



Ninety-Ninth Legislature - Second Session - 2006
Committee Statement
LB 975

Hearing Date: January 26, 2006

Committee On: Natural Resources

Introducer(s): (Natural Resources Committee: Schrock, Chairperson; Hudkins, Kopplin, Kremer, Loudon, McDonald, Smith, Stuhr)

Title: Change provisions of the Livestock Waste Management Act

Roll Call Vote – Final Committee Action:

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

Vote Results:

8	Yes	Senators Hudkins, Kopplin, Kremer, Loudon, McDonald, Schrock, Smith, Stuhr
0	No	
0	Present, not voting	
0	Absent	

Proponents:

Jody Gittins
Pat Rice
Pete McClymont
Jay Wolf
Mark McHargue
Ken Winston
Laura Krebsbach
William Bevans
Rod Johnson
John Johnson

Justin Brady
John Hansen
Rob Schupbach
Loran Schmit

Opponents:

None

Representing:

Introducer
Department of Environmental Quality
Nebraska Cattlemen
Nebraska Cattlemen
Nebraska Farm Bureau
Nebraska Chapter, Sierra Club
Sierra Club
Nebraska Poultry Industries
Nebraska Pork Producers Association
Madison County Zoning; NACO Zoning Administration Affiliate
Tyson Foods, Inc.
Nebraska Farmers Union
Trout Unlimited
Self

Representing:

Neutral:
James Vanderloop, Jr.

Representing:
Self

Summary of purpose and/or changes:

LB 975 does the following:

- Section 1 Adds a reference.
- Section 2 Makes technical changes to the definition of an animal feeding operation; deletes the definition of a construction approval; defines construction and operating permit; redefines a new livestock waste control facility to include all types of permits and approvals issued since April 15, 1998; and redefines a National Pollutant Discharge Elimination System (NPDES) permit to eliminate the provision that livestock waste control facilities must be exempted or permitted under NPDES.
- Section 3 Replaces the existing construction approval with a construction and operating permit.
- Section 4 Clarifies that no new NPDES permit or construction and operating permit shall be issued in the watershed of a cold water class A stream.
- Section 5 Replaces the existing construction approval with a construction and operating permit.
- Section 6 Clarifies which facilities must request an initial inspection.
- Section 7 Repeals the requirement that all large concentrated animal feeding operations (CAFOs) must seek coverage under an NPDES permit. Eliminates provisions for no potential for discharge determinations. Eliminates the criteria for medium CAFOs to be required for an NPDES permit; and requires animal feeding operations which were in existence January 1, 2004, but do not have a permit on the effective date of the Act to be subject to the same or substantially similar operating requirements as existed on January 1, 2004.
- Section 8 Replaces the existing construction approval with a construction and operating permit; requires the Department of Environmental Quality to send copies of construction and operating permit applications or major modifications to an application within five days of receipt to the county and natural resources district where the proposed facility is located; and allows the county and natural resources district 30 days rather than 20 days to provide comments to the department.
- Section 9 Eliminates the requirement that an applicant for a permit or a modification of a permit include information that was previously provided, if the information is unchanged; identifies the requirements for a nutrient management plan for a construction and operating permit, and provides that the Nebraska Environmental Quality Council determine, through rules and regulations, the information required to be submitted for a permit modification application.
- Section 10 There are no changes to the current statute in this section. It was inadvertently included.
- Section 11 Identifies the operations which will pay the annual fee. The operations identified are those facilities with an NPDES permit, and any large operation that has a state operating permit, a construction approval or a construction and operating permit.

- Section 12 Requires applicants for an NPDES permit or a construction and operating permit to obtain all necessary approvals from the Department of Natural Resources prior to the Department of Environmental Quality issuing the NPDES permit or construction and operating permit.
- Section 13 Applies the bad actor provisions to NPDES per applications and construction and operating permit applications.
- Section 14 Prohibits construction of a livestock waste control facility without a construction and operating permit unless exempted by the department; and prohibits discharges without or in violation of a NPDES permit or a construction and operating permit or a department exemption.
- Section 15 Prohibits the department from contracting with natural resources districts to issue NPDES or construction and operating permits.
- Section 16 Provides authority to the Council regarding promulgation of rules and regulations as it relates to a permit process and requirements for construction and operating permits, and process and requirements for major modifications to NPDES permits and construction and operating permits; and allows the Council to promulgate rules and regulations related to nutrient management plans for construction and operating permits.
- Section 17 Allows operating permits that expired after December 31, 2005 pursuant to department regulations to be voluntarily reinstated. A request for reinstatement of the operating permit must be filed prior to July 1, 2007, be accompanied by a filing fee and certify that the operation was in compliance with its operating permit as it existed before the date it expired.
- Section 18 Repealer.

Explanation of amendments, if any:

The committee amendment becomes the bill. However, most of the sections remain identical to the original LB 975. The changes in the committee amendment are as follows:

- Section 2 Reinstates the definition of construction approval; adds a new definition for construction and operating permit; and adds a definition of operating permit.
- Section 4 Incorporates the committee amendment to LB 120 of 2005 regarding cold water class A streams. This amendment says that there is no expansion of any facility within one mile of a class A stream except for a university facility if it can be shown that it does not pose a potential threat to the stream. It also allows the Department of Environmental Quality to make the determination as to the potential threat to the stream for any facilities located more than one mile but less than two miles from the stream. This section also incorporates provisions relating to construction and operating permits, which was the case prior to the passage of LB 916 in 2004.
- Section 7 Adds clarifying language that any animal feeding operation which does not have any permit on the effective date of this act would be subject to provisions of the Environmental Protection Act, Livestock Waste Management Act and rules and regulations.
- Section 8 Reinstates the stricken language on line 7 which was inadvertently stricken.

- Section 15 Requires the Environmental Quality Council to develop rules and regulations regarding construction and operating permit issuance, denial, revocation, termination or transfer; requires the council to develop rules and regulations regarding construction and operating permit and National Pollutant Discharge Elimination System permit major modification issuance, denial, revocation, suspension, or termination.
- Section 16 Extends the date from July 1, 2007 to December 31, 2007 for those facilities to request reinstatement of permits that expired by regulation on December 31, 2005.
- Section 20 Adds the emergency clause for sections 7 (repeals references to the federal law), for section 16 (reinstatement of expired permits) and for section 18 (repealer of Section 54-2424).

Senator Ed Schrock, Chairperson