

CHAPTER 1269
ANHYDROUS AMMONIA PLANTS
H.F. 2100

AN ACT relating to the location and operation of anhydrous ammonia plants and defining nuisance as the term relates to the plants.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 200.3, Code 1983, is amended by adding the following new subsections:

NEW SUBSECTION. 20. "Anhydrous ammonia plant" means a facility used for the manufacture or distribution of the compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the proportion of one part nitrogen to three parts hydrogen by volume.

NEW SUBSECTION. 21. "Established date of operation" means the date on which an anhydrous ammonia plant commenced operating. If the physical facilities of the plant are subsequently expanded, the established date of operation for each expansion is deemed to be a separate and independent "established date of operation" established as of the date of commencement of the expanded operations. The commencement of expanded operations does not divest the plant of a previously established date of operation.

NEW SUBSECTION. 22. "Established date of ownership" means the date of the recording of an appropriate instrument of title establishing the ownership of real estate.

NEW SUBSECTION. 23. "Rule" means a rule as defined in section 17A.2 which materially affects the operation of an anhydrous ammonia plant. The term includes a rule which was in effect prior to July 1, 1984.

NEW SUBSECTION. 24. "Nuisance" means public or private nuisance as defined by statute or by the common law.

NEW SUBSECTION. 25. "Nuisance action or proceeding" means an action, claim or proceeding brought at law, in equity, or as an administrative proceeding, which is based on nuisance.

NEW SUBSECTION. 26. "Owner" means the person holding record title to real estate, and includes both legal and equitable interest under recorded real estate contracts.

Sec. 2. **NEW SECTION. 200.21 COMPLIANCE—A DEFENSE TO NUISANCE ACTIONS.** In a nuisance action or proceeding against an anhydrous ammonia plant brought by or on behalf of the person whose established date of ownership is subsequent to the established date of operation of an anhydrous ammonia plant, proof of compliance with applicable provisions of chapter 200 and applicable rules adopted pursuant to section 200.14 shall be a defense to a nuisance action or proceeding.

Approved May 14, 1984