: ten points.

(3) A person who performs the majority of the physical work which significantly contributes to the operation: ten points.

(4) A person who is involved in making substantial improvements to the confinement feeding operation, if the improvements do not provide for expansion by more than one hundred fifty percent of the animal unit capacity of the confinement feeding operation: ten points.

(5) A person who qualifies as a beginning farmer as defined in section 175.2: fifteen points.

e. The following criteria shall apply to an owner of a confinement feeding operation who provides for the following manure management practices:

(1) The incorporation of manure within twenty-four hours: five points.

(2) The use of a cover over a manure storage structure or a natural crust or oil sprinkling: five points.

(3) Participation in the United States department of agriculture natural resource and conservation program referred to as the "filter strip program at 33 feet": ten points.

(4) The installation of a filter designed to reduce odors from exhaust fans: ten points.

(5) The utilization of feed or feed additives containing low phytase corn or the feeding of phytase: ten points.

(6) The utilization of a biofilter or impermeable cover: ten points.

(7) The utilization of a methane digester (recovery) system for energy or an anaerobic digester: twenty-five points.

(8) The utilization of landscaping or other similar controls approved by the department: ten points.

(9) The establishment or expansion of a filter strip from thirty-three feet or more up to one hundred twenty feet: fifteen points.

(10) The construction of a secondary containment structure: fifteen points.

(11) The construction of a manure storage structure beneath a confinement feeding operation structure building: ten points.

(12) Participation in the United States department of agriculture natural resource and conservation service program referred to as the "contour buffer strip program": twenty-five points.

f. The following points shall be awarded if the confinement feeding operation provides for the distribution of bulk dry animal nutrient products, the person receiving the product agrees that the product will be incorporated, and the person who incorporates the manure includes the condition as part of the person's manure management plan: twenty-five points.

Sec. 64. 1995 Iowa Acts, chapter 195, section 37, as amended by 1998 Iowa Acts, chapter 1209, section 40, is repealed.

Sec. 65. INTERIM APPROVAL OF APPLICATIONS FOR CONSTRUCTION PERMITS -- REPEAL. The section of this Act providing for the interim approval of applications for construction permits by the department of natural resources is repealed March 1, 2003.

Sec. 66. INTERIM COUNTY PARTICIPATION REPEAL. The section of this Act providing for interim county participation in the approval of construction permits for confinement feeding operation structures is repealed March 1, 2003, and the rights of applicants' boards of supervisors to contest departmental decisions. However, the provisions of the section shall continue to apply to applications received by a county board of supervisors prior to March 1, 2003.

DIVISION II

DIRECTIONS TO CODE EDITOR,
CHANGE THE NAME OF TERMS AND
TRANSFER TO NEW TITLE

Sec. 67. CHANGE OF NAME OF TERMS.

1. The Code editor is directed to change the term "animal feeding operation structure" or "an animal feeding operation structure" to "confinement feeding operation structure" or "a confinement feeding operation structure" wherever the term appears in section 455B.161A, subsection 2, Code 2001; section 455B.162, subsection 3, Code 2001; section 455B.163, subsection 3, paragraph "d", Code 2001; section 455B.165, subsection 3, paragraph "b", and subsections 6 and 8, Code 2001; section 455B.200B, subsection 2, Code 2001; and section 455B.202, subsection 2, paragraphs "c" and "d", Code 2001.

2. The Code editor is directed to change the term "animal feeding operation structures" to "confinement feeding operation structures" wherever the term appears in section 455B.161A, subsection 2, paragraph "c", Code 2001; section 455B.200B, subsection 2, Code 2001; and section 455B.162, unnumbered paragraph 1, Code 2001.

3. The Code editor is directed to change the term "animal feeding operation" or "an animal feeding operation" to "confinement feeding operation" or "a confinement feeding operation" wherever it appears in section 455B.163, unnumbered paragraph 1, Code 2001; section 455B.163, subsection 3, paragraph "c", Code 2001; section 455B.165, subsection 6, Code 2001; and section 455B.205, subsection 3, paragraph "b", Code 2001.

4. The Code editor is directed to change the phrase "confinement feeding operation structure or anaerobic lagoon which is part of a confinement feeding operation" to "confinement feeding operation structure" wherever the phrase appears in section 455B.191, subsection 7, Code 2001.

5. The Code editor is directed to change the phrase "an animal feeding operation structure which is part of a confinement feeding operation" to "a confinement feeding operation structure" wherever the phrase appears in section 455B.202, subsection 2, Code 2001.

6. The Code editor is directed to change the term "bovine" to "cattle" wherever the term appears in Code section 455B.162, Code 2001.

Sec. 68. DIRECTIONS TO THE CODE EDITOR.

1. The Code editor is directed to transfer and consolidate provisions concerning animal agriculture into new chapter 456D, consistent with this section and the authority of the Code editor pursuant to chapter 2B. As part of this transfer and consolidation, the Code editor shall divide the chapters into subchapters as follows:

a. Subchapter 1 shall include a new section stating the following: This chapter shall be known and may be cited as the "Animal Agriculture Compliance Act". Section 455B.161, as amended by this Act, shall be transferred to subchapter 1. Section 455B.171, subsections 7, 33, and 44, shall be transferred and consolidated into section 455B.161 as transferred to subchapter 1. Section 455J.1, subsections 4, 6, and 9, shall be transferred and consolidated into section 455B.161 as transferred to subchapter 1. Section 455B.200B, subsection 6, as enacted by this Act, shall be consolidated into section 455B.161 as transferred to subchapter 1. Section 455B.200, as amended by this Act, shall also be transferred to subchapter 1.

b. Chapter 455B, division II, part 2, including sections amended or enacted by this Act, with the exception of section 455B.164, shall be transferred to new chapter 456D, as subchapter 2.

c. Chapter 455B, division III, part 1, subpart A, as enacted in this Act, with the exception of section 455B.200, as amended by this Act, and section 455B.207, as enacted by this Act, shall be transferred to new chapter 456D, as subchapter 3.

d. Sections 455B.125 through 455B.127, as enacted by this Act, shall be transferred to new chapter 456D, as subchapter 4.

e. Chapter 455J, with the exception of section 455J.1, shall be transferred to new chapter 456D, as subchapter 5.

f. Section 455B.110, as amended by this Act, is transferred to new chapter 456D, as subchapter 6. Sections 455B.167, and 455B.207, as enacted by this Act; section 455B.191, subsection 7, Code 2001, and section 455B.191,

subsection 8, as amended by this Act; and section 455B.104, subsection 2, are transferred as new sections to new subchapter 6.

2. The Code editor is directed to transfer chapter 455I to new chapter 456C. Subchapter 1 shall include section 455I.1, subsections 1 through 4 and 6 through 13, Code 2001. Subchapter 2 shall include a new section stating the following: As used in this subchapter, unless the context otherwise requires, "department" means the department of natural resources. Subchapter 2 shall include sections 455I.2 through 455I.7. Subchapter 3 shall include a new section stating the following: As used in this subchapter, unless the context otherwise requires, "department" means the department of agriculture and land stewardship. The Code editor is directed to transfer sections 159.28 through 159.29B, Code 2001, to new chapter 456C, subchapter 3.

Sec. 69. Section 455B.164, Code 2001, is repealed.

DIVISION III

RETROACTIVE APPLICABILITY AND EFFECTIVE DATES

Sec. 70. RETROACTIVE APPLICATION.

1. If the provisions of this Act would apply to require that a person must be issued a construction permit as provided in section 455B.200A, as amended by this Act, upon the enactment of this Act, for the construction of a confinement feeding operation structure, the requirements of section 455B.200A, as amended by this Act, shall apply retroactively as provided in this section. The provisions of this Act shall apply retroactively only if all of the following are satisfied:

a. An application for a permit to construct the confinement feeding operation structure was submitted to the department on or after April 1, 2002, but prior to the enactment of this Act, regardless of whether the department has approved the application; a manure management plan was submitted to the department without a construction permit as provided in 567 IAC 65.16(2) on or after April 1, 2002, but prior to the enactment of this Act regardless of whether the

department has approved the manure management plan; or construction of a confinement feeding operation structure has not begun upon the enactment of this Act and the person would otherwise be required to submit a manure management plan prior to the construction of the confinement feeding operation structure as provided in section 455B.203, as amended in this Act.

b. The department has not received evidence that an applicant or person submitting or required to submit a manure management plan as provided in subsection 2, has incurred commitments based on a reliance of the law as the law existed on March 31, 2002. The commitments must constitute a legal obligation for performance by the person to construct a confinement feeding operation structure. The applicant or other person required to submit the evidence to the department must submit such evidence not later than twenty-one days after the effective date of this Act.

2. This Act shall not apply retroactively other than as provided in this section. The department shall approve or disapprove a pending construction permit application or manure management plan not subject to subsection 1 and a person may construct a confinement feeding operation structure according to the applicable requirements of the 2001 Code of Iowa and rules adopted by the department and in effect on March 31, 2002.

3. Until March 1, 2003, the department shall use the interim matrix as provided in this Act in lieu of the master matrix required to be used pursuant to section 455B.200E.

Sec. 71. EFFECTIVE DATES.

1. Except as provided in subsections 2 and 3, this Act, being deemed of immediate importance, takes effect upon enactment.

2. The sections of this Act amending sections 455B.162, 455B.163, 455B.204, and 455B.204A, take effect on March 1, 2003. Sections 455B.200C and 455B.200E, as enacted in this Act, take effect on March 1, 2003. The provisions of section 455B.205A, as enacted by this Act, as the provisions apply to

confinement feeding operations storing manure exclusively on a dry matter basis, take effect upon the effective date of rules adopted to implement section 455B.205A.

3. Notwithstanding section 455B.203, as amended by this Act, a person shall not be required to submit a manure management plan update earlier than March 1, 2003. The department shall adopt rules necessary to administer this Act including these sections on and after the enactment of this Act.

MARY E. KRAMER
President of the Senate

BRENT SIEGRIST
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2293, Seventy-ninth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved *April 29*, 2002

THOMAS J. VILSACK
Governor

S.F. 2293