

Klemme, Chair
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Teig

HSB 668

Agriculture

HOUSE FILE 5 02468
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON KLEMME)

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

A BILL FOR

1 An Act relating to animal agriculture, providing for fees and
2 appropriations, and providing for penalties.

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

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1 Section 1. Section 455B.200, Code 2001, is amended by
 2 adding the following new unnumbered paragraph:
 3 NEW UNNUMBERED PARAGRAPH. The department shall regulate
 4 animal feeding operations consistent with the provisions of
 5 this chapter, including by providing for the construction of
 6 animal feeding operation structures; the siting of such
 7 structures, including by providing separation distances;
 8 providing for permits; providing construction standards; and
 9 providing manure management practices, including storage,
 10 removal, and application requirements. The department may
 11 impose penalties for violations of this section as provided in
 12 chapter 455B.191. The department may establish fees and
 13 create funds for the deposit of those fees as required to
 14 administer and enforce the provisions of this chapter. Moneys
 15 in funds established under this chapter may be appropriated to
 16 the department. The department may provide for the
 17 administration of the manure storage indemnity fund as
 18 provided in section 455J.2 and for agricultural drainage well
 19 systems as provided in chapter 455I.

20 EXPLANATION

21 This bill amends Code section 455B.200 providing general
 22 authority to the department of natural resources to regulate
 23 animal feeding operations. The bill authorizes the department
 24 to provide for a broad range of regulations consistent with
 25 the provisions existing in the chapter relating to both air
 26 and water quality. The department is authorized to establish
 27 fees and create funds for the deposit of fees and to expend
 28 moneys from those funds required to administer and enforce the
 29 provisions of the Code chapter. The bill also provides that
 30 the department may provide for the administration of the
 31 manure storage indemnity fund as provided in Code section
 32 455J.2 and for agricultural drainage well systems as provided
 33 in Code chapter 455I.

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Substituted for by SF 2293
4-12-02
(P. 1476)
FEB 20 2002
Place On Calendar

3/14/02 UNFINISHED BUSINESS CALENDAR
4/10/02 Amend/Do Pass w/A 8613

HOUSE FILE 2468
BY COMMITTEE ON AGRICULTURE

WITHDRAWN

(SUCCESSOR TO HSB 668)

Passed House, Date _____ Passed Senate, 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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HF 2468

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2468

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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HOUSE FILE 2468

H-8613

1 Amend House File 2468 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.

H-8613

H-8613

Page 2

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

H-8613

H-8613

Page 3

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.

H-8613

H-8613

Page 4

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:

H-8613

-4-

H-8613

Page 5

- 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

H-8613

Page 6

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

H-8613

H-8613

Page 7

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

H-8613

H-8613

Page 8

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

H-8613

H-8613

Page 10

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:

	For a confinement feeding operation having an animal unit capacity of less than 1,000 animal units	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
23 Confinement feeding 24 operation 25 structure	1,875	2,500	3,000

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

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

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

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

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

H-8613

Page 11

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

H-8613

H-8613

Page 12

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

H-8613

H-8613

Page 13

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

H-8613

H-8613

Page 15

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,

H-8613

H-8613

Page 16

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~~

H-8613

H-8613

Page 17

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

H-8613

-17-

H-8613

Page 18

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

H-8613

H-8613

Page 20

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

H-8613

H-8613

Page 21

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

H-8613

H-8613

Page 22

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

H-8613

H-8613

Page 23

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

H-8613

H-8613

Page 24

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

H-8613

H-8613

Page 25

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

H-8613

H-8613

Page 26

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

H-8613

H-8613

Page 27

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

H-8613

H-8613

Page 28

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

H-8613

H-8613

Page 29

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

H-8613

H-8613

Page 30

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~~

H-8613

H-8613

Page 31

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

H-8613

Page 32

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

H-8613

H-8613

Page 33

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

H-8613

Page 34

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.

H-8613

H-8613

Page 35

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

H-8613

H-8613

Page 36

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

H-8613

H-8613

Page 37

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

H-8613

H-8613

Page 38

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 ~~waterecourse~~
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 ~~waterecourse~~ water source, other than a
13 major water source, shall not be constructed,
14 expanded, or diverted, if the ~~waterecourse~~ water source
15 as constructed, expanded, or diverted is closer than
16 ~~two~~ 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

H-8613

-38-

H-8613

Page 39

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:

H-8613

H-8613

Page 40

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

H-8613

H-8613

Page 41

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

H-8613

Page 42

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.

H-8613

H-8613

Page 43

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

H-8613

H-8613

Page 44

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.

H-8613

H-8613

Page 45

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

H-8613

H-8613

Page 46

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.

H-8613

-46-

H-8613

Page 47

- 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

H-8613

Page 48

- 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

H-8613

H-8613

Page 49

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 substant 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

H-8613

H-8613

Page 50

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.

29 DIVISION II

30 DIRECTIONS TO CODE EDITOR,
31 CHANGE THE NAME OF TERMS AND
32 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

H-8613

H-8613

Page 51

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

H-8613

H-8613

Page 52

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

H-8613

H-8613

Page 53

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

H-8613

H-8613

Page 54

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
KLEMME of Plymouth, Chairperson

H-8613 FILED APRIL 11, 2002

0/0
4/12/02

HOUSE FILE 2468

H-8649

1 Amend House File 2468 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.

H-8649

H-8649

Page 2

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

H-8649

H-8649

Page 3

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.

H-8649

-3-

H-8649

Page 4

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:

H-8649

-4-

H-8649

Page 5

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
- 39 three hundred thirty-three or 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

H-8649

H-8649

Page 6

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

H-8649

H-8649

Page 7

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

H-8649

H-8649

Page 8

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

H-8649

H-8649

Page 9

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

H-8649

Page 10

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	confinement	feeding	operation	having an	animal unit	capacity of	1,000 or more	but less than	3,000 animal
	confinement	feeding	operation	having an	animal unit	capacity of	1,000 or more	but less than	3,000 or	more animal
	feeding	operation	having an	animal unit	capacity of	1,000 or more	but less than	3,000 animal	more animal	units
	operation	having an	animal unit	capacity of	1,000 or more	but less than	3,000 animal	more animal	units	units
	having an	animal unit	capacity of	1,000 or more	but less than	3,000 animal	more animal	units	units	units
	animal unit	capacity of	1,000 or more	but less than	3,000 animal	more animal	units	units	units	units
	capacity of	1,000 or more	but less than	3,000 animal	more animal	units	units	units	units	units
	less than	3,000 animal	more animal	units	units	units	units	units	units	units
	1,000 animal	more animal	units	units						
23	Type of structure	units	units							
24	Confinement feeding									
25	operation									
26	structure	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 confinement feeding operation storing manure
 42 in a manure storage structure shall only use an animal
 43 feeding operation a manure storage structure which
 44 that employs bacterial action which is maintained by
 45 the utilization of air or oxygen, and which shall
 46 include aeration equipment. The type and degree of
 47 treatment technology required to be installed shall be
 48 based on the size of the confinement feeding
 49 operation, according to rules adopted by the
 50 department. The equipment shall be installed,

H-8649

Page 11

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~~ For a confinement feeding
14 operation structure as constructed or expanded prior
15 to January 1, 1999, any construction or expansion of a
16 confinement feeding operation structure complies with
17 the distance requirements applying to that structure
18 as provided in section 455B.162, subsections 1 and 3.

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

26 c. For a confinement feeding operation constructed
27 on or after March 1, 2003, any construction or
28 expansion of a confinement feeding operation structure
29 complies with the distance requirements applying to
30 that structure as provided in section 455B.162,
31 subsections 3A and 3B.

32 2. All of the following apply to the expansion of
33 the ~~animal~~ confinement feeding operation:

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

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

44 (1) Double its animal weight capacity on the
45 following dates:

46 (a) May 31, 1995, for ~~an animal~~ a confinement
47 feeding operation that includes a confinement feeding
48 operation structure constructed prior to January 1,
49 1999, or on.

50 (b) January 1, 1999, for ~~an animal~~ a confinement

H-8649

-11-

H-8649

Page 12

1 feeding operation that only includes a confinement
2 feeding operation structure constructed on or after
3 January 1, 1999, but does include a confinement
4 feeding operation structure constructed prior to March
5 1, 2003.

6 (2) Either of the following:

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

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

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

16 (1) Double its animal unit capacity on March 1,
17 2003.

18 (2) One thousand animal units.

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

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

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

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

36 Sec. 21. Section 455B.165, subsections 1, 4, and
37 5, Code 2001, are amended by striking the subsections.

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

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

H-8649

-12-

H-8649

Page 13

1 maintaining the public thoroughfare benefiting from
2 the distance separation requirement may execute a
3 written waiver with the titleholder of the land where
4 the structure is located. The ~~animal~~ confinement
5 feeding operation structure shall be constructed or
6 expanded under such terms and conditions that the
7 parties negotiate.

8 Sec. 23. NEW SECTION. 455B.166 DEPARTMENT OF
9 NATURAL RESOURCES -- DEVELOPMENT OF COMPREHENSIVE
10 PLANS AND PROGRAMS FOR AIR QUALITY.

11 1. As used in this section, unless the context
12 otherwise requires:

13 a. "Airborne pollutant" means hydrogen sulfide,
14 ammonia, or odor.

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

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

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

41 b. Any air quality standard established by the
42 department for animal feeding operations shall be
43 based on and enforced at distances measured from a
44 confinement feeding operation structure to a separated
45 location. In providing for the enforcement of the
46 standards, the department shall take all initial
47 measurements at the separated location. If the
48 department determines that a violation of the
49 standards exists, the department may conduct an
50 investigation to trace the source of the airborne

H-8649

H-8649

Page 14

1 pollutant. This section does not prohibit the
2 department from entering the premises of an animal
3 feeding operation in compliance with section 455B.103.
4 The department shall comply with standard biosecurity
5 requirements customarily required by the animal
6 feeding operation which are necessary in order to
7 control the spread of disease among an animal
8 population.

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

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

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

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

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

31 Sec. 26. Section 455B.191, subsection 8, Code
32 2001, is amended to read as follows:

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

39 SUBPART B

40 ANIMAL FEEDING OPERATIONS

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

43 455B.200 GENERAL.

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

H-8649

-14-

H-8649

Page 15

1 investigations, inspections, and testing.

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

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

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

21 Sec. 28. Section 455B.200A, subsections 1 through
22 4, Code 2001, are amended to read as follows:

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

45 a. Except as provided in paragraph "b", a person
46 must obtain a permit to construct any of the
47 following:

48 (1) A confinement feeding operation structure if
49 after construction its confinement feeding operation
50 would have an animal unit capacity of at least one

H-8649

-15-

H-8649

Page 16

1 thousand animal units.

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

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

7 (1) The confinement feeding operation structure,
8 if constructed, would be part of a small animal
9 feeding operation. However, the person must obtain a
10 permit under this section if the confinement feeding
11 operation structure is an unformed manure storage
12 structure.

13 (2) The confinement feeding operation structure is
14 part of a confinement feeding operation which is owned
15 by a research college conducting research activities
16 as provided in section 455B.206.

17 2. The department shall issue a construction
18 permit upon approval of an application. The
19 department shall approve the application ~~meets~~
20 ~~standards established by the department,~~ if the
21 application is submitted to the county board of
22 supervisors in the county where the proposed
23 confinement feeding operation is to be located as
24 required pursuant to section 455B.200E, and the
25 application meets the requirements of this chapter.
26 If a county submits an approved recommendation
27 pursuant to a construction evaluation resolution filed
28 with the department, the application must also achieve
29 a satisfactory rating produced by the master matrix
30 used by the board or department under section
31 455B.200E. The department shall approve the
32 application regardless of whether the ~~animal feeding~~
33 ~~operation applicant~~ is required to ~~obtain such to be~~
34 ~~issued a construction permit. The department shall~~
35 ~~not require that a person obtain a permit for the~~
36 ~~construction of an animal feeding operation structure~~
37 ~~if the structure is part of a small animal feeding~~
38 ~~operation. For purposes of this section, an animal~~
39 ~~feeding operation structure includes a manure storage~~
40 ~~structure.~~

41 ~~2- 3. The department shall not ~~issue~~ approve an~~
42 ~~application for a construction permit for the~~
43 ~~construction of an animal feeding operation structure~~
44 ~~which is part of a confinement feeding operation~~
45 ~~unless the person applicant submits all of the~~
46 ~~following:~~

47 a. An indemnity fee as provided in section 455J.3
48 ~~which~~ that the department shall deposit into the
49 manure storage indemnity fund created in section
50 455J.2.

H-8649

-16-

H-8649

Page 17

1 b. A manure management plan as provided in section
2 455B.203 and manure management plan filing fee as
3 provided in section 455B.203C.

4 c. A construction permit application fee as
5 provided in section 455B.203C.

6 3A. The applicant may submit a master matrix as
7 completed by the applicant.

8 ~~3.~~ 4. a. A confinement feeding operation meets
9 threshold requirements under this paragraph if the
10 confinement feeding operation after construction of a
11 proposed confinement feeding operation structure would
12 have a minimum animal unit capacity of the following:

13 (1) Three thousand animal units for animals other
14 than swine maintained as part of a swine farrowing and
15 gestating operation or farrow-to-finish operation or
16 cattle maintained as part of a cattle operation.

17 (2) One thousand two hundred fifty animal units
18 for swine maintained as part of a swine farrowing and
19 gestating operation.

20 (3) Two thousand seven hundred fifty animal units
21 for swine maintained as part of a farrow-to-finish
22 operation.

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

25 b. The department shall not ~~issue~~ approve an
26 application for a construction permit ~~for the~~
27 ~~construction of~~ unless the following apply:

28 (1) If the application is for a permit to
29 construct an unformed manure storage structure, the
30 application must include a statement approved by a
31 professional engineer certifying that the construction
32 of the unformed manure storage structure complies with
33 the construction design standards required in this
34 subpart.

35 (2) If the application is for a permit to
36 construct three or more animal confinement feeding
37 operation structures ~~unless the applicant files, the~~
38 application must include a statement ~~approved by a~~
39 ~~professional engineer registered pursuant to chapter~~
40 ~~542B certifying~~ providing that the construction of the
41 animal confinement feeding operation structures will
42 not impede the drainage through established drainage
43 tile lines which cross property boundary lines unless
44 measures are taken to reestablish the drainage prior
45 to completion of construction. For a confinement
46 feeding operation that meets threshold requirements,
47 the statement must be approved by a professional
48 engineer. Otherwise, if the application is for a
49 permit to construct a formed manure storage structure,
50 the statement must be part of the construction design

H-8649

-17-

H-8649

Page 18

1 statement as provided in section 455B.200C.

2 (3) If the application is for a permit to
3 construct a formed manure storage structure, other
4 than for a confinement feeding operation meeting
5 threshold requirements, the applicant must include a
6 construction design statement as provided in section
7 455B.200C. An application for a permit to construct a
8 formed manure storage structure as part of a
9 confinement feeding operation that meets threshold
10 requirements must include a statement approved by a
11 professional engineer certifying that the construction
12 of the formed manure storage structure complies with
13 the requirements of this subpart.

14 (4) The department may only require that an
15 application for a permit to construct a formed manure
16 storage structure or egg washwater storage structure
17 that is part of a confinement feeding operation
18 meeting threshold requirements include an engineering
19 report, construction plans, or specifications prepared
20 by a licensed professional engineer or the natural
21 resources conservation service of the United States
22 department of agriculture.

23 ~~4. 5. Prior As a condition to issuing a permit to~~
24 ~~a person approving an application for the construction~~
25 ~~of an animal feeding operation a construction permit,~~
26 the department may require any of the following:

27 a. The installation of a related pollution control
28 device or practice, including but not limited to the
29 installation and operation of a hydrological water
30 pollution monitoring system for an exclusively earthen
31 unformed manure storage structure according to rules
32 which shall be adopted by the department.

33 b. The department's approval of the installation
34 of any proposed system to permanently lower the
35 groundwater table at a site as part of the
36 construction of an unformed manure storage structure,
37 as is necessary to ensure that the unformed manure
38 storage structure does not pollute groundwater
39 sources, including providing for standards as provided
40 in section 455B.205.

41 Sec. 29. Section 455B.200A, subsections 5 through
42 8, Code 2001, are amended by striking the subsections.

43 Sec. 30. Section 455B.200B, unnumbered paragraph
44 1, Code 2001, is amended to read as follows:

45 For purposes of this ~~part~~ subpart, all of the
46 following shall apply:

47 Sec. 31. Section 455B.200B, subsection 1, Code
48 2001, is amended by striking the subsection and
49 inserting in lieu thereof the following:

50 1. Two or more animal feeding operations under

H-8649

H-8649

Page 19

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

7 a. At least one confinement feeding operation
8 structure must be constructed on and after May 21,
9 1998.

10 b. A confinement feeding operation structure which
11 is part of one confinement feeding operation is
12 separated by less than a minimum required distance
13 from a confinement feeding operation structure which
14 is part of the other confinement feeding operation.

15 The minimum required distance shall be as follows:

16 (1) One thousand two hundred fifty feet for
17 confinement feeding operations having a combined
18 animal unit capacity of less than one thousand animal
19 units.

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

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

25 NEW SUBSECTION. 3. In calculating the animal unit
26 capacity of a confinement feeding operation, the
27 animal unit capacity shall include the animal unit
28 capacity of all confinement feeding operation
29 buildings which are part of the confinement feeding
30 operation, unless a confinement feeding operation
31 building has been abandoned as provided in section
32 455B.161A.

33 NEW SUBSECTION. 4. All distances between
34 locations or objects provided in this subpart shall be
35 measured in feet from their closest points.

36 NEW SUBSECTION. 5. a. The department shall
37 designate by rule each one hundred year floodplain in
38 this state according to the location of the one
39 hundred year floodplain. A person shall not be
40 prohibited from constructing a confinement feeding
41 operation on a one hundred year floodplain unless the
42 one hundred year floodplain is designated by rule in
43 accordance with this subsection.

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

50 (a) If the person does not apply for a

H-8649

H-8649

Page 20

1 construction permit as provided in section 455B.200A,
2 the person must petition the department for a
3 declaratory order pursuant to section 17A.9 to
4 determine whether the location of the proposed
5 confinement feeding operation structure is located on
6 a one hundred year floodplain. The department shall
7 issue a declaratory order in response to the petition,
8 notwithstanding any other provision provided in
9 section 17A.9 to the contrary, within thirty days from
10 the date that the petition is filed with the
11 department.

12 (b) If the person does apply for a construction
13 permit as provided in section 455B.200A, the person
14 must identify that the land contains a soil type
15 classified as alluvial. The department shall
16 determine whether the land is located on a one hundred
17 year floodplain.

18 (2) The department shall provide in its
19 declaratory order or its approval or disapproval of a
20 construction permit application a determination
21 regarding whether the confinement feeding operation is
22 to be located on a one hundred year floodplain,
23 whether the confinement feeding operation may be
24 constructed at the location, and any conditions for
25 the construction.

26 (3) This paragraph "b" is repealed on the
27 effective date that rules are adopted by the
28 department pursuant to paragraph "a". The department
29 shall provide a caption on the adopted rule as
30 published in the Iowa administrative bulletin as
31 provided in section 17A.4, stating that this paragraph
32 is repealed as provided in this subparagraph
33 subdivision. The director of the department shall
34 deliver a copy of the adopted rule to the Iowa Code
35 editor.

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

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

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

45 (2) The land has a unique scenic, cultural,
46 archaeological, scientific, or historic significance
47 or contains a rare or valuable ecological system.

48 b. "Designated wetland" means land designated as a
49 protected wetland by the United States department of
50 the interior or the department of natural resources,

H-8649

H-8649

Page 21

1 including but not limited to a protected wetland as
2 defined in section 456B.1, if the land is owned and
3 managed by the federal government or the department of
4 natural resources. However, a designated wetland does
5 not include land where an agricultural drainage well
6 has been plugged causing a temporary wetland or land
7 within a drainage district or levee district.

8 c. "Document" means any form required to be
9 processed by the department under this subpart
10 regulating animal feeding operations, including but
11 not limited to applications or related materials for
12 permits as provided in section 455B.200A, manure
13 management plans as provided in section 455B.203,
14 comment or evaluation by a county board of supervisors
15 considering an application for a construction permit,
16 the department's analysis of the application including
17 using and responding to a master matrix pursuant to
18 section 455B.200E, and notices required under those
19 sections.

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

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

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

29 e. "Karst terrain" means land having karst
30 formations that exhibit surface and subterranean
31 features of a type produced by the dissolution of
32 limestone, dolomite, or other soluble rock and
33 characterized by closed depressions, sinkholes, or
34 caves.

35 f. "Major water source" means a water source that
36 is a lake, reservoir, river, or stream located within
37 the territorial limits of the state, or any marginal
38 river area adjacent to the state, if the water source
39 is capable of supporting a floating vessel capable of
40 carrying one or more persons during a total of a six-
41 month period in one out of ten years, excluding
42 periods of flooding which has been identified by rules
43 adopted by the commission.

44 g. "One hundred year floodplain" means the land
45 adjacent to a major water source, if there is at least
46 a one percent chance that the land will be inundated
47 in any one year, according to calculations adopted by
48 rules adopted pursuant to section 455B.200. In making
49 the calculations, the department shall consider
50 available maps or data compiled by the federal

H-8649

H-8649

Page 22

1 emergency management agency.

2 h. "Professional engineer" means a person engaged
3 in the practice of engineering as defined in section
4 542B.2 who is issued a certificate of licensure as a
5 professional engineer pursuant to section 542B.17.

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

8 j. "Water source" means a lake, river, reservoir,
9 creek, stream, ditch, or other body of water or
10 channel having definite banks and a bed with water
11 flow, except lakes or ponds without outlet to which
12 only one landowner is riparian.

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

15 1. a. Except as provided in paragraph "b", a
16 person shall not construct a formed manure storage
17 structure, unless the person submits a construction
18 design statement for filing with the department.

19 b. The following persons are not required to
20 submit a construction design statement with the
21 department:

22 (1) A person who constructs a formed manure
23 storage structure as part of a small animal feeding
24 operation.

25 (2) A person who submits a statement approved by a
26 professional engineer certifying that the construction
27 of the formed manure storage structure complies with
28 the construction design standards required in this
29 subpart, including a person required to submit such a
30 statement as part of an application for a construction
31 permit pursuant to section 455B.200A.

32 2. The construction design statement must include
33 all of the following:

34 a. A summary description of the type of formed
35 manure storage structure proposed to be constructed,
36 including whether such formed manure storage structure
37 is to be constructed of concrete.

38 b. (1) If the formed manure storage structure is
39 to be constructed of concrete, a statement by the
40 person responsible for constructing the formed manure
41 storage structure certifying that such person will
42 construct the formed manure storage structure in
43 accordance with the construction design standards
44 required in this subpart.

45 (2) If the formed manure storage structure is not
46 to be constructed of concrete, a statement by the
47 person responsible for constructing the formed manure
48 storage structure certifying that such person will
49 construct the formed manure storage structure in
50 accordance with the construction design standards

H-8649

-22-

H-8649

Page 23

1 required in this subpart.

2 c. If a construction permit is required pursuant
3 to section 455B.200A for the construction of three or
4 more confinement feeding operation structures that
5 include a formed manure storage structure, the
6 contractor must provide that the construction of the
7 formed manure storage structure will not impede
8 drainage through established drainage tile lines which
9 cross property boundary lines unless measures are
10 taken to reestablish the drainage prior to completion
11 of construction.

12 d. A manure management plan as required in section
13 455B.203 which may be submitted as part of an
14 application for a construction permit as provided in
15 section 455B.200A.

16 3. Unless the construction design statement is
17 part of a construction permit application as provided
18 in section 455B.200A, the department shall file the
19 construction design statement. Otherwise, the
20 department shall approve or disapprove the
21 construction design statement as part of the
22 construction permit application. The construction
23 design statement shall be considered filed on the date
24 that it is first received by the department. The
25 department may request information from the person
26 submitting the construction design statement if the
27 department determines that it is incorrect or
28 incomplete. Within thirty days after filing the
29 construction design statement, the department shall
30 notify the person that the construction design
31 statement is filed and request any additional
32 information.

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

35 1. The department shall adopt and promulgate forms
36 required to be completed in order to comply with this
37 subpart including forms for documents that the
38 department shall make available on the internet.

39 2. a. The department shall provide for procedures
40 for the receipt, filing, processing, and return of
41 documents in an electronic format, including but not
42 limited to the transmission of documents by the
43 internet. The department shall provide for
44 authentication of the documents that may include
45 electronic signatures as provided in chapter 554D.

46 b. The department shall to every extent feasible
47 provide for the processing of permits and manure
48 management plans required under this subpart using
49 electronic systems, including programming, necessary
50 to ensure the completeness and accuracy of the

H-8649

-23-

H-8649

Page 24

1 documents in accordance with the requirements of this
2 subpart.

3 Sec. 35. NEW SECTION. 455B.200E CONSTRUCTION
4 PERMIT APPLICATION PROCEDURE -- COMMENTS -- MASTER
5 MATRIX.

6 1. a. The department shall deliver a copy or
7 require the applicant to deliver a copy of the
8 application for a permit to construct, including
9 expanding, a confinement feeding operation structure
10 pursuant to section 455B.200A, including supporting
11 documents, to the county board of supervisors in the
12 county where the confinement feeding operation
13 structure subject to the permit is proposed to be
14 constructed.

15 b. The county auditor or other county officer
16 designated by the county board of supervisors may
17 accept the application on behalf of the board. If the
18 department requires the applicant to deliver a copy of
19 the application to the county board of supervisors,
20 the board shall notify the department that the board
21 has received the application according to procedures
22 required by the department.

23 2. Regardless of whether the county board of
24 supervisors has adopted a construction evaluation
25 resolution, the county may provide comment to the
26 department on a construction permit application for a
27 confinement feeding operation structure.

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

29 (1) The board shall publish a notice that the
30 board has received the application in a newspaper
31 having a general circulation in the county.

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

33 (a) The name of the person applying to receive the
34 construction permit.

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

37 (c) Each type of confinement feeding operation
38 structure proposed to be constructed.

39 (d) The animal unit capacity of the confinement
40 feeding operation if the construction permit were to
41 be approved.

42 (e) The time when and the place where the
43 application may be examined as provided in section
44 22.2.

45 (f) Procedures for providing public comments to
46 the board as provided by the board.

47 b. The board may hold a public hearing to receive
48 public comments regarding the application. The county
49 board of supervisors may submit comments by the board
50 and the public to the department as provided in this

H-8649

-24-

H-8649

Page 25

1 section, including but not limited to all of the
2 following:

3 (1) The existence of an object or location not
4 included in the application that benefits from a
5 separation distance requirement as provided in section
6 455B.162 or 455B.204.

7 (2) The suitability of soils and the hydrology of
8 the site where construction of a confinement feeding
9 operation structure is proposed.

10 (3) The availability of land for the application
11 of manure originating from the confinement feeding
12 operation.

13 (4) Whether the construction of a proposed
14 confinement feeding operation structure will impede
15 drainage through established tile lines, laterals, or
16 other improvements which are constructed to facilitate
17 the drainage of land not owned by the person applying
18 for the construction permit.

19 3. A county board of supervisors may adopt a
20 construction evaluation resolution relating to the
21 construction of a confinement feeding operation
22 structure. The board must submit such resolution to
23 the department for filing. If the board has submitted
24 such resolution to the department, the board may
25 evaluate the construction permit application and
26 submit an adopted recommendation to the department to
27 approve or disapprove a construction permit
28 application as provided in this subsection. The board
29 must make its decision to recommend approval or
30 disapproval of the permit application as provided in
31 this subsection.

32 a. For the expansion of a confinement feeding
33 operation that includes a confinement feeding
34 operation structure constructed prior to April 1,
35 2002, the board shall not evaluate a construction
36 permit application for the construction or expansion
37 of a confinement feeding operation structure if after
38 the expansion of the confinement feeding operation,
39 its animal unit capacity is one thousand six hundred
40 sixty-six animal units or less.

41 b. The board must conduct an evaluation of the
42 application using the master matrix as provided in
43 section 455B.200F. The board's recommendation may be
44 based on the master matrix as provided or may be based
45 on comments under this section regardless of the
46 results of the master matrix.

47 c. In completing the master matrix, the board
48 shall not score criteria on a selective basis. The
49 board must score all criteria which is part of the
50 master matrix according to the terms and conditions

H-8649

-25-

H-8649

Page 26

1 relating to construction as specified in the
2 application or commitments for manure management that
3 are to be incorporated into a manure management plan
4 as provided in section 455B.203.

5 d. The board's adopted recommendation to the
6 department shall include the specific reasons and any
7 supporting documentation for the decision to recommend
8 approval or disapproval of the application.

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

39 5. a. The department shall approve an application
40 for a construction permit if the board of supervisors
41 which has filed a county construction evaluation
42 resolution submits an adopted recommendation to
43 approve the construction permit application which may
44 be based on a satisfactory rating produced by the
45 master matrix to the department and the department
46 determines that the application meets the requirements
47 of this chapter. The department shall disapprove an
48 application that does not satisfy the requirements of
49 this chapter regardless of the adopted recommendation
50 of the board. The department shall consider any

H-8649

-26-

H-8649

Page 27

1 timely filed comments made by the board as provided in
2 this section to determine if an application meets the
3 requirements of this chapter.

4 b. If the board submits to the department an
5 adopted recommendation to disapprove an application
6 for a construction permit that is based on a rating
7 produced by the master matrix, the department shall
8 first determine if the application meets the
9 requirements of this chapter as provided in section
10 455B.200. The department shall disapprove an
11 application that does not satisfy the requirements of
12 this chapter regardless of any result produced by
13 using the master matrix. If the application meets the
14 requirements of this chapter, the department shall
15 conduct an independent evaluation of the application
16 using the master matrix. The department shall approve
17 the application if it achieves a satisfactory rating
18 according to the department's evaluation. The
19 department shall disapprove the application if it
20 produces an unsatisfactory rating regardless of
21 whether the application satisfies the requirements of
22 this chapter. The department shall consider any
23 timely filed comments made by the board as provided in
24 this section to determine if an application meets the
25 requirements of this chapter.

26 c. If the county board of supervisors does not
27 submit a construction evaluation resolution to the
28 department, fails to submit an adopted recommendation,
29 submits only comments, or fails to submit comments,
30 the department shall approve the application if the
31 application meets the requirements of this chapter as
32 provided in section 455B.200.

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

50 7. Upon written request by a county resident, the

H-8649

H-8649

Page 28

1 county board of supervisors shall forward to the
2 county resident a copy of the board's adopted
3 recommendation, any county comments to the department
4 on the permit application, and the department's
5 responses, as provided in chapter 22.

6 8. a. The department shall deliver a notice to
7 the applicant within three days of the department's
8 decision to approve or disapprove an application for a
9 construction permit. If the board of supervisors has
10 submitted an adopted recommendation to the department
11 for the approval or disapproval of a construction
12 permit application as provided in this section, the
13 department shall notify the board of the department's
14 decision to approve or disapprove the application at
15 the same time.

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

42 (2) A county board of supervisors that has
43 submitted an adopted recommendation to the department
44 may contest the department's decision by requesting a
45 hearing before the commission. The commission shall
46 hear the case according to procedures established by
47 rules adopted by the department. The commission may
48 hear the case as a contested case proceeding under
49 chapter 17A. The board may request that the
50 department submit a copy of the department's

H-8649

-28-

H-8649

Page 29

1 evaluation of the application including the results
2 produced by its matrix and any supporting data or
3 documents. The decision by the commission shall be
4 the department's final agency action. The commission
5 shall render a decision within thirty-five days from
6 the date that the board initiates the proceeding.

7 c. Judicial review of the decision of either the
8 department or the commission may be sought in
9 accordance with the terms of chapter 17A.

10 9. An applicant for a construction permit may
11 withdraw the permit application from consideration by
12 the department at any time by filing a written request
13 with the department. The filing of the request shall
14 not prejudice the right of the applicant to resubmit
15 the application.

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

17 1. The department shall adopt rules for the
18 development and use of a master matrix. The purpose
19 of the master matrix is to provide a comprehensive
20 assessment mechanism in order to produce a
21 statistically verifiable basis for determining whether
22 to approve or disapprove an application for the
23 construction, including expansion, of a confinement
24 feeding operation structure requiring a permit
25 pursuant to section 455B.200A.

26 a. The master matrix shall be used to establish
27 conditions for the construction of a confinement
28 feeding operation structure and for the implementation
29 of manure management practices, which conditions shall
30 be included in the approval of the construction permit
31 or the original manure management plan as applicable.
32 The master matrix shall be used to determine all of
33 the following:

34 (1) The appropriate location to construct a
35 confinement feeding operation structure, including the
36 proximity and orientation of a proposed confinement
37 feeding operation structure to objects or locations
38 for which separation distances are required pursuant
39 to sections 455B.162 and 455B.204.

40 (2) The appropriate type of a confinement feeding
41 operation structure required to be constructed,
42 including the type and size of the manure storage
43 structure, or the installation of a related pollution-
44 control device.

45 b. The master matrix shall be designed to produce
46 quantifiable results based on the scoring of objective
47 criteria according to an established value scale.
48 Each criterion shall be assigned points corresponding
49 to the value scale. The master matrix shall consider
50 risks and factors mitigating risks if the confinement

H-8649

-29-

H-8649

Page 30

1 feeding operation structure were constructed according
2 to the application.

3 c. The master matrix may be a computer model.
4 However, the master matrix must be a practical tool
5 for use by persons when completing applications and by
6 persons when scoring applications. To every extent
7 feasible, the master matrix shall include criteria
8 presented in the form of questions that may be readily
9 scored according to ascertainable data and upon which
10 reasonable persons familiar with the location of a
11 proposed construction site would not ordinarily
12 disagree.

13 2. The master matrix shall include criteria
14 valuing environmental and community impacts, for use
15 by county boards of supervisors and the department.
16 The master matrix shall include definite point
17 selections for all criteria provided in the master
18 matrix. The master matrix shall provide only for
19 scoring of positive points and shall not provide for
20 deduction of points. The master matrix shall provide
21 for a minimum threshold score required to receive a
22 satisfactory rating. The master matrix shall be
23 structured to ensure that it feasibly provides for a
24 satisfactory rating. Criteria valuing environmental
25 impacts shall account for animal agriculture's
26 relationship to quality of the environment and the
27 conservation of natural resources, and may include
28 factors that refer to all of the following:

- 29 (a) Topography.
30 (b) Surface water drainage characteristics.
31 (c) The suitability of the soils and the hydrology
32 or hydrogeology of the site.
33 (d) The proximity to public use areas and critical
34 public areas.
35 (e) The proximity to water sources, including
36 high-quality water resources.

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

39 NEW SUBSECTION. 2A. The department may require
40 that the owner of a confinement feeding operation
41 install and operate a water pollution monitoring
42 system as part of an unformed manure storage
43 structure.

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

46 1. The following persons shall submit a manure
47 management plan, including an original manure
48 management plan and an updated manure management plan,
49 as required in this section to the department:

- 50 a. The owner of a confinement feeding operation,

H-8649

H-8649

Page 31

1 other than a small animal feeding operation, if ~~the~~
2 ~~animal~~ any of the following apply:

3 (1) The confinement feeding operation was
4 constructed after May 31, 1985, regardless of whether
5 the confinement feeding operation structure was
6 required to be constructed pursuant to a construction
7 permit approved by rules adopted by the department.

8 ~~b. (2) The owner of a confinement feeding~~
9 ~~operation, if the confinement feeding operation is~~
10 ~~required to be constructed pursuant to a permit issued~~
11 ~~by the department~~ The owner constructs a manure
12 storage structure, regardless of whether the person is
13 required to be issued a permit for the construction
14 pursuant to section 455B.200A or whether the person
15 has submitted a prior manure management plan.

16 ~~e. b.~~ A person who applies manure from a
17 confinement feeding operation, other than a small
18 animal feeding operation, which is located in another
19 state, if the manure is applied on land located in
20 this state.

21 1A. Not more than one confinement feeding
22 operation shall be covered by a single manure
23 management plan.

24 1B. The owner of a confinement feeding operation
25 who is required to submit a manure management plan
26 under this section shall submit an updated manure
27 management plan to the department on an annual basis.
28 The department shall provide for a date that each
29 updated manure management plan is required to be
30 submitted to the department. The department may
31 provide for staggering the dates on which updated
32 manure management plans are due. To satisfy the
33 requirements of an updated manure management plan, an
34 owner of a confinement feeding operation may, in lieu
35 of a submitting a complete plan, file a document
36 stating that the manure management plan has not
37 changed, or state all of the changes made since the
38 original manure management plan or a previous updated
39 manure management plan was submitted and approved.

40 1C. The department shall deliver a copy of the
41 manure management plan or require the person
42 submitting the manure management plan to deliver a
43 copy of the manure management plan to all of the
44 following:

45 a. The county board of supervisors in the county
46 where the manure storage structure owned by the person
47 is located.

48 b. The county board of supervisors in the county
49 where the manure storage structure is proposed to be
50 constructed. If the person is required to be issued a

H-8649

-31-

H-8649

Page 32

1 permit for the construction of the manure storage
2 structure as provided in section 455B.200A, the manure
3 management plan shall accompany the application for
4 the construction permit as provided in section
5 455B.200A.

6 c. The county board of supervisors in the county
7 where the manure is to be applied.

8 The manure management plan shall be filed with the
9 county board of supervisors. The county auditor or
10 other county officer may accept the manure management
11 plan on behalf of the board.

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

37 2A. The department shall not approve an original
38 manure management plan unless the plan is accompanied
39 by a manure management plan filing fee required
40 pursuant to section 455B.203C. The department shall
41 not approve an updated manure management plan unless
42 the updated manure management plan is accompanied by
43 an annual compliance fee required pursuant to section
44 455B.203C.

45 2B. a. The department shall not ~~issue~~ approve an
46 application for a permit ~~for the construction of to~~
47 construct a confinement feeding operation ~~or a related~~
48 animal feeding operation structure unless the
49 applicant owner of the confinement feeding operation
50 applying for approval submits a an original manure

H-8649

H-8649

Page 33

1 management plan together with ~~an~~ the application for
2 the construction permit as provided in section
3 455B.200A.

4 b. The department shall not file a construction
5 design statement as provided in section 455B.200C,
6 unless the owner of the confinement feeding operation
7 structure submits an original manure management plan
8 together with the construction design statement. The
9 construction design statement and manure management
10 plan may be submitted as part of a construction permit
11 as provided in section 455B.200A.

12 2C. A manure management plan must be authenticated
13 by the person required to submit the manure management
14 plan as required by the department in accordance with
15 section 455B.200D.

16 2D. The department shall approve or disapprove a
17 manure management plan according to procedures
18 established by the department:

19 a. For an original manure management plan
20 submitted due to the construction of a confinement
21 feeding operation structure, the department shall
22 approve or disapprove the manure management plan as
23 follows:

24 (1) If the confinement feeding operation structure
25 is constructed pursuant to a construction permit
26 issued pursuant to section 455B.200A, the manure
27 management plan shall be approved or disapproved as
28 part of the construction permit application.

29 (2) If the confinement feeding operation structure
30 is not constructed pursuant to a construction permit
31 issued pursuant to section 455B.200A, the manure
32 management plan shall be approved or disapproved
33 within sixty days from the date that the department
34 receives the manure management plan.

35 b. For an original manure management plan
36 submitted for a reason other than the construction of
37 a confinement feeding operation structure, the manure
38 management plan shall be approved within sixty days
39 from the date that the department receives the manure
40 management plan.

41 c. For an updated manure management plan, the
42 manure management plan shall be approved within thirty
43 days from the date that the department receives the
44 updated manure management plan.

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

47 a. Restrictions on the application of manure based
48 on all of the following:

49 (1) Calculations necessary to determine the land
50 area required for the application of manure from a

H-8649

-33-

H-8649

Page 34

1 confinement feeding operation based on nitrogen use
2 levels in order to obtain optimum crop yields
3 according to a crop schedule specified in the manure
4 management plan, and according to requirements adopted
5 by the department ~~after receiving recommendations from~~
6 ~~the animal agriculture consulting organization~~
7 ~~provided for in 1995 Iowa Acts, chapter 195, section~~
8 ~~37.~~

9 (2) (a) A phosphorus index. The department shall
10 establish a phosphorus index by rule in order to
11 determine the manner and timing of the application to
12 a land area of manure originating from a confinement
13 feeding operation. The phosphorus index shall provide
14 for the application of manure on a field basis. The
15 phosphorus index shall be used to determine
16 application rates, based on the number of pounds of
17 phosphorus that may be applied per acre and
18 application practices. The phosphorus index shall be
19 based on the field office technical guide for Iowa as
20 published by the United States department of
21 agriculture, natural resources conservation service,
22 which sets forth nutrient management standards.

23 (b) The department shall develop a state
24 comprehensive nutrient management strategy. Prior to
25 developing the state comprehensive nutrient management
26 strategy, the department shall complete all of the
27 following:

28 (i) The development of a comprehensive state
29 nutrient budget for the maximum volume, frequency, and
30 concentration of nutrients for each watershed that
31 addresses all significant sources of nutrients in a
32 water of this state on a watershed basis.

33 (ii) The assessment of the available nutrient
34 control technologies required to identify and assess
35 their effectiveness.

36 (iii) The development and adoption of
37 administrative rules pursuant to chapter 17A required
38 to establish a numeric water quality standard for
39 phosphorus.

40 (c) Regardless of the development of the state
41 comprehensive nutrient management strategy as provided
42 in subparagraph subdivision (b), the department shall
43 adopt rules required to establish a phosphorus index.
44 The department shall cooperate with the United States
45 department of agriculture natural resource
46 conservation service technical committee for Iowa to
47 refine and calibrate the phosphorus index in adopting
48 the rules. Rules adopted by the department pursuant
49 to this subparagraph shall become effective on July 1,
50 2003.

H-8649

H-8649

Page 35

1 (d) The department shall conduct a study that
2 considers the effects on waters of this state from
3 phosphorus originating from municipal and industrial
4 sources and from farm and lawn and garden use. The
5 department shall report the results of its study to
6 the general assembly by January 1, 2004.

7 (e) A person submitting a manure management plan
8 shall include a phosphorus index as part of the manure
9 management plan as follows:

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

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

26 (iii) A person required to submit an original
27 manure management plan on and after the date that is
28 sixty days after the department's rules adopted to
29 implement the phosphorus index become effective shall
30 include the phosphorus index as part of the original
31 manure management plan and updated manure management
32 plans.

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

44 Sec. 40. Section 455B.203, subsection 4, Code
45 2001, is amended to read as follows:

46 4. A ~~person~~ confinement feeding operation
47 classified as a habitual violator ~~or a confinement~~
48 feeding operation in which a habitual violator owns a
49 controlling interest, as provided in section 455B.191,
50 shall submit a manure management plan to the

H-8649

-35-

H-8649

Page 36

1 department on an annual basis, which must be approved
2 by the department for the following year of operation.
3 The manure management plan shall be a replacement
4 original manure management plan rather than a manure
5 management plan update. However, the habitual
6 violator required to submit a replacement original
7 manure management plan must submit an annual
8 compliance fee in the same manner as if the habitual
9 violator were submitting an updated manure management
10 plan.

11 Sec. 41. Section 455B.203, subsection 7, Code
12 2001, is amended to read as follows:

13 7. A person submitting required to authenticate a
14 manure management plan submitted to the department who
15 is found in violation of the terms and conditions of
16 the plan shall not be subject to an enforcement action
17 other than the assessment of a civil penalty pursuant
18 to section ~~455B.191~~ 455B.207.

19 Sec. 42. Section 455B.203A, subsection 6,
20 paragraph b, Code 2001, is amended by striking the
21 paragraph.

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

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

25 a. A construction permit application fee that is
26 required to accompany an application submitted to the
27 department for approval to construct a confinement
28 feeding operation structure as provided in section
29 455B.200A. The amount of the construction permit
30 application fee shall not exceed two hundred fifty
31 dollars.

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

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

H-8649

H-8649

Page 37

1 the annual compliance fee.

2 d. Fees paid by persons required by the department
3 to be certified as commercial manure applicators or
4 confinement site manure applicators pursuant to
5 section 455B.203A.

6 2. a. Except as provided in paragraph "b", fees
7 collected by the department shall be deposited into
8 the animal agriculture compliance fund created in
9 section 455B.127. Moneys collected from all fees
10 other than the annual compliance fee shall be
11 deposited into the compliance fund's general account.
12 Moneys collected from the annual compliance fee shall
13 be deposited into the compliance fund's assessment
14 account.

15 b. Receipts that are required to be received by
16 the department from persons required to be certified
17 pursuant to section 455B.203A may be used to
18 compensate a person who teaches continuing
19 instructional courses in lieu of deposit into the
20 compliance fund.

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

35 Sec. 44. Section 455B.204, subsection 1, Code
36 2001, is amended by striking the subsection.

37 Sec. 45. Section 455B.204, subsections 2 through
38 4, Code 2001, are amended to read as follows:

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

41 a. ~~An animal~~ A confinement feeding operation
42 structure shall not be constructed closer than five
43 hundred feet away from ~~a~~ the surface intake, ~~of an~~
44 agricultural drainage well. A confinement feeding
45 operation structure shall not be constructed closer
46 than one thousand feet from a wellhead, or cistern of
47 an agricultural drainage well, or known sinkhole.
48 However, the department may adopt rules requiring an
49 increased separation distance under this paragraph in
50 order to protect the integrity of a water of this

H-8649

-37-

H-8649

Page 38

1 state. The increased separation distance shall not be
2 more than two thousand feet. If the department
3 exercises its discretion to increase the separation
4 distance requirement, the department shall not approve
5 an application for the construction of a confinement
6 feeding operation structure within that separation
7 distance as provided in section 455B.200A.

8 ~~b. An animal~~ A confinement feeding operation
9 structure shall not be constructed if the animal
10 confinement feeding operation structure as constructed
11 is closer than any of the following:

12 (1) ~~Two~~ Five hundred feet away from a ~~waterecourse~~
13 water source other than a major water source.

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

16 (3) Two thousand five hundred feet away from a
17 designated wetland.

18 c. (1) ~~A waterecourse~~ water source, other than a
19 major water source, shall not be constructed,
20 expanded, or diverted, if the ~~waterecourse~~ water source
21 as constructed, expanded, or diverted is closer than
22 ~~two five~~ five hundred feet away from ~~an animal~~ a
23 confinement feeding operation structure.

24 ~~a.~~ (2) A major water source shall not be
25 constructed, expanded, or diverted, if the major water
26 source as constructed, expanded, or diverted is closer
27 than five hundred one thousand feet from an animal
28 feeding a confinement operation structure.

29 (3) A designated wetland shall not be established,
30 if the designated wetland is closer than two thousand
31 five hundred feet away from a confinement feeding
32 operation structure.

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

37 ~~3.~~ 4. A separation distance required in subsection
38 2 shall not apply to any of the following:

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

41 b. A confinement feeding operation building, an
42 egg washwater storage structure, or a manure storage
43 structure constructed with a secondary containment
44 barrier. The department shall adopt rules providing
45 for the construction and use of a secondary
46 containment barrier, including construction design
47 standards.

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

H-8649

-38-

H-8649

Page 39

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

3 455B.204A ~~DISPOSAL~~ APPLICATION OF MANURE WITHIN
4 DESIGNATED AREAS -- ADOPTION OF RULES.

5 1. The department shall adopt rules relating to
6 the ~~disposal~~ application of manure in close proximity
7 to a designated area.

8 2. Except as otherwise provided in this
9 subsection, a person shall not ~~dispose of~~ apply manure
10 on ~~cropland~~ land located within two hundred feet from
11 a designated area, unless one of the following
12 applies:

13 ~~1-~~ a. The manure is land applied by injection or
14 incorporation ~~within twenty four hours following the~~
15 ~~application~~ on the same date as the manure was land
16 applied.

17 ~~2-~~ b. An area of permanent vegetation cover,
18 including filter strips and riparian forest buffers,
19 exists for fifty feet surrounding the designated area
20 other than an unplugged agricultural drainage well or
21 surface intake to an unplugged agricultural drainage
22 well, and ~~that~~ the area of permanent vegetation cover
23 is not subject to manure application.

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

33 As used in this section, "designated area" means a
34 known sinkhole, or a cistern, abandoned well,
35 unplugged agricultural drainage well, agricultural
36 drainage well surface inlet, drinking water well,
37 designated wetland, or lake, or a farm pond or
38 privately owned lake as defined in section 462A.2
39 water source. However, a "designated area" does not
40 include a terrace tile inlet.

41 Sec. 47. Section 455B.205, subsection 1, Code
42 2001, is amended to read as follows:

43 1. The department shall ~~establish by rule~~
44 engineering adopt rules requiring construction design
45 standards for ~~the construction of~~ unformed manure
46 storage structures required to be constructed pursuant
47 to a construction permit issued ~~under~~ pursuant to
48 section 455B.200A.

49 Sec. 48. Section 455B.205, subsection 2,
50 unnumbered paragraph 1, Code 2001, is amended to read

H-8649

-39-

H-8649

Page 40

1 as follows:

2 The construction design standards for unformed
3 manure storage structures established by the
4 department shall account for special design
5 characteristics of ~~animal~~ confinement feeding
6 operations, including all of the following:

7 Sec. 49. Section 455B.205, Code 20C1, is amended
8 by adding the following new subsection:

9 NEW SUBSECTION. 2A. A person shall not construct
10 an unformed manure storage structure on karst terrain
11 or on an area that drains into a known sinkhole.

12 Sec. 50. NEW SECTION. 455B.205A CONSTRUCTION
13 DESIGN STANDARDS -- FORMED MANURE STORAGE STRUCTURES.

14 The department shall adopt rules establishing
15 construction design standards for formed manure
16 storage structures that are part of confinement
17 feeding operations other than small animal feeding
18 operations.

19 1. The department may provide for different
20 standards based on criteria developed by the
21 department, which may include any of the following:

22 a. The animal unit capacity of the manure storage
23 structure's confinement feeding operation or the
24 manure storage structure's manure volume capacity.

25 b. Whether the manure storage structure stores
26 manure in an exclusively dry form.

27 c. Whether the manure storage structure is part of
28 a confinement feeding operation building.

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

31 2. The construction design standards shall be
32 based, to every extent possible, on uniform standards
33 such as available standards promulgated by the
34 American society for testing and materials. The
35 department may require that all or any part of a
36 formed manure storage structure be constructed of
37 concrete.

38 3. The construction design standards for concrete
39 shall provide for all of the following:

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

42 b. The use of reinforcement, including but not
43 limited to the grade, amount, and location of steel
44 rebar or fiberglass, wire mesh or fabric, or similar
45 materials set in the concrete, or the use of exterior
46 braces to support joints.

47 c. The depth of footings.

48 d. The thickness of the footings, the floor and
49 walls.

50 4. A person shall only construct a formed manure

H-8649

H-8649

Page 41

1 storage structure on karst terrain or an area which
2 drains into a known sinkhole pursuant to upgraded
3 construction design standards necessary to ensure that
4 the structure does not pollute groundwater sources.

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

6 A person who violates this subpart shall be subject
7 to a civil penalty which shall be established,
8 assessed, and collected in the same manner as provided
9 in section 455B.191. Any civil penalty collected
10 shall be deposited in the animal agriculture
11 compliance fund created in section 455B.127.

12 Sec. 52. Section 455I.1, unnumbered paragraph 1,
13 Code 2001, is amended by striking the unnumbered
14 paragraph.

15 Sec. 53. Section 455J.1, subsections 1 through 5
16 and subsections 7 and 8, Code 2001, are amended by
17 striking the subsections.

18 Sec. 54. Section 455J.3, subsection 1, 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 less than ~~six hundred twenty-~~
22 ~~five thousand pounds~~ one thousand animal units, the
23 following shall apply:

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

26 If the confinement feeding operation has an animal
27 ~~weight unit~~ capacity of ~~six hundred twenty-five~~
28 ~~thousand~~ one thousand or more ~~pounds~~ animal units but
29 less than ~~one million two hundred fifty thousand~~
30 ~~pounds~~ three thousand animal units, the following
31 shall apply:

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

34 If the confinement feeding operation has an animal
35 ~~weight unit~~ capacity of ~~one million two hundred fifty~~
36 ~~thousand~~ three thousand or more ~~pounds~~ animal units,
37 the following shall apply:

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

40 455J.4 MANURE MANAGEMENT PLAN -- INDEMNITY FEE
41 REQUIRED.

42 An indemnity fee shall be assessed upon persons
43 required to submit ~~a~~ an original manure management
44 plan as provided in section 455B.203, but not required
45 to obtain a construction permit pursuant to section
46 455B.200A. A person required to submit a replacement
47 original manure management plan shall not be assessed
48 an indemnity fee. The amount of the ~~fees~~ fee shall be
49 ten cents per animal unit of capacity for the
50 confinement feeding ~~operations~~ operation covered by

H-8649

-41-

H-8649

Page 42

1 the manure management plan.

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

4 1. A person who is liable for polluting a water of
5 this state in violation of state law, including this
6 chapter, shall also be liable to pay restitution to
7 the department for injury caused to a wild animal by
8 the pollution. The amount of the restitution shall
9 also include the department's administrative costs for
10 investigating the incident. The administration of
11 this section shall not result in a duplication of
12 damages collected by the department under section
13 455B.392, subsection 1, paragraph "c".

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

22 3. Rules adopted by the commission shall provide
23 for methods used to determine the extent of an injury
24 and the monetary values for the loss of injured wild
25 animals based on species.

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

42 b. The rules shall provide guidelines for
43 estimating the extent of loss of a species that is
44 affected by a pollution incident but which would not
45 be practical to count in sample areas. The rules may
46 establish liquidated damage amounts for species whose
47 replacement cost is difficult to determine.

48 4. Moneys collected by the department in
49 restitution shall be deposited into the state fish and
50 game protection fund. The moneys shall be used

H-8649

H-8649

Page 43

1 exclusively to support restoration or improvement of
2 fisheries, including but not limited to aquatic
3 habitat improvement projects as provided in rules
4 adopted by the commission. However, moneys collected
5 from restitution paid for investigative costs shall be
6 used as determined by the director.

7 Sec. 59. MANURE STORAGE INDEMNITY FUND --
8 TEMPORARY TRANSFER. Notwithstanding section 455J.2,
9 the department is authorized to temporarily transfer
10 any amount of the unobligated and unencumbered balance
11 of the manure storage indemnity fund as provided under
12 section 455J.2 to the general account of the animal
13 agriculture compliance fund as created in section
14 455B.127, as enacted in this Act, for use as provided
15 in section 455B.127. The department shall return the
16 amount transferred under this section to the manure
17 storage indemnity fund according to a schedule
18 established by the department upon the collection of
19 compliance fees deposited into the animal agriculture
20 compliance fund pursuant to section 455B.203C.
21 Notwithstanding section 455B.127, the department may
22 return moneys from the assessment account of the
23 animal agriculture compliance fund to the manure
24 storage indemnity fund if at any time moneys are not
25 sufficiently available to make the return from the
26 general account of the animal agriculture compliance
27 fund.

28 Sec. 60. FORMED MANURE STORAGE STRUCTURES --
29 CONSTRUCTION DESIGN STANDARDS. Until the effective
30 date of rules adopted by the department providing
31 construction design standards for formed manure
32 storage structures as provided in section 455B.205A,
33 as enacted in this Act, the department's rules
34 providing construction design standards used in the
35 construction of formed manure storage structures shall
36 apply to formed manure storage structures as provided
37 in section 455B.205A, regardless of whether a formed
38 manure storage structure must be constructed pursuant
39 to a permit issued under section 455B.200A, as amended
40 by this Act. However, this section does not apply to
41 a manure storage structure that stores manure
42 exclusively on a dry-matter basis.

43 Sec. 61. INTERIM APPROVAL OF CONSTRUCTION PERMITS
44 FOR CONFINEMENT FEEDING OPERATION STRUCTURES -- COUNTY
45 PARTICIPATION AND RIGHTS OF APPLICANTS AND COUNTY
46 BOARDS OF SUPERVISORS. This section applies to an
47 applicant for a construction permit pursuant to
48 section 455B.200A, as amended by this Act, and to a
49 county board of supervisors that submits comments
50 regarding a permit for the construction of a

H-8649

H-8649

Page 44

1 confinement feeding operation structure pursuant to
2 section 455B.200A, as amended by this Act.

3 Notwithstanding section 455B.200E, as enacted in this
4 Act, all of the following shall apply:

5 1. The department shall not approve the
6 application until thirty days following delivery of
7 the application to the county board of supervisors.

8 2. The department shall consider and respond to
9 comments submitted by the county board of supervisors
10 regarding compliance by the applicant with the legal
11 requirements for approving the construction permit in
12 the same manner as provided pursuant to section
13 455B.200A, Code of Iowa 2001.

14 3. The department shall notify the county board of
15 supervisors prior to conducting an inspection of the
16 site on which the construction is proposed in the
17 permit application, and the county may accompany a
18 departmental official during the site inspection, in
19 the same manner as provided in section 455B.200A, Code
20 of Iowa 2001.

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

25 5. The department shall notify the applicant and
26 county board of supervisors of the county in which a
27 confinement feeding operation structure subject to a
28 construction permit is proposed to be constructed.
29 The notice shall state the department's decision to
30 approve or disapprove an application for the
31 construction permit which shall be delivered to the
32 applicant and board in the same manner as provided for
33 counties in section 455B.200A, Code of Iowa 2001. The
34 applicant may contest the department's decision by
35 filing a demand for a hearing before an administrative
36 law judge or the environmental protection commission.
37 The board may contest the department's decision by
38 filing a demand for a hearing before the commission.
39 The applicant shall contest the decision and the
40 commission shall conduct the proceeding and render a
41 decision in the same manner as provided in section
42 455B.200E, as enacted by this Act.

43 Sec. 62. ESTABLISHMENT OF A MASTER MATRIX --
44 TECHNICAL ADVISORY COMMITTEE.

45 1. The department of natural resources shall adopt
46 rules establishing a master matrix as required
47 pursuant to section 455B.200F according to
48 recommendations made to the department by a technical
49 advisory committee established pursuant to this
50 section. The technical advisory committee shall be

H-8649

H-8649

Page 45

1 composed of all of the following:

2 a. A designee of the secretary of agriculture.

3 b. A designee of the director of the department of
4 natural resources.

5 c. A designee of the president of the university
6 of Iowa.

7 d. A designee of the president of Iowa state
8 university.

9 e. A representative of the Iowa environmental
10 council.

11 f. A representative of the Iowa state association
12 of counties.

13 g. A representative of the Iowa farm bureau
14 federation.

15 h. A representative of the Iowa's farmers union.

16 i. Two representatives of organizations
17 representing livestock producers who shall be jointly
18 designated to the department of natural resources by
19 the Iowa pork producers association, the Iowa
20 cattlemens' association, the Iowa dairy products
21 association, the Iowa poultry association, and the
22 Iowa turkey federation.

23 The department of natural resources shall provide
24 administrative support to the committee. The attorney
25 general shall appoint an assistant attorney general to
26 provide the committee with legal counsel and
27 assistance.

28 2. In establishing the scoring system for the
29 master matrix, only positive points shall be used.
30 The master matrix shall be designed as a menu of items
31 with positive points assigned to each item within the
32 selection list. The matrix shall not include any
33 deduction of points.

34 3. The department shall adopt rules pursuant to
35 chapter 17A in order to carry out the requirements of
36 this section. Based on the committee's
37 recommendations to establish a master matrix, the
38 department shall provide a draft of a notice of
39 intended action to the environmental protection
40 commission not later than during its September 2002
41 meeting. The department's notice of intended action
42 shall not be published later than in the November 27,
43 2002, issue of the Iowa administrative bulletin. The
44 notice of intended action required under this section
45 shall include a statement of the terms or substance of
46 the intended action in the manner provided for in
47 section 17A.4. The rules shall take effect on March
48 1, 2003.

49 Sec. 63. DEPARTMENT OF NATURAL RESOURCES --
50 APPROVAL OF APPLICATIONS FOR CONSTRUCTION PERMITS --

H-8649

H-8649

Page 46

1 USING INTERIM MATRIX.

2 1. Notwithstanding sections 455B.200A and
3 455B.200F, the department shall approve or disapprove
4 an application for a permit to construct a confinement
5 feeding operation structure pursuant to section
6 455B.200A, if an application is submitted according to
7 procedures required by the department, the application
8 meets standards established under chapter 455B, as
9 amended by this Act, and the application complies with
10 the requirements of this section. This section does
11 not apply to the expansion of a confinement feeding
12 operation that includes a confinement feeding
13 operation structure constructed prior to April 1,
14 2002, due to the construction or expansion of a
15 confinement feeding operation structure if after the
16 expansion of the confinement feeding operation, its
17 animal unit capacity is one thousand six hundred
18 sixty-six animal units or less.

19 2. This section applies on and after the date that
20 the department publishes a notice in the Iowa
21 administrative bulletin commencing its evaluation of
22 applications under this section.

23 3. The department shall approve or disapprove an
24 application based on an interim matrix. The interim
25 matrix shall be used to award points as provided in
26 this subsection. In order to be issued a construction
27 permit, a person must achieve one hundred points. The
28 points shall be awarded as follows:

29 a. The following criteria shall apply to
30 separation distances. The separation distances
31 provided in this paragraph shall apply in addition to
32 separation distances required for confinement feeding
33 operation structures or for the application of manure
34 originating from confinement feeding operations as
35 provided in chapter 455B, divisions II and III, as
36 provided in the 2001 Code of Iowa, unless otherwise
37 provided in this paragraph "a".

38 (1) The following criteria shall apply to require
39 additional separation distances between a proposed
40 confinement feeding operation structure and a
41 residence not owned by the owner of the confinement
42 feeding operation, a commercial enterprise, a bona
43 fide religious institution, or an educational
44 institution as provided in section 455B.162:

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

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

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

H-8649

-46-

H-8649

Page 47

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

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

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

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

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

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

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

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

20 (3) The following criteria shall apply to require
21 additional separation distances between a proposed
22 confinement feeding operation structure and a major
23 water source as provided in section 455B.204 or a
24 high-quality water resource as defined in section
25 455B.200B, as enacted in this Act:

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

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

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

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

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

36 (4) The following criteria shall apply to require
37 additional separation distances between a proposed
38 confinement feeding operation structure and a critical
39 public area as defined in section 455B.200B,
40 subsection 6, as enacted by this Act:

41 (a) One thousand or more feet but less than one
42 thousand two hundred fifty feet: twenty points.

43 (b) One thousand two hundred fifty or more feet:
44 twenty-five points.

45 (5) The following criteria shall apply to require
46 an additional separation distance of five hundred or
47 more feet between a proposed confinement feeding
48 operation structure and a watercourse, other than a
49 major water source, as provided in section 455B.204:
50 five points.

H-8649

H-8649

Page 48

1 (6) The following criteria shall apply to require
2 additional separation distances between the
3 application of manure originating from a confinement
4 feeding operation and a residence not owned by the
5 owner of the confinement feeding operation, or a
6 commercial enterprise, bona fide religious
7 institution, or an educational institution as provided
8 in section 455B.162:

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

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

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

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

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

19 An applicant who incorporates manure by injection
20 shall be entitled to the following: fifteen points.

21 (7) The following criteria shall apply to require
22 an additional separation distance between the
23 application of manure originating from a confinement
24 feeding operation and a public use area as provided in
25 section 455B.162 or a primary highway as defined in
26 section 306C.10:

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

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

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

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

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

37 An applicant who incorporates manure by injection
38 shall be entitled to the following: fifteen points.

39 (8) The following criteria shall apply to require
40 additional separation distances between the
41 application of manure originating from a confinement
42 feeding operation and a critical public area as
43 defined in section 455B.200B, subsection 6, as enacted
44 in this Act:

45 (a) One thousand or more feet but less than one
46 thousand two hundred fifty feet: twenty points.

47 (b) One thousand two hundred fifty or more feet:
48 twenty-five points.

49 (9) The following criteria shall apply to require
50 additional separation distances between the

H-8649

H-8649

Page 49

1 application of manure originating from a confinement
2 feeding operation and a major water source:
3 (a) One thousand or more feet but less than one
4 thousand two hundred fifty feet: twenty points.
5 (b) One thousand two hundred fifty or more feet:
6 twenty-five points.
7 (10) The following criteria shall apply to require
8 additional separation distances between the
9 application of manure originating from a confinement
10 feeding operation and a high-quality water resource as
11 defined in section 455B.200B, as enacted in this Act:
12 (a) Five hundred or more feet but less than seven
13 hundred fifty feet: ten points.
14 (b) Seven hundred fifty or more feet but less than
15 one thousand feet: fifteen points.
16 (c) One thousand or more feet but less than one
17 thousand two hundred fifty feet: twenty points.
18 (d) One thousand two hundred fifty or more feet:
19 twenty-five points.
20 (11) The following points shall be awarded if an
21 additional separation distance is required for the
22 application of manure originating from a confinement
23 feeding operation and a watercourse other than a major
24 water source as provided in section 455B.204: five
25 points.
26 b. The following points shall be awarded if a
27 confinement feeding operation is located on land owned
28 or operated by the same family for three or more
29 years: fifteen points.
30 c. The following points shall be awarded if the
31 owner of the confinement feeding operation owns the
32 animals maintained by the confinement feeding
33 operation and provides substantial labor in providing
34 for their maintenance: ten points.
35 d. The following criteria shall apply to a
36 confinement feeding operation located on land owned by
37 one of the following persons:
38 (1) A person who resides on the land: five
39 points.
40 (2) A person who closest resides to the proposed
41 confinement feeding operation structure: ten points.
42 (3) A person who performs the majority of the
43 physical work which significantly contributes to the
44 operation: ten points.
45 (4) A person who is involved in making substantial
46 improvements to the confinement feeding operation, if
47 the improvements do not provide for expansion by more
48 than one hundred fifty percent of the animal unit
49 capacity of the confinement feeding operation: ten
50 points.

H-8649

-49-

H-8649

Page 50

1 (5) A person who qualifies as a beginning farmer
2 as defined in section 175.2: fifteen points.
3 e. The following criteria shall apply to an owner
4 of a confinement feeding operation who provides for
5 the following manure management practices:
6 (1) The incorporation of manure within twenty-four
7 hours: five points.
8 (2) The use of a cover over a manure storage
9 structure or a natural crust or oil sprinkling: five
10 points.
11 (3) Participation in the United States department
12 of agriculture natural resource and conservation
13 program referred to as the "filter strip program at 33
14 feet": ten points.
15 (4) The installation of a filter designed to
16 reduce odors from exhaust fans: ten points.
17 (5) The utilization of feed or feed additives
18 containing low phytase corn or the feeding of phytase:
19 ten points.
20 (6) The utilization of a biofilter or impermeable
21 cover: ten points.
22 (7) The utilization of a methane digester
23 (recovery) system for energy or an anaerobic digester:
24 twenty-five points.
25 (8) The utilization of landscaping or other
26 similar controls approved by the department: ten
27 points.
28 (9) The establishment or expansion of a filter
29 strip from thirty-three feet or more up to one hundred
30 twenty feet: fifteen points.
31 (10) The construction of a secondary containment
32 structure: fifteen points.
33 (11) The construction of a manure storage
34 structure beneath a confinement feeding operation
35 structure building: ten points.
36 (12) Participation in the United States department
37 of agriculture natural resource and conservation
38 service program referred to as the "contour buffer
39 strip program": twenty-five points.
40 f. The following points shall be awarded if the
41 confinement feeding operation provides for the
42 distribution of bulk dry animal nutrient products, the
43 person receiving the product agrees that the product
44 will be incorporated, and the person who incorporates
45 the manure includes the condition as part of the
46 person's manure management plan: twenty-five points.
47 Sec. 64. 1995 Iowa Acts, chapter 195, section 37,
48 as amended by 1998 Iowa Acts, chapter 1209, section
49 40, is repealed.

50 Sec. 65. INTERIM APPROVAL OF APPLICATIONS FOR

H-8649

-50-

H-8649

Page 51

1 CONSTRUCTION PERMITS -- REPEAL. The section of this
2 Act providing for the interim approval of applications
3 for construction permits by the department of natural
4 resources is repealed March 1, 2003.

5 Sec. 66. INTERIM COUNTY PARTICIPATION REPEAL. The
6 section of this Act providing for interim county
7 participation in the approval of construction permits
8 for confinement feeding operation structures is
9 repealed March 1, 2003, and the rights of applicants'
10 boards of supervisors to contest departmental
11 decisions. However, the provisions of the section
12 shall continue to apply to applications received by a
13 county board of supervisors prior to March 1, 2003.

DIVISION II

14
15 DIRECTIONS TO CODE EDITOR,
16 CHANGE THE NAME OF TERMS AND
17 TRANSFER TO NEW TITLE

18 Sec. 67. CHANGE OF NAME OF TERMS.

19 1. The Code editor is directed to change the term
20 "animal feeding operation structure" or "an animal
21 feeding operation structure" to "confinement feeding
22 operation structure" or "a confinement feeding
23 operation structure" wherever the term appears in
24 section 455B.161A, subsection 2, Code 2001; section
25 455B.162, subsection 3, Code 2001; section 455B.163,
26 subsection 3, paragraph "d", Code 2001; section
27 455B.165, subsection 3, paragraph "b", and subsections
28 6 and 8, Code 2001; section 455B.200B, subsection 2,
29 Code 2001; and section 455B.202, subsection 2,
30 paragraphs "c" and "d", Code 2001.

31 2. The Code editor is directed to change the term
32 "animal feeding operation structures" to "confinement
33 feeding operation structures" wherever the term
34 appears in section 455B.161A, subsection 2, paragraph
35 "c", Code 2001; section 455B.200B, subsection 2, Code
36 2001; and section 455B.162, unnumbered paragraph 1,
37 Code 2001.

38 3. The Code editor is directed to change the term
39 "animal feeding operation" or "an animal feeding
40 operation" to "confinement feeding operation" or "a
41 confinement feeding operation" wherever it appears in
42 section 455B.163, unnumbered paragraph 1, Code 2001;
43 section 455B.163, subsection 3, paragraph "c", Code
44 2001; section 455B.165, subsection 6, Code 2001; and
45 section 455B.205, subsection 3, paragraph "b", Code
46 2001.

47 4. The Code editor is directed to change the
48 phrase "confinement feeding operation structure or
49 anaerobic lagoon which is part of a confinement
50 feeding operation" to "confinement feeding operation

H-8649

-51-

H-8649

Page 52

1 structure" wherever the phrase appears in section
2 455B.191, subsection 7, Code 2001.

3 5. The Code editor is directed to change the
4 phrase "an animal feeding operation structure which is
5 part of a confinement feeding operation" to "a
6 confinement feeding operation structure" wherever the
7 phrase appears in section 455B.202, subsection 2, Code
8 2001.

9 6. The Code editor is directed to change the term
10 "bovine" to "cattle" wherever the term appears in Code
11 section 455B.162, Code 2001.

12 Sec. 68. DIRECTIONS TO THE CODE EDITOR.

13 1. The Code editor is directed to transfer and
14 consolidate provisions concerning animal agriculture
15 into new chapter 456D, consistent with this section
16 and the authority of the Code editor pursuant to
17 chapter 2B. As part of this transfer and
18 consolidation, the Code editor shall divide the
19 chapters into subchapters as follows:

20 a. Subchapter 1 shall include a new section
21 stating the following: This chapter shall be known
22 and may be cited as the "Animal Agriculture Compliance
23 Act". Section 455B.161, as amended by this Act, shall
24 be transferred to subchapter 1. Section 455B.171,
25 subsections 7, 33, and 44, shall be transferred and
26 consolidated into section 455B.161 as transferred to
27 subchapter 1. Section 455J.1, subsections 4, 6, and
28 9, shall be transferred and consolidated into section
29 455B.161 as transferred to subchapter 1. Section
30 455B.200B, subsection 6, as enacted by this Act, shall
31 be consolidated into section 455B.161 as transferred
32 to subchapter 1. Section 455B.200, as amended by this
33 Act, shall also be transferred to subchapter 1.

34 b. Chapter 455B, division II, part 2, including
35 sections amended or enacted by this Act, with the
36 exception of section 455B.164, shall be transferred to
37 new chapter 456D, as subchapter 2.

38 c. Chapter 455B, division III, part 1, subpart A,
39 as enacted in this Act, with the exception of section
40 455B.200, as amended by this Act, and section
41 455B.207, as enacted by this Act, shall be transferred
42 to new chapter 456D, as subchapter 3.

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

46 e. Chapter 455J, with the exception of section
47 455J.1, shall be transferred to new chapter 456D, as
48 subchapter 5.

49 f. Section 455B.110, as amended by this Act, is
50 transferred to new chapter 456D, as subchapter 6.

H-8649

H-8649

Page 53

1 Sections 455B.167, and 455B.207, as enacted by this
2 Act; section 455B.191, subsection 7, Code 2001, and
3 section 455B.191, subsection 8, as amended by this
4 Act; and section 455B.104, subsection 2, are
5 transferred as new sections to new subchapter 6.

6 2. The Code editor is directed to transfer chapter
7 455I to new chapter 456C. Subchapter 1 shall include
8 section 455I.1, subsections 1 through 4 and 6 through
9 13, Code 2001. Subchapter 2 shall include a new
10 section stating the following: As used in this
11 subchapter, unless the context otherwise requires,
12 "department" means the department of natural
13 resources. Subchapter 2 shall include sections 455I.2
14 through 455I.7. Subchapter 3 shall include a new
15 section stating the following: As used in this
16 subchapter, unless the context otherwise requires,
17 "department" means the department of agriculture and
18 land stewardship. The Code editor is directed to
19 transfer sections 159.28 through 159.29B, Code 2001,
20 to new chapter 456C, subchapter 3.

21 Sec. 69. Section 455B.164, Code 2001, is repealed.

22 DIVISION III

23 RETROACTIVE APPLICABILITY AND EFFECTIVE DATES

24 Sec. 70. RETROACTIVE APPLICATION.

25 1. If the provisions of this Act would apply to
26 require that a person must be issued a construction
27 permit as provided in section 455B.200A, as amended by
28 this Act, upon the enactment of this Act, for the
29 construction of a confinement feeding operation
30 structure, the requirements of section 455B.200A, as
31 amended by this Act, shall apply retroactively as
32 provided in this section. The provisions of this Act
33 shall apply retroactively only if all of the following
34 are satisfied:

35 a. An application for a permit to construct the
36 confinement feeding operation structure was submitted
37 to the department on or after April 1, 2002, but prior
38 to the enactment of this Act, regardless of whether
39 the department has approved the application; a manure
40 management plan was submitted to the department
41 without a construction permit as provided in 567 IAC
42 65.16(2) on or after April 1, 2002, but prior to the
43 enactment of this Act regardless of whether the
44 department has approved the manure management plan; or
45 construction of a confinement feeding operation
46 structure has not begun upon the enactment of this Act
47 and the person would otherwise be required to submit a
48 manure management plan prior to the construction of
49 the confinement feeding operation structure as
50 provided in section 455B.203, as amended in this Act.

H-8649

-53-

H-8649

Page 54

1 b. The department has not received evidence that
2 an applicant or person submitting or required to
3 submit a manure management plan as provided in
4 subsection 2, has incurred commitments based on a
5 reliance of the law as the law existed on March 31,
6 2002. The commitments must constitute a legal
7 obligation for performance by the person to construct
8 a confinement feeding operation structure. The
9 applicant or other person required to submit the
10 evidence to the department must submit such evidence
11 not later than twenty-one days after the effective
12 date of this Act.

13 2. This Act shall not apply retroactively other
14 than as provided in this section. The department
15 shall approve or disapprove a pending construction
16 permit application or manure management plan not
17 subject to subsection 1 and a person may construct a
18 confinement feeding operation structure according to
19 the applicable requirements of the 2001 Code of Iowa
20 and rules adopted by the department and in effect on
21 March 31, 2002.

22 3. Until March 1, 2003, the department shall use
23 the interim matrix as provided in this Act in lieu of
24 the master matrix required to be used pursuant to
25 section 455B.200E.

26 Sec. 71. EFFECTIVE DATES.

27 1. Except as provided in subsections 2 and 3, this
28 Act, being deemed of immediate importance, takes
29 effect upon enactment.

30 2. The sections of this Act amending sections
31 455B.162, 455B.163, 455B.204, and 455B.204A, take
32 effect on March 1, 2003. Sections 455B.200C and
33 455B.200E, as enacted in this Act, take effect on
34 March 1, 2003. The provisions of section 455B.205A,
35 as enacted by this Act, as the provisions apply to
36 confinement feeding operations storing manure
37 exclusively on a dry matter basis, take effect upon
38 the effective date of rules adopted to implement
39 section 455B.205A.

40 3. Notwithstanding section 455B.203, as amended by
41 this Act, a person shall not be required to submit a
42 manure management plan update earlier than March 1,
43 2003. The department shall adopt rules necessary to
44 administer this Act including these sections on and
45 after the enactment of this Act."

46 2. Title page, line 1, by inserting after the
47 word "agriculture" the following: ", providing for
48 fees, providing for penalties, and including
49 retroactive applicability and effective date
50 provisions".

H-8649

-54-

H-8649

Page 55

1 3. By renumbering, redesignating, and correcting
2 internal references as necessary.

By KLEMME of Plymouth

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Adopted
4/12/02
(P. 1476)