

Summary of the Livestock Bill (SF 2293) by the Iowa Environmental Council

The Council and our coalition partners advocated for three changes in livestock laws to protect the environment: (1) manure management that includes a phosphorous standard; (2) protection of "valuable and vulnerable" resources; and (3) funding through permit fees to cover the administrative costs of preventing of livestock pollution. We also took the position that the bill should protect public health, should require additional setback distances and 100-year floodplain setbacks, and counties should have the authority to approve or deny permits for Confined Animal Feeding Operations (or CAFOs). The Livestock Bill, known as SF 2293, contains provisions to address these three environmental issues, as well as air quality stipulations to protect human health, lower permit threshold limits, additional setback distances, and authority for the Iowa Department of Natural Resources (DNR) to approve or deny permits. SF 2293 passed the Senate on a vote of 37-13, and the House by a vote of 81-13 and was signed by Governor Vilsack on April 29, 2002. The strengths and weakness of the bill are discussed below.

Phosphorous Standards for Manure Management

Phosphorous is a common pollutant of Iowa's water ways, and is the reason that one-third of Iowa's 157 listed waters appear on the Impaired Waters List. Previous to SF 2293 manure application was based on the nitrogen content of the manure and the nitrogen needs of crops being grown. This practice resulted in 2 to 3 times as much phosphorous as is used by crops being over applied to the soil and ultimately washing into water ways with sediment. SF2293 attempts to reduce the amount of phosphorous from manure that can be applied to soil so that less phosphorous is washed into Iowa's water.

Strength of the provision: The bill requires that a phosphorous index, based on the Natural Resources Conservation Service technical guide for Iowa, is to be developed by DNR through the rulemaking process. The index will address application rates and timing, application practices, and will be based on the pounds of phosphorous that can be applied per acre.

Weakness of the provision: The phosphorous index calculation for application of manure is based on topography and erosion, rather than on crop need. This means that phosphorous can still be over applied where land is flatter, offering less protection for soil and water than if crop usage were also considered.

Another weakness in the provision is that phosphorous rules will not become effective until July 1, 2003, and will not be in practice for all producers at that time. If a producer submitted an original manure management plan to DNR before April 1, 2002, s/he does not have to comply with the phosphorous index until July 1, 2007. If a producer submits a manure management plan to DNR on and after April 1, 2002 and prior to the effective date of the rules, s/he does not have to comply with the phosphorous index until July 1, 2005. A producer

who submits an original manure management plan to DNR on and after 60 days after the effective date of the rules or August 30, 2003 must include the phosphorous index. Iowa's waters will not have the needed protection from phosphorous in manure until 2007.

Strength of the provision: DNR must develop a comprehensive, state-wide nutrient management strategy that includes developing a state-wide nutrient budget, an assessment of nutrient control technologies and their effectiveness, and rulemaking to establish a numeric water quality standard for phosphorous.

Strength of the provision: By January 1, 2004, DNR must conduct a state-wide study on how water quality is affected by municipal sources, industrial sources, and lawn/garden sources.

Protection of Valuable and Vulnerable Resources

Iowa's Valuable and Vulnerable resources include all state parks and preserves, high quality waters such as Iowa's Great Lakes and cold-water trout streams, and high quality resource waters such as surface drinking water supplies and recreational areas. These special natural resources are already defined in Chapter 61 of the Iowa Administrative Code and in Iowa Code Chapter 462B. Until SF 2293 their listing in the law did not afford these resources greater protection from poor manure management.

Strength of the provision: SF 2293 provides for additional setbacks of new construction or expansion of CAFOs from designated wetlands, high quality waters and high quality resource waters, agricultural drainage wells, and a ban on construction in 100-year floodplains. Additional setbacks for manure application are included for high quality waters and high quality resource waters, drinking water wells, sinkholes, abandoned wells, agriculture drainage wells and designated wetlands.

Weakness of the provision: There are no setbacks for injection of manure. In addition, critical public areas (or land that is part of a public park, preserve or recreation area that is owned/managed by the federal government, DNR, by a political subdivision) are only taken into consideration under a matrix designed to determine where a CAFO should be sited.

Weakness of the provision: The new separation distances do not go into effect until March 1, 2003. Any new or expanded CAFO built in the next few months are not subject to these provisions. There is growing concern that this delay may result in a boom in the construction and expansion of CAFOs before the law takes effect.

Permit Fees

SF 2293 requires an annual fee from permitted operations of \$0.15 per animal unit to be paid into the newly created compliance account of the "Animal Agriculture Compliance Fund". The fund will be used exclusively by DNR to administer and enforce the requirements in SF 2293. The fund is capped at \$1 million, and will be used by DNR to hire 12 new inspectors. The bill also requires one-time filing fees of \$500 for a construction permit, and \$250 for non-permitted facilities that are required only to file a manure management plan.

Weakness of the provision: The fees do not go into effect until March 1, 2003. This means that ramp up time for DNR to oversee pollution prevention and environmental protection is delayed.

Other Provisions in SF 2293

Protection of Public Health:

The bill requires DNR to monitor the level of hydrogen sulfide, ammonia, and odor from CAFOs and open feedlots and to set ambient air quality standards.

Strength of the provision: Infrastructure bill HF 2614 includes an appropriation of \$500,000 to DNR to purchase the necessary air monitoring equipment.

Weakness of the provision: Air quality standards cannot be enforced until after December 1, 2004. Furthermore, the statute is written so that air monitoring takes place at a "separated distance" from a CAFO; if an air quality violation is discovered, DNR can go back and investigate at the property line of CAFOs. This wording makes it difficult to enforce any air quality standards for two reasons: without concurrent property line monitoring both at the CAFO and at the separated distance, atmospheric conditions will be different for the day that an exceedence is discovered at a separated distance from the day air quality is monitored at the CAFO and it is unlikely that that the exceedence can be correlated to the CAFO. Secondly, if there are several CAFOs in one area, without concurrent property line monitoring, it will be difficult to determine which facility might be responsible for violating air quality standards.

County Input:

By previous statute, (HF 519, passed in 1998), counties were prevented from zoning CAFOs and have no authority to approve or deny a construction permit. SF 2293 allows county boards of supervisors to adopt a matrix for evaluating CAFO construction, to continue to provide comments to DNR and to hold public hearings for public comment.

Strength of the provision: The Animal Agriculture Consulting Organization (AACO) is eliminated. DNR is explicitly given the authority to approve or deny construction permits based on the matrix. To develop the matrix DNR will convene a technical advisory committee that includes one member from DNR, Iowa Department of Agriculture and Land Stewardship, Iowa State University, University of Iowa, Farm Bureau, Farmers Union, Iowa Environmental Council, Iowa State Association of Counties, and 2 members from producer groups.

Weakness of the provision: Counties do not have authority to approve or deny a CAFO construction permit. The rules do not become effective until March 1, 2003. The bill language is written in such a way that an interim matrix is to be used until the final matrix is written by the technical advisory committee and put into place in 2003, but the interim matrix is scored in such a way that regardless of environmental or public impact, most CAFOs can score enough points to be approved.

Permit Threshold:

SF 2293 changes the law for permit thresholds from pounds of animals to animal unit capacity to be consistent with federal laws.

Strength of the provision: Previously, permits were required for CAFOs housing 625,000 pounds or more. For hogs, that is roughly 4100 head. Permits are now required for CAFOs of 1000 animal unity capacity or greater. For hogs, that is roughly 2600 head. The new permit threshold will capture more CAFOs.

The complete bill can be found at

<http://www.legis.state.ia.us/GA/79GA/Legislation/index.html> (Search for SF2293)

A summary of the bill by Iowa Pork Producers Association can be found at

http://www.iowapork.org/sf2293_summ.html

A summary of the bill by Iowa House Democrats can be found at

http://staffweb.legis.state.ia.us/House_Democrats/Misc/livestockregulations.htm