

FEB 4 1997
Agriculture

HOUSE FILE 149
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Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act regulating animal feeding operations located within
2 agricultural drainage well basins and making penalties
3 applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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HF 149

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

3 NEW SUBSECTION. 1A. "Agricultural drainage well" means a
4 vertical opening to an aquifer or permeable substratum which
5 is constructed by any means including but not limited to
6 drilling, driving, digging, boring, augering, jetting,
7 washing, or coring, and which is capable of intercepting or
8 receiving surface or subsurface drainage water from
9 agricultural land.

10 NEW SUBSECTION. 1B. "Agricultural drainage well basin"
11 means an area of land where surface and subsurface water
12 drains into an agricultural drainage well including by a
13 constructed drainage system which may contain tile lines,
14 laterals, surface inlets, or other improvements which
15 facilitate drainage.

16 NEW SUBSECTION. 1C. "Anaerobic lagoon" means the same as
17 defined in section 455B.161.

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

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

22 Sec. 2. Section 455B.173, subsection 13, Code 1997, is
23 amended to read as follows:

24 13. a. Adopt, modify, or repeal rules relating to the
25 construction, including expansion, or operation of animal
26 feeding operations. The rules shall include, but are not
27 limited to, minimum manure control requirements, requirements
28 for obtaining permits, and departmental evaluations of animal
29 feeding operations. The department shall not require that a
30 person obtain a permit for the construction of an animal
31 feeding operation structure, if the structure is part of a
32 small animal feeding operation.

33 b. The department shall collect an indemnity fee as
34 provided in section 204.3 prior to the issuance of a
35 construction permit. The department shall deposit moneys

1 collected in indemnity fees in the manure storage indemnity
2 fund created in section 204.2.

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

14 d. The department must approve a permit prior to the
15 construction of a secondary manure containment structure as
16 provided in section 455B.202 which is part of an animal
17 feeding operation, regardless of whether the secondary manure
18 containment structure is part of a small animal feeding
19 operation. When the department investigates a permit
20 application for the construction of an animal feeding
21 operation structure, the department shall evaluate the
22 potential for groundwater pollution caused by manure
23 originating from the animal feeding operation structure
24 draining into an agricultural drainage well. The department
25 shall not issue a permit for the construction of an anaerobic
26 lagoon or earthen manure storage basin which is on land
27 located within an agricultural drainage well basin as provided
28 in section 455B.202.

29 e. The department shall issue a permit for an animal
30 feeding operation, if an application is submitted according to
31 procedures required by the department, and the application
32 meets standards established by the department, regardless of
33 whether the animal feeding operation is required to obtain
34 such a permit.

35 f. An applicant for a construction permit shall not begin

1 construction at the location of a site planned for the
2 construction of an animal feeding operation structure, until
3 the person has been granted a permit for the construction of
4 the structure by the department. The department shall make a
5 determination regarding the approval or denial of a permit
6 within sixty days from the date that the department receives a
7 completed application for a permit. However, the sixty-day
8 requirement shall not apply to an application, if the
9 applicant is not required to obtain a permit in order to
10 construct an animal feeding operation structure or to operate
11 an animal feeding operation.

12 g. The department shall deliver a copy or require the
13 applicant to deliver a copy of the application for a
14 construction permit to the county board of supervisors in the
15 county where the confinement feeding operation or confinement
16 feeding operation structure subject to the permit is to be
17 located. The department shall not approve the application or
18 issue a construction permit until thirty days following
19 delivery of the application to the county board of
20 supervisors. The department shall consider comments from the
21 county board of supervisors, regarding compliance by the
22 applicant with the legal requirements for the construction of
23 the confinement feeding operation structure as provided in
24 this chapter, and rules adopted by the department pursuant to
25 this chapter, if the comments are delivered to the department
26 within fourteen days after receipt of the application by the
27 county board of supervisors.

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

35 i. A person shall not obtain a permit for the construction

1 of a confinement feeding operation, unless the person develops
2 a manure management plan as provided in section 455B.203.

3 j. The department shall not issue a permit to a person
4 under this subsection if an enforcement action by the
5 department, relating to a violation of this chapter concerning
6 a confinement feeding operation in which the person has an
7 interest, is pending. The department shall not issue a permit
8 to a person under this subsection for five years after the
9 date of the last violation committed by a person or
10 confinement feeding operation in which the person holds a
11 controlling interest during which the person or operation was
12 classified as a habitual violator under section 455B.191. The
13 department shall conduct an annual review of each confinement
14 feeding operation which is a habitual violator and each
15 confinement feeding operation in which a habitual violator
16 holds a controlling interest. The department shall notify
17 persons classified as habitual violators of their
18 classification, additional restrictions imposed upon the
19 persons pursuant to the classification, and special civil
20 penalties that may be imposed upon the persons. The notice
21 shall be sent to the persons by certified mail.

22 Sec. 3. NEW SECTION. 455B.202 ANIMAL FEEDING OPERATIONS
23 LOCATED IN AN AGRICULTURAL DRAINAGE WELL BASIN.

24 1. A person shall not construct or expand an anaerobic
25 lagoon or earthen manure storage basin on land located within
26 an agricultural drainage well basin.

27 2. The owner of an animal feeding operation located within
28 an agricultural drainage well basin shall, by July 1, 1998, do
29 either of the following:

30 a. Construct a secondary manure containment storage
31 structure surrounding each anaerobic lagoon or earthen manure
32 storage basin which is part of the animal feeding operation.
33 The secondary manure containment structure shall be
34 constructed of materials and according to specifications
35 required by rules which shall be adopted by the department in

1 order to ensure that any discharge of manure caused by a
2 design or construction fault in the anaerobic lagoon or
3 earthen manure storage basin is completely contained. The
4 department may provide different requirements based on
5 classifications established by the department.

6 b. Plug each agricultural drainage well located in the
7 agricultural drainage well basin. The agricultural drainage
8 well shall be plugged with materials and according to
9 specifications required by rules which shall be adopted by the
10 department. The department may provide different requirements
11 based on classifications established by the department. The
12 department's requirements shall ensure that an agricultural
13 drainage well is plugged by using sealing materials such as
14 bentonite to permanently seal the agricultural well from
15 contamination by surface or subsurface water drainage. If an
16 agricultural drainage well is located on land not owned by the
17 owner of an agricultural feeding operation, the agricultural
18 drainage well shall be plugged after consent is obtained from
19 the titleholder of the land where the agricultural drainage
20 well is located, according to such terms and conditions as
21 negotiated by the interested parties.

22 EXPLANATION

23 This bill amends provisions in Code chapter 455B which
24 regulates animal feeding operation structures, including
25 anaerobic lagoons and earthen manure storage basins, by the
26 department of natural resources. The bill regulates animal
27 feeding operations located in an agricultural drainage well
28 basin which is the area of land where surface and subsurface
29 water drains into an agricultural drainage well.

30 The bill prohibits the construction or expansion of an
31 anaerobic lagoon or earthen manure storage basin within an
32 agricultural drainage well basin. The bill provides that the
33 owner of an agricultural animal feeding operation located
34 within an agricultural drainage well basin must, by July 1,
35 1998, either construct a secondary manure containment storage

1 structure surrounding each anaerobic lagoon or earthen manure
2 storage basin which is part of the animal feeding operation or
3 plug each agricultural drainage well located in the
4 agricultural drainage well basin.

5 The bill provides that the department must approve a permit
6 prior to the construction of a secondary manure containment
7 structure. The bill requires that when the department
8 investigates an application for the construction of an animal
9 feeding operation structure, it must evaluate the potential
10 for groundwater pollution caused by manure originating from a
11 structure draining into an agricultural drainage well. The
12 bill prohibits the department from issuing a permit for the
13 construction of an anaerobic lagoon or earthen manure storage
14 basin which is on land located within the boundaries of an
15 agricultural drainage well basin.

16 The bill provides that the secondary containment structure
17 must be constructed or the agricultural drainage well must be
18 plugged with materials and according to specifications
19 required by rules adopted by the department. The bill
20 provides that the requirements may be based on different
21 classifications established by the department. The bill
22 provides that if an agricultural drainage well is located on
23 land not owned by an owner of the agricultural feeding
24 operation, the agricultural drainage well must be plugged
25 after consent is obtained from the titleholder of the land
26 where the agricultural drainage well is located, under such
27 terms and conditions that the interested parties negotiate.

28 A general civil penalty provision contained in Code section
29 455B.191 applies to a person who violates the bill. That Code
30 section provides in part that a violator is subject to a
31 \$5,000 civil penalty for each day of a violation.

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