

108TH CONGRESS  
1ST SESSION

# S. 1407

To regulate concentrated animal feeding operations for the protection of the environment and public health, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 15, 2003

Mr. EDWARDS introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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## A BILL

To regulate concentrated animal feeding operations for the protection of the environment and public health, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Concentrated Live-  
5        stock Existing Alongside Nature Act”.

6        **SEC. 2. DEFINITIONS.**

7        In this Act:

8            (1) ADMINISTRATOR.—The term “Adminis-  
9        trator” means the Administrator of the Environ-  
10        mental Protection Agency.

## 1 (2) ANIMAL OWNER.—

2 (A) IN GENERAL.—The term “animal  
3 owner” means the person that has the primary  
4 ownership, controlling, or beneficial interest in  
5 the animals in a concentrated animal feeding  
6 operation.

7 (B) INCLUSIONS.—The term “animal  
8 owner” includes an employee or agent of a per-  
9 son described in subparagraph (A).

## 10 (3) ANIMAL WASTE.—

11 (A) IN GENERAL.—The term “animal  
12 waste” means the excreta or other associated  
13 waste of an animal.

14 (B) INCLUSIONS.—The term “animal  
15 waste” includes litter, bedding, a dead animal,  
16 a composted animal carcass, or other residual  
17 organic matter from a concentrated animal  
18 feeding operation.

19 (4) ANIMAL WASTE MANAGEMENT PLAN.—The  
20 term “animal waste management plan” means a  
21 written statement submitted by the operator of a  
22 concentrated animal feeding operation to the Admin-  
23 istrator detailing the manner in which the operation  
24 will comply with this Act.

1           (5) ANIMAL WEIGHT CAPACITY.—The term  
2 “animal weight capacity” means the product ob-  
3 tained by multiplying—

4           (A) the maximum number of animals in a  
5 concentrated animal feeding operation at any 1  
6 time during a year; and

7           (B) the average weight of such an animal  
8 during a production cycle (as defined by the  
9 Administrator).

10          (6) APPLICATION.—The term “application”  
11 means laying, spreading on, irrigating, injecting, or  
12 otherwise placing animal waste on land by any  
13 means.

14          (7) APPROVED PLAN.—The term “approved  
15 plan” means an animal waste management plan for  
16 which a written notice of approval has been issued  
17 by the Administrator, and is effective, under this  
18 Act.

19          (8) CONCENTRATED ANIMAL FEEDING OPER-  
20 ATION.—

21           (A) IN GENERAL.—The term “con-  
22 centrated animal feeding operation” means any  
23 livestock or poultry feeding operation that—

24           (i)(I) confines animals to areas that  
25 are totally roofed;

1 (II) if the operation does not confine  
2 animals to areas that are totally roofed,  
3 confines animals to areas in which the ani-  
4 mal density, measured as the ratio of the  
5 number of animals to the acreage of the  
6 areas in which the animals are confined,  
7 exceeds a level established by the Adminis-  
8 trator on the basis of the potential for sur-  
9 face and ground water pollution from ani-  
10 mal waste; or

11 (III) collects animal excreta for dis-  
12 posal, storage, or application with a me-  
13 chanical or flushing system or by other  
14 means;

15 (ii) holds animals for 45 days or more  
16 during any 1-year period; and

17 (iii) has a capacity of at least 1,000  
18 animals.

19 (B) INCLUSIONS.—The term “concentrated  
20 animal feeding operation” includes—

21 (i) all structures and land used for the  
22 collection, storage, treatment, or applica-  
23 tion of animal waste from an operation de-  
24 scribed in subparagraph (A); and

1 (ii) each of 2 or more operations de-  
2 scribed in subparagraph (A) in which the  
3 animals are under common ownership or  
4 control, if the combined animal weight ca-  
5 pacity of the operations exceeds the  
6 amounts described in subparagraph  
7 (A)(iii).

8 (9) CONTAINMENT STRUCTURE.—The term  
9 “containment structure” means a lagoon, pit, tank,  
10 or other structure used to receive and store animal  
11 waste, regardless of the length of time the waste re-  
12 mains in such a structure.

13 (10) CONTAINMENT SYSTEM.—The term “con-  
14 tainment system” means all structures or devices  
15 used exclusively or partly for the collection, storage,  
16 composting, transportation, or application of animal  
17 waste from a concentrated animal feeding operation.

18 (11) DEPARTMENT.—The term “Department”  
19 means the Department of Agriculture.

20 (12) DRY WASTE OPERATION.—The term “dry  
21 waste operation” means a concentrated animal feed-  
22 ing operation in which animal waste is collected and  
23 stored exclusively in a dry form.

24 (13) EARTHEN LAGOON.—The term “earthen  
25 lagoon” means an earthen cavity or structure, cov-

1       ered or uncovered, that receives and stores for any  
2       period of time animal waste from animals in a con-  
3       centrated animal feeding operation.

4           (14) FORMED STORAGE STRUCTURE.—The  
5       term “formed storage structure” means a structure,  
6       covered or uncovered, that has walls and a floor con-  
7       structed of concrete, concrete block, wood, steel, or  
8       similar material, including plastic, rubber, fiberglass,  
9       or other synthetic material.

10          (15) OPERATOR.—

11           (A) IN GENERAL.—The term “operator”  
12       means a person that owns or controls a con-  
13       centrated animal feeding operation.

14           (B) AGENTS.—If the operator of a con-  
15       centrated animal feeding operation is not the  
16       same person as the animal owner, the operator  
17       shall be considered to be an agent of the animal  
18       owner, notwithstanding any contract or other  
19       agreement entered into between the owner and  
20       the operator.

21          (16) WET WASTE OPERATION.—The term “wet  
22       waste operation” means a concentrated animal feed-  
23       ing operation in which animal waste is collected and  
24       stored in a liquid or semiliquid form.

1 **SEC. 3. WATER AND SOIL POLLUTION.**

2 (a) **MAXIMUM LEVELS FOR NITROGEN AND PHOS-**  
3 **PHORUS.**—The application of animal waste to land by any  
4 person is prohibited if (taking into account all sources of  
5 nutrients, including commercial fertilizer) the application  
6 of animal waste would result in the application of nitrogen  
7 or phosphorus in a quantity that significantly increases  
8 the risk of increased soil toxicity or the pollution of surface  
9 or ground water.

10 (b) **MAXIMUM LEVELS FOR OTHER SUBSTANCES.**—

11 (1) **ESTABLISHMENT.**—Not later than 1 year  
12 after the date of enactment of this Act, the Adminis-  
13 trator, in consultation with the Secretary of Agri-  
14 culture, shall establish maximum permitted levels for  
15 other nutrients, minerals, metals, or other sub-  
16 stances found in animal waste whose presence in  
17 land above the levels would pose a significant threat  
18 of soil toxicity or environmental pollution.

19 (2) **EXCESS LEVELS.**—The application of ani-  
20 mal waste to land by any person is prohibited if fol-  
21 lowing the application of the animal waste the level  
22 of a substance referred to in paragraph (1) would  
23 exceed the maximum level established for the sub-  
24 stance by the Administrator.

25 (c) **APPLICATION OF WASTE TO LAND.**—

1           (1) AERIAL SPRAYING.—The Administrator, in  
2           consultation with the Secretary of Agriculture, shall  
3           establish—

4                   (A) minimum distances from environ-  
5                   mentally sensitive locations and locations with  
6                   high population density or sensitive populations  
7                   (including distances from neighboring resi-  
8                   dences, schools, day care centers, hospitals,  
9                   medical facilities, surface water, water supply  
10                  wells, wetlands not used for water treatment  
11                  purposes, floodplains, and the drainage areas of  
12                  drainage wells, drainage ditches, tile drainage  
13                  lines, and subsurface drainage inlets) within  
14                  which animal waste shall not be applied by aer-  
15                  ial spraying; and

16                   (B) limits and prohibitions on aerial spray-  
17                   ing on compromised soil during severe inclem-  
18                   ent weather.

19           (2) OTHER APPLICATIONS.—Animal waste shall  
20           not be applied—

21                   (A) on ice, snow, frozen soil, or water-satu-  
22                   rated soil; or

23                   (B) in other conditions designated by the  
24                  Administrator.

1 (d) CONTAINMENT OR TREATMENT OF ALL  
2 WASTE.—

3 (1) CONTAINMENT.—Any containment system  
4 shall retain all animal waste produced by the oper-  
5 ation between applications, including runoff that  
6 runs through or into any area or structure in which  
7 animal waste is present.

8 (2) TREATMENT OF EXCESS WASTE.—If a wet  
9 waste operation produces more animal waste than  
10 can be applied to land in accordance with this Act  
11 or used for another purpose determined by the Ad-  
12 ministrator to pose no significant risk of water pol-  
13 lution, the operation shall treat the excess animal  
14 waste in accordance with Federal, State, and local  
15 laws (including regulations) governing the treatment  
16 of human waste.

17 (3) STORAGE OF EXCESS WASTE.—If a dry  
18 waste operation produces more animal waste than  
19 can be applied to land in accordance with this Act  
20 or used for another purpose determined by the Ad-  
21 ministrator to pose no significant risk of water pol-  
22 lution, animal waste of the operation shall be stored  
23 only in a covered, formed storage structure con-  
24 structed in accordance with technical standards es-

1        established by the Administrator that ensure that the  
2        structure—

3                (A) has the structural integrity to with-  
4                stand expected internal and external load pres-  
5                sures; and

6                (B) will not discharge animal waste.

7        (e) CONSTRUCTION AND USE OF CERTAIN STRUC-  
8        TURES.—An owner or operator of a concentrated animal  
9        feeding operation shall not construct or, effective begin-  
10       ning on the date that is 3 years after the date of enact-  
11       ment of this Act, use for the storage of animal waste—

12               (1) a containment system, if any portion of the  
13               system is located below the highest ground water  
14               level that occurs during the year; or

15               (2) an earthen lagoon that is—

16                       (A) located in an area with characteristics  
17                       (including topology, hydrology, and soil com-  
18                       position) that do not allow (according to tech-  
19                       nical standards established by the Adminis-  
20                       trator) the construction of an earthen lagoon  
21                       without a significant risk of water pollution  
22                       from animal waste;

23                       (B) located within minimum distances es-  
24                       tablished by the Administrator from environ-  
25                       mentally sensitive locations and locations with

1 high population density or sensitive populations  
2 (including distances from neighboring resi-  
3 dences, schools, day care centers, hospitals,  
4 medical facilities, surface water, water supply  
5 wells, wetlands not used for water treatment  
6 purposes, floodplains, and the drainage areas of  
7 drainage wells, drainage ditches, tile drainage  
8 lines, and subsurface drainage inlets); or

9 (C) not lined in accordance with technical  
10 standards established by the Administrator that  
11 use the best available technology.

12 (f) CONTAINMENT SYSTEM FOR WET WASTE OPER-  
13 ATIONS.—The containment system for a wet waste oper-  
14 ation shall include—

15 (1) emergency shutoff devices that are designed  
16 and placed in a manner that ensures the fastest  
17 practicable containment of animal waste in the event  
18 of an unexpected leakage or other discharge; and

19 (2) failsafe structures that will contain, in the  
20 event that a containment structure breaches or over-  
21 flows, a minimum quantity of animal waste equal to  
22 the maximum quantity loaded into the containment  
23 structure in any 48-hour period.

24 (g) DISCONTINUATION OF USE OF ANIMAL WASTE  
25 STORAGE STRUCTURES.—

1           (1) IN GENERAL.—An operator that ceases use  
2 of an animal waste storage structure shall, not later  
3 than 180 days after the date on which use of the  
4 structure ceases, remove and dispose of all animal  
5 waste from the structure in accordance with this  
6 Act.

7           (2) PERMIT.—An operator shall maintain for a  
8 storage structure all applicable permits required  
9 under the Federal Water Pollution Control Act (33  
10 U.S.C. 1251 et seq.) until such time as all animal  
11 waste is removed from the storage structure.

12       (h) APPLICATION OF ANIMAL WASTE ON OTHER  
13 LAND.—Before applying animal waste from a con-  
14 centrated animal feeding operation on land other than  
15 land owned by the animal owner or operator, the animal  
16 owner and the owner of the land where the waste will be  
17 applied shall execute a written agreement that includes  
18 such terms and conditions as are necessary to ensure that  
19 the waste is applied in accordance with this Act.

20       (i) NO AUTHORIZATION OF DISCHARGES.—Nothing  
21 in this section authorizes the direct discharge of animal  
22 waste into surface water.

23 **SEC. 4. AIR POLLUTION.**

24       Section 109 of the Clean Air Act (42 U.S.C. 7409)  
25 is amended by adding at the end the following:

1 “(e) HYDROGEN SULFIDE AND AMMONIA.—

2 “(1) DEFINITION OF CAFO.—The term ‘CAFO’  
3 has the meaning given the term ‘concentrated ani-  
4 mal feeding operation’ in section 2 of the Con-  
5 centrated Livestock Existing Alongside Nature Act.

6 “(2) LIMITS ON EMISSIONS.—

7 “(A) IN GENERAL.—Not later than 1 year  
8 after the date of enactment of this subsection,  
9 the Administrator shall promulgate national  
10 primary ambient air quality standards for hy-  
11 drogen sulfide and ammonia as measured at  
12 any point on the property line of a CAFO.

13 “(B) PERMITTED EXCEEDANCES.—A  
14 CAFO may exceed a standard under subpara-  
15 graph (A) on not more than 7 days in any cal-  
16 endar year if, for each day on which the stand-  
17 ard is to be exceeded, the owner or operator of  
18 the CAFO provides to a State or local official  
19 designated by the Administrator, at least 48  
20 hours before the day on which the standard will  
21 be exceeded, notice of the upcoming exceedance.

22 “(3) NO EFFECT ON OTHER LAW; APPLICA-  
23 BILITY.—Nothing in paragraph (2)—

1           “(A) preempts any State or local law that  
2           imposes a requirement that is more stringent  
3           than a requirement under paragraph (2); or

4           “(B) applies—

5                 “(i) in any State that has in effect a  
6                 statewide moratorium on the construction  
7                 or expansion of CAFOs; and

8                 “(ii) provides, under State law (in-  
9                 cluding a regulation) equal or greater pro-  
10                tection against air pollution from  
11                CAFOs.”.

12 **SEC. 5. PLAN APPROVAL.**

13           (a) **IN GENERAL.**—The Administrator shall establish  
14 and carry out an animal waste management program  
15 under which the Administrator shall approve an animal  
16 waste management plan submitted by an animal owner if  
17 the plan meets the requirements of this Act.

18           (b) **INSPECTION; NOTICE.**—Prior to approving an  
19 animal waste management plan, the Administrator, acting  
20 through the Chief of the Natural Resources Conservation  
21 Service, shall conduct an on-site inspection of the con-  
22 centrated animal feeding operation to determine whether  
23 the proposed animal waste management plan adequately  
24 takes into account the specific circumstances of the oper-  
25 ation.

1 (c) COMPLIANCE.—Approval of an animal waste  
2 management plan shall be conditioned on the concentrated  
3 animal feeding operation remaining in compliance with the  
4 plan and this Act.

5 (d) OPERATION OF EXISTING CONCENTRATED ANI-  
6 MAL FEEDING OPERATIONS.—Beginning on the date that  
7 is 18 months after the date of enactment of this Act, a  
8 concentrated animal feeding operation in existence on the  
9 date of enactment of this Act shall not operate unless the  
10 animal owner of the operation has obtained approval of  
11 an animal waste management plan for the operation from  
12 the Administrator.

13 (e) CONSTRUCTION OR EXPANSION OF CON-  
14 CENTRATED ANIMAL FEEDING OPERATIONS.—The con-  
15 struction or expansion of a concentrated animal feeding  
16 operation, or the expansion of a livestock or poultry feed-  
17 ing operation that would make the operation a con-  
18 centrated animal feeding operation, is prohibited unless  
19 the animal owner of the operation has obtained approval  
20 of an animal waste management plan from the Adminis-  
21 trator.

22 (f) DURATION.—

23 (1) IN GENERAL.—Approval of an animal waste  
24 management plan may be effective for any period  
25 not to exceed 5 years.

1           (2) DEADLINE FOR COMPLETION.—Approval of  
2           an animal waste management plan for the construc-  
3           tion or expansion of a concentrated animal feeding  
4           operation shall expire if the construction or expan-  
5           sion is not completed within 1 year after the date on  
6           which the approval is provided.

7           (3) RENEWAL.—

8           (A) IN GENERAL.—An application for re-  
9           newal of approval of an animal waste manage-  
10          ment plan shall be submitted to the Adminis-  
11          trator at least 180 days before the date on  
12          which the approval expires.

13          (B) TERMS AND CONDITIONS.—Renewal of  
14          approval of an animal waste management plan  
15          shall be subject to the terms and conditions  
16          that apply to the approval of an animal waste  
17          management plan for a concentrated animal  
18          feeding operation at the time of renewal.

19 **SEC. 6. ANIMAL WASTE MANAGEMENT PLANS.**

20          (a) IN GENERAL.—In consultation with the Secretary  
21          of Agriculture, the Administrator shall establish—

22               (1) the required elements of an animal waste  
23               management plan; and

24               (2) technical standards for each element.

1 (b) PURPOSE.—The required elements of an animal  
2 waste management plan shall be designed to prevent dis-  
3 charge of animal waste into surface or ground water.

4 (c) MINIMUM REQUIRED ELEMENTS.—In addition to  
5 any other requirements imposed under this Act, the re-  
6 quired elements of an animal waste management plan for  
7 a concentrated animal feeding operation shall include—

8 (1) the names, addresses, and telephone num-  
9 bers of the animal owner and operator;

10 (2) the location and number of acres of the con-  
11 centrated animal feeding operation;

12 (3) the location of the properties adjoining the  
13 concentrated animal feeding operation and the  
14 names, addresses, and telephone numbers of the  
15 owners of the properties;

16 (4) if any animal waste will be applied on land  
17 other than land owned by the animal owner or oper-  
18 ator, a copy of each written agreement executed be-  
19 tween the animal owner and the owner of the land  
20 where the waste will be applied that relates to the  
21 waste;

22 (5) a map indicating the general layout of the  
23 concentrated animal feeding operation, including—

24 (A) the location of each building or other  
25 structure;

1 (B) the location of all portions of the con-  
2 tainment system;

3 (C) the location and flow of any surface  
4 water; and

5 (D) the direction and degree of all grades  
6 within the property lines of the concentrated  
7 animal feeding operation;

8 (6) a certification by the animal owner that the  
9 animal owner will be responsible for and will ensure  
10 compliance with the animal waste management plan  
11 and the requirements of this Act;

12 (7) information necessary to determine the land  
13 area required for the application of animal waste  
14 from the concentrated animal feeding operation in  
15 accordance with the requirements of this Act and  
16 any crop or cover schedule specified in the plan;

17 (8) a schedule for periodic testing of soil nutri-  
18 ent levels;

19 (9) a schedule for periodic testing of animal  
20 waste nutrient levels;

21 (10) an estimate of the annual animal produc-  
22 tion and the annual quantity of each type of animal  
23 waste produced by the concentrated animal feeding  
24 operation;

1           (11) a description of the nutrient management  
2 methods, procedures, and practices to be used by the  
3 concentrated animal feeding operation to ensure that  
4 nutrients from all sources, including animal waste  
5 and commercial fertilizer, are applied in accordance  
6 with this Act;

7           (12) a description of the methods, structures,  
8 or practices to be used by the concentrated animal  
9 feeding operation to prevent or minimize—

10                   (A) soil loss;

11                   (B) surface water pollution;

12                   (C) ground water pollution; and

13                   (D) odors caused by animal waste during  
14 collection, storage, and application;

15           (13) technical specifications for the design and  
16 construction of containment systems to be used by  
17 the concentrated animal feeding operation;

18           (14) a description of methods, procedures, and  
19 practices to be used by the concentrated animal  
20 feeding operation for—

21                   (A) operation, monitoring, maintenance,  
22 and inspection of animal waste storage facili-  
23 ties; and

24                   (B) handling, transportation, application,  
25 and treatment of animal waste, including stor-

1           age volume, schedules for emptying storage fa-  
2           cilities, and application schedules, rates, and lo-  
3           cations;

4           (15) a description of contingency measures to  
5           be used by the concentrated animal feeding oper-  
6           ation to minimize environmental pollution resulting  
7           from any unexpected waste leak or discharge;

8           (16) a description of practices and procedures  
9           to be used by the concentrated animal feeding oper-  
10          ation for the keeping of records detailing compliance  
11          with the animal waste management plan and this  
12          Act; and

13          (17) any additional requirements necessary to  
14          comply with applicable Federal, State, and local laws  
15          (including regulations).

16 **SEC. 7. RECORDKEEPING.**

17          (a) IN GENERAL.—An animal owner shall maintain  
18          a current animal waste management plan and records that  
19          are sufficient to demonstrate compliance with the plan and  
20          this Act.

21          (b) DURATION.—The animal owner shall retain the  
22          records for not less than 3 years.

23 **SEC. 8. REGULATIONS.**

24          The Administrator shall promulgate such regulations  
25          as are appropriate to carry out this Act.

1 **SEC. 9. ENFORCEMENT; PENALTIES.**

2 (a) CLOSURE OF CONCENTRATED ANIMAL FEEDING  
3 OPERATIONS.—The Administrator shall take such actions  
4 as are necessary to compel the closure of a concentrated  
5 animal feeding operation if—

6 (1) an animal waste management plan for the  
7 operation is not submitted for approval, and ap-  
8 proved, in accordance with this Act; or

9 (2) the approval of the plan for the operation  
10 has been revoked by the Administrator.

11 (b) MODIFICATION, SUSPENSION, OR REVOCATION  
12 OF PLANS.—

13 (1) IN GENERAL.—The Administrator may  
14 modify, suspend, or revoke, in whole or in part, the  
15 approval of an approved plan for cause.

16 (2) CAUSE.—Cause for modification, suspen-  
17 sion, or revocation of the approval may include—

18 (A) failure to comply with the approved  
19 plan;

20 (B) a change in any condition of the con-  
21 centrated animal feeding operation that re-  
22 quires a change in the containment system to  
23 maintain compliance with this Act; and

24 (C) failure to submit to the Administrator,  
25 on request, any records and information re-  
26 quired to be maintained under this Act.

1           (c) MANDATORY REVIEW OF MANAGEMENT PRAC-  
2 TICES.—If a concentrated animal feeding operation is de-  
3 termined in an administrative action or proceeding of any  
4 Federal or State agency to have caused significant water  
5 pollution, the Administrator shall review the animal waste  
6 management practices of the concentrated animal feeding  
7 operation to determine if—

8           (1) the pollution resulted from failure to comply  
9 with an approved plan; and

10           (2) modifications to the approved plan are re-  
11 quired to prevent further pollution.

12           (d) LIABILITY FOR VIOLATIONS.—For the purpose of  
13 this section, an animal owner shall be considered to be  
14 liable for a violation of this Act by the owner or operator  
15 of a concentrated animal feeding operation in which the  
16 animals of the animal owner are located, or by any other  
17 agent of an animal owner, who is acting within the scope  
18 of the authority of the agent.

19           (e) TRANSFER OF RESPONSIBILITY OR LIABILITY  
20 FROM OWNERS TO OPERATORS.—No provision of a con-  
21 tract or other agreement between an animal owner and  
22 an operator shall transfer responsibility or liability under  
23 this Act from the animal owner to the operator.

24           (f) CIVIL PENALTY.—

1           (1) IN GENERAL.—The Administrator may im-  
2           pose on a person that fails to comply with any provi-  
3           sion of this Act (including a regulation promulgated  
4           under this Act and any provision of an applicable  
5           animal waste management plan or approved plan)  
6           such civil penalty as the Administrator considers to  
7           be appropriate—

8                     (A) to remedy the violation; and

9                     (B) to deter future violations.

10           (2) CONTINUING FAILURE TO COMPLY.—The  
11           Administrator may impose a civil penalty under  
12           paragraph (1) for each day on which a failure of  
13           compliance continues.

14 **SEC. 10. WAIVER.**

15           (a) IN GENERAL.—The Administrator may waive any  
16           or all of the requirements of this Act with respect to own-  
17           ers and operators that the Administrator determines are  
18           subject to similar State requirements that are equally  
19           stringent as or more stringent than the requirements of  
20           this Act.

21           (b) DETERMINATION.—The Administrator shall  
22           make a determination under subsection (a) if the Adminis-  
23           trator determines that a State—

1 (1) enforces a moratorium on the construction  
 2 or expansion of concentrated animal feeding oper-  
 3 ations;

4 (2) participates in the national pollutant dis-  
 5 charge elimination system program under section  
 6 402 of the Federal Water Pollution Control Act (33  
 7 U.S.C. 1342); and

8 (3) provides through State law (including a reg-  
 9 ulation) equal or greater protection against pollution  
 10 from concentrated animal feeding operations.

11 **SEC. 11. VOLUNTARY COMPLIANCE INCENTIVES UNDER EN-**  
 12 **VIRONMENTAL QUALITY INCENTIVES PRO-**  
 13 **GRAM.**

14 (a) **ELIGIBLE PRACTICES.**—Section 1240B of the  
 15 Food Security Act of 1985 (16 U.S.C. 3839aa-2) is  
 16 amended—

17 (1) in subsection (a)(2)—

18 (A) by redesignating subparagraphs (A)  
 19 and (B) as clauses (i) and (ii), respectively, and  
 20 indenting appropriately;

21 (B) by striking “With respect” and insert-  
 22 ing the following:

23 “(A) **IN GENERAL.**—Except as provided in  
 24 subparagraph (B), with respect”; and

25 (b) by adding at the end the following:

1           “(B) INELIGIBLE PRACTICES.—A producer  
2           shall not be eligible for cost-share payments for  
3           the construction or expansion of a concentrated  
4           animal feeding operation (as defined in section  
5           3 of the Concentrated Livestock Existing  
6           Alongside Nature Act).”;

7           (2) in subsection (b)(1), by striking “A con-  
8           tract” and inserting the following: “Except as pro-  
9           vided in subsection (a)(2)(B), a contract”.

10          (c) HIGH PRIORITY FOR ASSISTANCE AND PAY-  
11          MENTS.—Section 1240C of the Food Security Act of 1985  
12          (16 U.S.C. 3839aa–3) is amended by striking paragraphs  
13          (1) and (2) and inserting the following:

14                 “(1) encourage the use by producers of

15                         “(A) environmentally superior technologies;

16                         or

17                         “(B) cost-effective conservation practices;

18                         or

19                 “(2) are provided for the development and im-  
20                 plementation of animal waste management plans  
21                 that meet standards established under the Con-  
22                 centrated Livestock Existing Alongside Nature Act  
23                 by livestock producers for whom animal waste man-  
24                 agement plans are not required under that Act.”.

1 (d) APPROVED PLAN.—Section 1240E(a) of the  
 2 Food Security Act of 1985 (16 U.S.C. 3839aa–5(a)) is  
 3 amended—

4 (1) by redesignating paragraphs (1) through  
 5 (3) as subparagraphs (A) through (C), respectively,  
 6 and indenting appropriately;

7 (2) by striking “(a) IN GENERAL.—To be” and  
 8 inserting the following:

9 “(a) REQUIREMENTS.—

10 “(1) IN GENERAL.—To be”; and

11 (3) by adding at the end the following:

12 “(2) ANIMAL WASTE MANAGEMENT PLAN.—An  
 13 animal waste management plan that meets the re-  
 14 quirements of the Concentrated Livestock Existing  
 15 Alongside Nature Act, but that is prepared by a live-  
 16 stock operator that is too small to be considered a  
 17 concentrated feeding operation (as defined in section  
 18 3 of that Act), shall be considered to be an approved  
 19 plan of operations under the environmental quality  
 20 incentives program.”.

21 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

22 There is authorized to be appropriated to carry out  
 23 this Act such sums as are necessary for each of fiscal  
 24 years 2003 through 2007.

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