

FILED JAN 9 '01

SENATE FILE
BY ANGELO

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

A BILL FOR

1 An Act relating to confinement feeding operations, by providing
2 for generally accepted agricultural management practices, and
3 making penalties applicable.

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

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SF 10 AGRICULTURE

1 Section 1. Section 335.2, Code 2001, is amended to read as
2 follows:

3 335.2 FARMS EXEMPT.

4 1. Except to-the-extent-required-to-implement-section
5 335.27, no as provided in subsection 2, an ordinance adopted
6 under this chapter applies shall not apply to land, farm and
7 related structures including but not limited to houses, farm
8 barns, farm or outbuildings or other buildings or structures
9 which are primarily adapted, by reason of nature and area, for
10 use for agricultural purposes, while so used. However, the
11 ordinances

12 2. A county board of supervisors may apply to any adopt an
13 ordinance under this chapter which applies to any of the
14 following:

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

17 b. A structure, building, dam, obstruction, deposit, or
18 excavation in or on the flood-plains floodplains of any a
19 river or stream.

20 c. The siting of a confinement feeding operation,
21 according to a generally accepted agricultural management
22 practices ordinance adopted pursuant to section 335.2A.

23 Sec. 2. NEW SECTION. 335.2A GENERALLY ACCEPTED
24 AGRICULTURAL MANAGEMENT PRACTICES ORDINANCE.

25 Notwithstanding section 331.304A, a county may adopt a
26 generally accepted agricultural management practices ordinance
27 which shall be part of other regulations provided in this
28 chapter. The ordinance shall regulate the siting of animal
29 feeding operation structures which are part of confinement
30 feeding operations as defined in section 455B.161. The
31 ordinance shall be subject to adoption by the county board of
32 supervisors in the same manner as other regulations adopted
33 pursuant to this chapter. For purposes of this section, an
34 amendment to a generally accepted agricultural management
35 practices ordinance shall be considered a new ordinance.

1 1. The ordinance shall apply to animal feeding operation
2 structures constructed or expanded on and after the effective
3 date of this Act. The ordinance may provide for different
4 regulations for confinement feeding operations based on the
5 animal weight capacity of the confinement feeding operation.
6 However, the ordinance must be consistent with the county's
7 comprehensive plan as required by section 335.5, and other
8 regulations adopted pursuant to this chapter. The ordinance
9 shall provide special requirements due to conditions that
10 exist in that county. The ordinance shall not provide for
11 less stringent requirements for siting than required in
12 chapter 455B, including section 455B.118. The ordinance may
13 provide for separation distance requirements that exceed the
14 requirements of chapter 455B, division II, part 2, or section
15 455B.204.

16 2. The ordinance shall not become effective until it is
17 approved by the department of natural resources as provided in
18 section 455B.118. The county shall submit the ordinance to
19 the department in a manner and according to procedures
20 required by the department. The county shall include with the
21 submitted ordinance an explanation of its provisions and a
22 rationale for why it is necessary in order to carry out the
23 purposes of section 455B.118.

24 Sec. 3. NEW SECTION. 455B.118 GENERALLY ACCEPTED
25 AGRICULTURAL MANAGEMENT PRACTICES.

26 1. The purpose of this section is to develop generally
27 accepted agricultural management practices in siting
28 confinement feeding operations and associated animal feeding
29 operation structures as defined in section 455B.161, for
30 purposes of preserving the outdoor atmosphere and the quality
31 of the state's surface and subsurface waters from substances
32 which may be injurious to human, animal, or plant life; or
33 which may unreasonably interfere with the enjoyment of life
34 and property. The practices shall accommodate the need to
35 preserve the availability of farmland reserved for confinement

1 feeding operations.

2 2. The department shall establish the practices by rules
3 adopted pursuant to chapter 17A in conformity with this
4 section. The department shall establish the rules after
5 consultation with the generally accepted agricultural
6 management practices council as provided in section 455B.119.
7 The generally accepted agricultural management practices shall
8 provide for siting confinement feeding operations in
9 conformance with the purpose of this section based on criteria
10 used for the siting as provided in sections 455B.161B and
11 455B.200. The rules shall apply to the animal feeding
12 operation structures constructed or expanded on and after the
13 effective date of this Act. The department may require
14 compliance pursuant to rule or as a condition to issuing a
15 permit pursuant to section 455B.200A.

16 3. a. The department shall review a county generally
17 accepted agricultural management practices ordinance adopted
18 by a county pursuant to section 335.2A. The department shall
19 approve the ordinance if the county demonstrates that in order
20 to carry out the purposes of this section, the county must
21 adopt special requirements that apply to the siting of
22 confinement feeding operations. The department may require
23 that the ordinances be based on guidelines adopted by the
24 department which utilize a methodology for siting based on
25 special circumstances.

26 b. The department shall approve or disapprove the
27 ordinance within sixty days following its submission as
28 required by rules adopted by the department. The department
29 may consult with interested persons, including the generally
30 accepted agricultural management practices council, the Iowa
31 department of public health, or other local or state agencies.
32 The department shall conduct a public hearing regarding the
33 proposed ordinance in order to receive comments from members
34 of the public.

35 Sec. 4. NEW SECTION. 455B.119 GENERALLY ACCEPTED

1 AGRICULTURAL MANAGEMENT PRACTICES COUNCIL.

2 1. A generally accepted agricultural management practices
3 council is established within the department. The members
4 shall be electors of the state and have knowledge of
5 confinement feeding operations as provided in this chapter and
6 relevant regulations affecting confinement feeding operations.
7 The appointments shall be based upon the training, experience,
8 and capacity of the appointees, and not based upon political
9 considerations, other than as provided in section 69.16.

10 2. The council shall be composed of five persons appointed
11 by the governor, subject to confirmation by the senate, who
12 shall include all of the following:

13 a. A person actively engaged in confinement feeding
14 operations.

15 b. A person who is interested in animal agriculture and
16 its relationship with environmental quality.

17 c. Two persons who are interested in animal agriculture
18 and county land use planning.

19 d. One person who is interested in animal agriculture and
20 its effect upon the public health.

21 3. The council shall be staffed by departmental personnel.

22 4. The members shall serve three-year terms beginning and
23 ending as provided in section 69.19. However, the governor
24 shall provide that some initial members serve for less than
25 three years to ensure that members serve staggered terms. A
26 vacancy on the council shall be filled for the unexpired
27 portion of the regular term in the same manner as regular
28 appointments are made.

29 5. The council shall elect a chairperson and meet on a
30 regular basis and at the call of the chairperson or upon the
31 written request to the chairperson of two or more members.

32 6. The members are entitled to receive a per diem and
33 expenses as specified in section 7E.6.

34 7. Three members constitute a quorum and the affirmative
35 vote of a majority of the members present is necessary for any

1 substantive action to be taken by the council. The majority
2 shall not include any member who has a conflict of interest
3 and a statement by a member that the member has a conflict of
4 interest is conclusive for this purpose. A vacancy in the
5 membership does not impair the duties of the council.

6 8. The council shall advise the department in adopting
7 generally accepted agricultural management practices and when
8 approving generally accepted agricultural management practices
9 ordinances pursuant to section 455B.118.

10 Sec. 5. NEW SECTION. 455B.161B REQUIREMENTS FOR
11 GENERALLY ACCEPTED AGRICULTURAL MANAGEMENT PRACTICES -- AIR
12 QUALITY.

13 1. Generally accepted agricultural management practices as
14 provided in section 455B.118 shall provide for siting of
15 confinement feeding operations, based on all of the following:

16 a. The need to prevent the congestion of confinement
17 feeding operations especially near populated areas.

18 b. The availability of land for the application of manure
19 originating from the confinement feeding operation.

20 c. The need to preserve areas of natural, scenic,
21 historic, or cultural importance.

22 2. Except to the extent that a separation distance
23 requirement does not apply under section 455B.165, a generally
24 accepted agricultural management practice adopted pursuant to
25 section 455B.118 may require a separation distance that is
26 more stringent than provided under this part. The distance
27 requirement may apply between an animal feeding operation
28 structure and an object or location benefiting from the
29 separation distance requirement as provided in this part. The
30 accepted agricultural management practice shall not decrease a
31 separation distance requirement otherwise provided in this
32 part.

33 Sec. 6. Section 455B.162, unnumbered paragraph 1, Code
34 2001, is amended to read as follows:

35 The Except to the extent that it is inconsistent with

1 generally accepted agricultural management practices as
2 provided in section 455B.161B, the following shall apply to
3 animal feeding operation structures:

4 Sec. 7. Section 455B.200, Code 2001, is amended to read as
5 follows:

6 455B.200 GENERAL COMMISSION AUTHORITY; GENERALLY ACCEPTED
7 AGRICULTURAL MANAGEMENT PRACTICES.

8 1. The commission shall establish by rule adopted pursuant
9 to chapter 17A, requirements relating to the construction,
10 including expansion, or operation of animal feeding
11 operations, including related animal feeding operation
12 structures. The requirements shall include but are not
13 limited to minimum manure control, the issuance of permits,
14 and departmental investigations, inspections, and testing.

15 2. a. The commission shall adopt rules providing for
16 generally accepted agricultural management practices as
17 provided in this section. The generally accepted agricultural
18 management practices shall provide requirements for the siting
19 of a confinement feeding operation based on criteria
20 established to carry out the purposes provided in section
21 455B.118. The practices shall provide for siting of
22 confinement feeding operations, based on all of the following:

23 (1) The suitability of soils and the hydrology of the
24 site.

25 (2) Whether the construction or expansion of a proposed
26 animal feeding operation structure will impede drainage
27 through established tile lines, laterals, or other
28 improvements which are constructed to facilitate the drainage
29 of land not owned by the person applying for the construction
30 permit.

31 (3) The proximity to fragile environmental areas.

32 (4) The proximity to drinking water supplies.

33 b. A generally accepted agricultural management practice
34 adopted by the commission or a county pursuant to section
35 455B.118 may require a separation distance that is more

1 stringent than provided under this part. The distance
2 requirement may apply between an animal feeding operation
3 structure and an object or location benefiting from the
4 separation distance requirement as provided in this part. The
5 generally accepted agricultural management practice shall not
6 decrease a separation distance requirement otherwise provided
7 in this part.

8 Sec. 8. Section 455B.200A, subsection 1, Code 2001, is
9 amended to read as follows:

10 1. The department shall issue permits for the
11 construction, including the expansion, of animal feeding
12 operation structures, including structures which are part of
13 confinement feeding operations, as provided by rules adopted
14 pursuant to section 455B.200. The department shall issue a
15 permit to an animal feeding operation if an application is
16 submitted according to procedures required by the department
17 and the application meets standards established by the
18 department, regardless of whether the animal feeding operation
19 is required to obtain such a permit. The department shall not
20 issue a permit for the construction of a confinement feeding
21 operation unless it complies with generally accepted
22 agricultural management practices as provided in section
23 455B.118. The department shall not require that a person
24 obtain a permit for the construction of an animal feeding
25 operation structure if the structure is part of a small animal
26 feeding operation. For purposes of this section, an animal
27 feeding operation structure includes a manure storage
28 structure.

29 Sec. 9. Section 455B.200A, subsection 7, unnumbered
30 paragraph 1, Code 2001, is amended to read as follows:

31 The department shall deliver a copy or require the
32 applicant to deliver a copy of the application for a
33 construction permit for the construction of a confinement
34 feeding operation or related animal feeding operation
35 structure, including the manure management plan and supporting

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

5 Sec. 10. Section 455B.204, subsection 2, unnumbered
6 paragraph 1, Code 2001, is amended to read as follows:

7 Except to the extent that it is inconsistent with generally
8 accepted agricultural management practices as provided in
9 section 455B.200, or as provided in subsection 3, the

10 following shall apply:

11 EXPLANATION

12 This bill amends a number of provisions allowing for the
13 siting of confinement feeding operations. The bill amends
14 provisions in Code section 335.2 that provide that county
15 zoning does not apply to farming operations. This bill amends
16 that section to provide that a county may adopt a generally
17 accepted agricultural management practices ordinance. The
18 ordinance must be approved by the department of natural
19 resources. The department may adopt its own generally
20 accepted agricultural management practices for the siting of
21 confinement feeding operations. In both cases, the practices
22 must carry out certain purposes, including preserving the
23 outdoor atmosphere and the quality of the state's surface and
24 subsurface waters from substances which may be injurious to
25 human, animal, or plant life; or which may unreasonably
26 interfere with the enjoyment of life and property. The
27 practices must accommodate the need to preserve the
28 availability of farmland reserved for confinement feeding
29 operations. A generally accepted agricultural management
30 practices council is established in order to assist the
31 department in establishing practices or approving ordinances.
32 The bill amends provisions in divisions of Code chapter 455B
33 which regulate air and water quality. The bill provides that
34 the generally accepted agricultural management practices may
35 increase required separation distances between animal feeding

1 operation structures and objects and locations provided in the
2 chapter.

3 A person who violates provisions of Code chapter 455B
4 regulating air quality is subject to a civil penalty of
5 \$10,000, and a person who violates provisions of the chapter
6 regulating water quality is subject to a civil penalty of not
7 more than \$5,000. However, a person classified as a habitual
8 violator is subject to a civil penalty of not more than
9 \$25,000.

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