**Section 900.202 Procedures**

a) *Grandfather provision: Facilities in existence prior to July 15, 1991. Livestock management facilities and livestock waste handling facilities in existence prior to July 15, 1991 shall comply with setbacks in existence prior to July 15, 1991, as set forth in the Illinois Environmental Protection Act and* 35 Ill. Adm. Code 501.402. [510 ILCS 77/35(a)]

b) *Grandfather provision: Facilities in existence on effective date and after July 15, 1991. Livestock management facilities and livestock waste handling facilities in existence on May 21, 1996 (the effective date of the Livestock Management Facilities Act) but after July 15, 1991 shall comply with setbacks in existence prior to May 21, 1996, as set forth in the Illinois Environmental Protection Act and* 35 Ill. Adm. Code 501.402. [510 ILCS 77/35(b)]

c) *New livestock management or livestock waste handling facilities. Any new facility shall comply with the following setbacks:*

1) Residence: *For purposes of determining setback distances, minimum distances shall be measured from the nearest corner of the residence to the nearest corner of the earthen waste lagoon,* livestock waste handling facility, *or livestock management facility, whichever is closer.*

2) Common Place of Assembly or Non-Farm Business: For the purposes of determining setback distances between a common place of assembly or non-farm business:

A) When the primary activity at a common place of assembly or non-farm business is an outdoor activity, minimum distances shall be measured from the nearest corner of the earthen waste lagoon, livestock waste handling facility, or livestock management facility to the nearest point on the legal property line of the common place of assembly or non-farm business.

B) When the primary activity at a common place of assembly or non-farm business is not an outdoor activity and is an indoor activity, minimum distances shall be measured from the nearest corner of the earthen waste lagoon, livestock waste handling facility, or livestock management facility to the nearest corner of the structure where the indoor activity takes place.

3) *A livestock management facility or livestock waste handling facility serving less than 50 animal units shall be exempt from setback distances as set forth in* the Livestock Management Facilities *Act but shall be subject to rules promulgated under the Illinois Environmental Protection Act.*

4) *For a livestock management facility or waste handling facility serving 50 or greater but less than 1,000 animal units, the minimum setback distance shall be ¼ mile from the nearest occupied residence and ½ mile from the nearest populated area.*

5) *For a livestock management facility or livestock waste handling facility serving 1,000 or greater but less than 7,000 animal units, the setback is as follows:*

A) *For a populated area, the minimum setback shall be increased 440 feet over the minimum setback of ½ mile for each additional 1,000 animal units over 1,000 animal units.*

B) *For any occupied residence, the minimum setback shall be increased 220 feet over the minimum setback of ¼ mile for each additional 1,000 animal units over 1,000 animal units.*

6) *For a livestock management facility or livestock waste handling facility serving 7,000 or greater animal units, the setback is as follows:*

A) *For a populated area, the minimum setback shall be 1 mile.*

B) *For any occupied residence, the minimum setback shall be ½ mile.* [510 ILCS 77/35(c)]

d) *Requirements governing the location of a new livestock management facility and new livestock waste handling facility and conditions for exemptions or compliance with the maximum feasible location as provided in* 35 Ill. Adm. Code 501.402 *concerning agriculture related pollution shall apply to those facilities identified in subsections (b) and (c) of this Section. With regard to the maximum feasible location requirements, any reference to a setback distance in* 35 Ill. Adm. Code 501.402 *shall mean the appropriate distance as set forth in this Section.* [510 ILCS 77/35(d)]

e) *Setback category for* a livestock management facility or livestock waste handling facility *shall be determined by the maximum design capacity in animal units of the livestock management facility.* [510 ILCS 77/35(e)] For the purposes of this Subpart, the maximum design capacity of a livestock management facility shall equal the summation of the maximum existing design capacity and the maximum proposed design capacity, both expressed in animal units, of the livestock management facilities not separated by greater than ¼ mile.

f) *Setbacks may be decreased when innovative designs as approved by the Department are incorporated into the facility.* [510 ILCS 77/35(f)]

1) An owner or operator shall request a setback decrease in writing prior to construction.

2) An owner or operator shall attach to the request for decrease a certification by a Licensed Professional Engineer that in the professional judgment of the Licensed Professional Engineer the innovative designs incorporated into the facility will provide more odor protection than the original setbacks.

3) The Department shall notify the owner or operator of its determination within 30 days after the receipt of the request for decrease. In approving a reduction in setbacks due to innovative designs, the Department shall specifically find that such use of an innovative design will provide more odor protection than the original setbacks.

4) Where the Department grants such a decrease from the setbacks, the Department must maintain a file which includes all supporting data and justification which it relied upon in making its determination. This file is subject to public inspection.

g) *A setback may be decreased when waivers are obtained from owners of residences that are occupied and located in the setback area.* [510 ILCS 77/35(g)] A setback also may be decreased when waivers are obtained from owners of non-farm businesses or common places of assembly that are located in the setback area.

1) An owner or operator request for a setback decrease shall be in writing and submitted to the Department prior to construction.

2) An owner or operator shall attach to the request copies of the written and notarized waivers from all the owners of the residences, non-farm businesses, and common places of assembly that are located within the setback area.

3) Within 30 days after receipt of the request and waivers, the Department shall notify the owner or operator in writing of the setback decrease.

4) When such a decrease from the setbacks is requested, the Department must maintain a file which includes all supporting data and justification concerning the setback decrease. This file is subject to public inspection.