

Hoosier Environmental Council Position Statement in Opposition to Senate Bill 249
(2015 Legislative Session)

The Hoosier Environmental Council is a statewide non-profit with several thousands supporters from rural, urban and suburban areas. One of the key concerns that we hear from our supporters is the environmental, public health and quality of life impacts from the proliferation of large livestock confinement operations in our state. Furthermore, HEC is often contacted by different Indiana rural communities and to provide assistance to Hoosier families whose quality of life has been greatly harmed by the noxious odors, contamination of drinking water, plummeting property values, and community rifts that so often follow when a facility that houses thousands of animals and produces millions of gallons of waste moves in next door.

These communities and citizens need more protection, not less. Yet, SB 249 would dramatically impair the few remaining protections in place and is being proposed based on unsubstantiated arguments that have no basis in law or fact as follows:

1) Indiana’s livestock industry already has tremendous protections in the law

Proponents of SB 249 claim the measure is needed to protect economic growth of the livestock industry in Indiana. However, the Indiana General Assembly has already passed legislation to promote and protect livestock agriculture in Indiana. SEA 186, a measure that passed last legislative session, establishes state policy to “conserve, protect and encourage agriculture” and directs that the entire Indiana Code must be construed to protect the rights of farmers to engage in generally accepted livestock production practices and new technologies. Under this new law, local ordinances – a product of the Indiana Code -- cannot interfere with this new “right.” Moreover, Indiana’s long-existing Right to Farm Act, places tremendous obstacles on landowners trying to seek relief in court when their lives and properties are harmed by livestock operations.

2) Very few Indiana counties have actually passed or considered passing moratoriums

Another argument made in support of SB 249 is that some Indiana counties have tried to enact moratoriums prohibiting any new livestock operations from being constructed. But, the fact is that very few Indiana counties have actually passed or even considered passing moratoriums. In those counties, moratoriums either weren’t passed in the first place, were enacted for limited durations and have since lapsed, or passed but didn’t survive the industry’s legal challenges. To our knowledge, just two counties currently have limited moratoriums in place to allow those counties to do further study. So, putting aside whether county moratoriums are a good or bad idea, the reality is that there are very few, and they certainly haven’t posed a threat to the industry’s growth.

3) There are significant gaps in both federal and state regulation of livestock operations that leave citizens and communities unprotected

Proponents on SB 249 argue that the bill is needed because some counties have enacted ordinances that go beyond what Indiana’s CAFO/CFO regulations require and, according to IDEM, Indiana’s regulations are more stringent than federal EPA regulations. However, considering the significant gaps in both federal and state regulation of livestock operations, and the fact that the federal CAFO rule has been gutted by successful industry lawsuits, saying that Indiana law requires more than what the feds require, isn’t saying much. Here’s why:

- a) In Indiana there are roughly 2,000 regulated CAFOs and CFOs. (See the attached map). However, this does not include the universe of confinement operations that do not meet the animal number threshold to be subject to regulation. For example, there is a turkey operation in Indiana with 28,000

birds – just under the 30,000-bird regulatory threshold -- and, therefore, is not subject to state or federal CFO/CAFO regulation.

- b) Of Indiana's ~2,000 regulated facilities, 693 are large enough by animal number to be considered CAFOs – massive operations that used to be subject to federal requirements until industry lawsuits changed that. Now, only 3 of the 693 CAFOs are subject to federal law – the rest have since transferred into the state “CFO approval” program.
- c) As its name indicates, Indiana's “CFO approval” program (as opposed to a permitting program) gives IDEM very limited authority to deny an application to construct a new CFO or expand an existing one as long as the application contains the required information for construction and operation. According to IDEM, the vast majority of applications are approved.

Under the IDEM rule, CFOs are allowed to be built in sensitive areas such as karst terrain, near wetlands, streams, and residential wells, and dangerously close to homes. Moreover, public notice of the application in a newspaper is not required, IDEM inspections occur only once every 5 years, and IDEM readily admits it has no authority to regulate: “property values, public road conditions, where CFOs and CAFOs can locate, disposal of dead animals, groundwater use, traffic, odors, and vectors.” Indeed, IDEM directs citizens to consult with their local officials for assistance with these issues.

Given these tremendous gaps in federal and state policy, protecting the ability of local governments to step in and protect citizens is absolutely vital and acknowledged by IDEM itself!

4) SB 249 would strip away something that is so essential to Indiana's tradition of governance – Home Rule.

Finally, supporters of SB 249 contend that livestock agriculture is so important to Indiana's economy that we can't let local governments interfere and set the agenda for the state. Yet, there are many industries that are important to Indiana's economy and that has not been a reason – until now -- to eliminate the ability of local governments to decide if and where those industries can operate in their jurisdictions. That's because Indiana has long been a “Home Rule” state based on the recognition that that local governments are in a better position than the state to know what's right for their communities.

In sum, HEC opposes SB 249 because there are already tremendous protections in Indiana for the livestock industry, the underlying reasons for the bill are not substantiated, Indiana's long tradition of Home Rule is at stake, and stripping local control eliminates one of the few remaining avenues for citizens to protect their homes, families and communities from the pollution attributed to industrial livestock operations.

INDIANA'S REGULATED CAFOS & CFOS

