

MAR 12 1997

Agriculture

HOUSE FILE
BY ARNOLD

568

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

A BILL FOR

1 An Act providing for special regulations for animal feeding
2 operations and related practices within certain watershed
3 areas and making penalties applicable.

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

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HF 568

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 NEW SUBSECTION. 29A. "Spray irrigation equipment" means
23 mechanical equipment used for the aerial application of manure
24 which receives manure from a structure which stores manure as
25 part of an animal feeding operation, including an animal
26 feeding operation structure during application via hoses or
27 piping, and which is a type of equipment which may also be
28 customarily used for artificial application of water to aid
29 the growing of general farm crops.

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

32 13. a. Adopt, modify, or repeal rules relating to the
33 construction, including expansion, or operation of animal
34 feeding operations. The rules shall include, but are not
35 limited to, minimum manure control requirements, requirements

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

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

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

22 d. The department must approve a permit prior to the
23 construction of a secondary manure containment structure
24 within a threatened area as provided in section 455B.202 which
25 is part of an animal feeding operation. When the department
26 investigates a permit application for the construction of an
27 animal feeding operation structure within a threatened area,
28 the department shall evaluate the potential for pollution to a
29 water supply source caused by manure originating from the
30 animal feeding operation structure. The department shall not
31 issue a permit for the construction of an anaerobic lagoon or
32 earthen manure storage basin which is on land located within a
33 threatened area as provided in section 455B.202, unless a
34 secondary manure containment structure is constructed around
35 the anaerobic lagoon or earthen manure storage basin as

1 provided in section 455B.202.

2 e. The department shall issue a permit for an animal
3 feeding operation, if an application is submitted according to
4 procedures required by the department, and the application
5 meets standards established by the department, regardless of
6 whether the animal feeding operation is required to obtain
7 such a permit.

8 f. An applicant for a construction permit shall not begin
9 construction at the location of a site planned for the
10 construction of an animal feeding operation structure, until
11 the person has been granted a permit for the construction of
12 the structure by the department. The department shall make a
13 determination regarding the approval or denial of a permit
14 within sixty days from the date that the department receives a
15 completed application for a permit. However, the sixty-day
16 requirement shall not apply to an application, if the
17 applicant is not required to obtain a permit in order to
18 construct an animal feeding operation structure or to operate
19 an animal feeding operation.

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

1 h. Prior to granting a permit to a person for the
2 construction of an animal feeding operation structure, the
3 department may require the installation and operation of a
4 hydrological monitoring system for an exclusively earthen
5 manure storage structure, if, after an on-site inspection, the
6 department determines that the site presents an extraordinary
7 potential for groundwater pollution.

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

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

30 Sec. 3. NEW SECTION. 455B.202 SPECIAL REGULATIONS
31 APPLICABLE WITHIN CERTAIN WATERSHEDS.

32 1. As used in this section, "threatened area" means the
33 area within a watershed which is part of a water impoundment
34 owned by the federal government, if water is directly drawn
35 from the impoundment to supply drinking water to human

1 populations.

2 2. A person shall not apply manure by spray irrigation
3 equipment within a threatened area.

4 3. Not later than July 1, 1998, the owner of an animal
5 feeding operation where there is located an anaerobic lagoon
6 or earthen manure storage basin shall construct a secondary
7 manure containment storage structure surrounding the anaerobic
8 lagoon or earthen manure storage basin. A person shall not
9 construct or expand an anaerobic lagoon or earthen manure
10 storage basin within a threatened area unless the person
11 constructs a secondary manure containment storage structure
12 surrounding the anaerobic lagoon or earthen manure storage
13 basin.

14 The secondary manure containment structure shall be
15 constructed of materials and according to specifications
16 required by rules which shall be adopted by the department in
17 order to ensure that any discharge of manure caused by a
18 design or construction fault in the anaerobic lagoon or
19 earthen manure storage basin is completely contained. The
20 department may provide different requirements based on
21 classifications established by the department.

22 EXPLANATION

23 This bill amends provisions in Code chapter 455B which
24 provides for the regulation of animal feeding operation
25 structures, including anaerobic lagoons and earthen manure
26 storage basins, by the department of natural resources. The
27 bill regulates animal feeding operations located in an area
28 within a watershed which is part of a federal impoundment used
29 to supply drinking water.

30 The bill provides that the owner of an agricultural animal
31 feeding operation where there is located an anaerobic lagoon
32 or earthen manure storage basin must, by July 1, 1998,
33 construct a secondary manure containment storage structure
34 surrounding each anaerobic lagoon or earthen manure storage
35 basin which is part of the animal feeding operation. The bill

1 requires a person who constructs a new anaerobic lagoon or
2 earthen manure storage basin also to construct a secondary
3 containment structure surrounding the lagoon or basin.

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

15 The bill provides that the secondary manure containment
16 storage structure must be constructed with materials and
17 according to specifications required by rules adopted by the
18 department.

19 A general civil penalty provision contained in Code section
20 455B.191 applies to a person who violates the bill. That Code
21 section provides in part that a violator is subject to a
22 \$5,000 civil penalty for each day of a violation.

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