

MAR 8 2006
Place On Calendar

HOUSE FILE 2718
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HSB 748)

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

A BILL FOR

1 An Act relating to requirements for open feedlot operations, by
2 providing for nutrient management plans and operating permits,
3 and providing an effective date and retroactive applicability.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2718

1 Section 1. NEW SECTION. 459A.202 OPERATING PERMIT
2 REQUIREMENTS.

3 1. The owner of an open feedlot operation qualifying under
4 this section shall apply for an operating permit on or before
5 July 31, 2007.

6 2. Except as provided in subsection 3, an open feedlot
7 operation qualifies under this section if all of the following
8 apply:

9 a. The open feedlot operation commenced operation prior to
10 April 14, 2003, and the physical facilities of the open feed
11 lot operation have not expanded since that date.

12 b. The open feedlot operation was not required to be
13 issued an operating permit prior to April 14, 2003, but is
14 required to obtain an operating permit on and after that date,
15 pursuant to all of the following:

16 (1) Rules adopted by the department, including but not
17 limited to rules adopted as part of 567 IAC ch. 65, that were
18 in effect prior to April 14, 2003, and have been subsequently
19 amended.

20 (2) Regulations adopted by the federal government,
21 including but not limited to the environmental protection
22 agency as a part of 40 C.F.R. pts. 122 and 412, that were in
23 effect prior to April 14, 2003, and have been subsequently
24 amended.

25 3. An open feedlot operation does not qualify under this
26 section if the open feedlot operation is required by the
27 department to be issued an operating permit only because of
28 special conditions determined applicable by the department
29 according to the results of a departmental evaluation as
30 established by rules adopted by the department.

31 4. This section is repealed on July 1, 2009.

32 Sec. 2. Section 459A.205, subsection 3, paragraph a, Code
33 Supplement 2005, is amended to read as follows:

34 a. For an open feedlot operation submitting an application
35 for a construction permit on or after ~~September~~ April 30, 2006

1 2007, a nutrient management plan as provided in section
2 459A.208.

3 Sec. 3. Section 459A.208, subsection 1, Code Supplement
4 2005, is amended to read as follows:

5 1. a. The owner of an open feedlot operation which has an
6 animal unit capacity of one thousand animal units or more or
7 which is required to be issued an operating permit shall
8 develop and implement a nutrient management plan meeting the
9 requirements of this section ~~by December 31, 2006~~.

10 b. (1) The owner of an open feedlot operation shall
11 comply with the provisions of paragraph "a" by July 31, 2007.

12 (2) This paragraph "b" is repealed on July 31, 2007.

13 Sec. 4. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.
14 This Act, being deemed of immediate importance, takes effect
15 upon enactment, and is retroactively applicable to February
16 13, 2006.

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EXPLANATION

18 This bill amends a provision in Code chapter 459A, which
19 authorizes the department of natural resources to regulate
20 open feedlot operations, and supplements provisions in Code
21 chapter 459, which authorize the department of natural
22 resources to regulate all animal feeding operations. Much of
23 the bill concerns nutrient management plans required to be
24 developed and implemented by owners of open feedlot operations
25 and requirements for operating permits which are not
26 specifically addressed in the Code chapter, but are subject to
27 rules adopted by the department of natural resources in
28 accordance with requirements for concentrated animal feeding
29 operations required by the United States environmental
30 protection agency under the national pollutant discharge
31 elimination system.

32 The United States environmental protection agency has
33 recently amended requirements that provide that an open
34 feedlot operation that would not have been considered as a
35 concentrated animal feeding operation prior to April 14, 2003,

1 is considered a concentrated animal feeding operation after
2 that date and must: (1) develop and implement a nutrient
3 management plan by February 13, 2006, and (2) obtain a
4 national pollutant discharge elimination system operating
5 permit by December 31, 2006. The United States environmental
6 protection agency has revised these deadlines to provide that
7 a concentrated animal feeding operation must develop and
8 implement a nutrient management plan and seek a national
9 pollutant discharge elimination system permit by July 31,
10 2007. See 40 C.F.R. pts. 122 and 412. The revisions of the
11 regulations were made in response to a court decision,
12 Waterkeeper Alliance et al. v. E.P.A., 399 F.3d 486 (2nd Cir.
13 2005).

14 The bill extends the date when an owner of an open feedlot
15 operation is required to comply with nutrient management plan
16 requirements in Code chapter 459A or obtain an operating
17 permit under national pollutant discharge elimination system
18 and departmental rules. Code section 459A.205 provides that
19 an application for a construction permit must be accompanied
20 by the nutrient management plan on or after September 30,
21 2006. The bill extends that date to April 30, 2007. Code
22 section 459A.208 provides that an open feedlot operation of
23 1,000 or more animal units or one that would otherwise be
24 required to be issued an operating permit must develop a
25 nutrient management plan by December 31, 2006. The bill
26 extends that date to July 31, 2007.

27 Finally, the bill provides that the owner of an open
28 feedlot operation qualifying under the provisions of the bill
29 has until July 31, 2007, to apply for an operating permit.
30 The bill provides that the open feedlot operation does not
31 qualify for the extension if the open feedlot operation is
32 required by the department to be issued an operating permit
33 only because special conditions exist according to the results
34 of a departmental evaluation. See 567 IAC-65.103.

35 The bill repeals a number of the extension periods after

1 the extension periods have expired.

2 The bill takes effect upon enactment and is retroactively
3 applicable to February 13, 2006.

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Dolecheck - Chair
Fuseman
Thomas

HSB 748

Agriculture

HOUSE FILE **02718**
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON DRAKE)

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