



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB2409

Introduced 2/17/2005, by Rep. Brandon W. Phelps

#### SYNOPSIS AS INTRODUCED:

510 ILCS 77/11  
510 ILCS 77/12  
510 ILCS 77/13  
510 ILCS 77/20  
510 ILCS 77/35  
510 ILCS 77/55  
510 ILCS 77/17 rep.

Amends the Livestock Management Facilities Act. Provides that livestock management facilities and livestock waste handling facilities serving less than 50 animal units or serving 150 or less animal units and located wholly within certain agricultural areas are exempt from the requirement to file a notice of intent to construct. Requires owners and operators of livestock waste handling facilities to send a notice of intent to construct to owners of property within the setback distances. Subjects owners and operators who begin construction prior to receiving written approval from the Illinois Department of Agriculture to an administrative hearing and a civil penalty. Provides that livestock management facilities or livestock waste handling facilities serving 2,000 or less animal units located in certain agricultural areas are not required to hold public informational meetings related to proposed construction. Provides that livestock management facilities and livestock waste handling facilities located in certain agricultural areas are exempt from certain construction standards. Allows livestock waste handling facilities with a design capacity of 300 or less animal units to demonstrate that a reduced storage volume is feasible due to the availability of certain land application areas. Exempts settling basins and holding ponds for the management and control of feedlot runoff and within which no livestock manure is actively stored or handled and permanent manure pipelines designed and utilized to transport manure from a livestock waste handling facility to a land application area from certain construction standards. Provides that an owner or operator who commences operation prior to receiving written approval from the Department is subject to an administrative hearing and a civil penalty. Provides that livestock management facility owners and operators who have been issued a National Pollution Discharge Elimination System-Concentrated Animal Feeding Operation Permit are not required to prepare a general waste management plan. Exempts from setback requirements livestock management facilities and livestock waste handling facilities serving 50 to 150 animal units in certain agricultural areas and with certain separation distances. Requires the Livestock Management Facilities Advisory Committee to meet as needed as determined by the Chair to accomplish its duties.

LRB094 08068 JAM 38252 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning animals.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Livestock Management Facilities Act is  
5 amended by changing Sections 11, 12, 13, 20, 35, and 55 as  
6 follows:

7 (510 ILCS 77/11)

8 Sec. 11. Filing notice of intent to construct and  
9 construction data; registration of facilities.

10 (a) An owner or operator shall file a notice of intent to  
11 construct for a livestock management facility or livestock  
12 waste handling facility with the Department prior to  
13 construction to establish a base date, which shall be valid for  
14 one year, for determination of setbacks in compliance with  
15 setback distances or, in the case of construction that is not a  
16 new facility, with the maximum feasible location requirements  
17 of Section 35 of this Act.

18 (a-5) A livestock management facility or livestock waste  
19 handling facility serving less than 50 animal units shall be  
20 exempt from the requirement to file a notice of intent to  
21 construct. A livestock management facility or livestock waste  
22 handling facility serving 150 or less animal units located  
23 wholly within an agricultural area as established pursuant to  
24 the Agricultural Areas Conservation and Protection Act with a  
25 separation distance of not less than 2,640 feet between the  
26 outermost extent of the livestock management facility or  
27 livestock waste handling facility and the agricultural area  
28 boundaries shall be exempt from the requirement to file a  
29 notice of intent to construct.

30 (b) For a livestock waste handling facility that is not  
31 subject to Section 12 of this Act, a construction plan of the  
32 waste handling structure with design specifications of the

1 structure noted as prepared by or for the owner or operator  
2 shall be filed with the Department at least 10 calendar days  
3 prior to the anticipated dates of construction. Upon receipt of  
4 the notice of intent to construct form or the construction  
5 plan, the Department shall review the documents to determine if  
6 all information has been submitted or if clarification is  
7 needed. Upon notification by the Department that the notice is  
8 complete, the owner or operator shall send a copy of the notice  
9 of intent to construct for a livestock management facility or  
10 livestock waste handling facility to the owners of property  
11 within the setback distances. For the purposes of this  
12 subsection (b), the owners of property located within the  
13 setback areas are presumed, unless established to the contrary,  
14 to be the persons shown by the current tax collector's warrant  
15 book to be the party in whose name the taxes were last  
16 assessed. The Department shall, within 15 calendar days of  
17 receipt of a notice of intent to construct or the construction  
18 plan, notify the owner or operator that construction may begin  
19 or that clarification is needed.

20 (c) For a livestock waste handling facility that is subject  
21 to Section 12 of this Act, a completed registration shall be  
22 filed with the Department at least 37 calendar days prior to  
23 the anticipated dates of construction. The registration shall  
24 include the following: (i) the name and address of the owner  
25 and operator of the livestock waste handling facility; (ii) a  
26 general description of the livestock waste handling structure  
27 and the type and number of the animal units of livestock it  
28 serves; (iii) the construction plan of the waste handling  
29 structure with design specifications of the structure noted as  
30 prepared by or for the owner or operator, and (iv) anticipated  
31 dates of construction. The Department shall, within 15 calendar  
32 days of receipt of the registration form, notify the person  
33 submitting the form that the registration is complete or that  
34 clarification information is needed. Upon notification by the  
35 Department that the registration is complete, the owner or  
36 operator shall send a copy of the notice of intent to construct

1 for a livestock management facility or livestock waste handling  
2 facility to the owners of property within the setback  
3 distances. For the purposes of this subsection (c), the owners  
4 of property located within the setback areas are presumed,  
5 unless established to the contrary, to be the persons shown by  
6 the current tax collector's warrant book to be the party in  
7 whose name the taxes were last assessed.

8 (d) Any owner or operator who fails to file a notice of  
9 intent to construct form or construction plans with the  
10 Department prior to commencing construction, upon being  
11 discovered by the Department, shall be subject to an  
12 administrative hearing by the Department. The administrative  
13 law judge, upon determination of a failure to file the  
14 appropriate form, shall impose a civil administrative penalty  
15 in an amount no more than \$1,000 and shall enter an  
16 administrative order directing that the owner or operator file  
17 the appropriate form within 10 business days after receiving  
18 notice from the Department. If, after receiving the  
19 administrative law judge's order to file, the owner or operator  
20 fails to file the appropriate form with the Department, the  
21 Department shall impose a civil administrative penalty in an  
22 amount no less than \$1,000 and no more than \$2,500 and shall  
23 enter an administrative order prohibiting the operation of the  
24 facility until the owner or operator is in compliance with this  
25 Act. Penalties under this subsection (d) not paid within 60  
26 days of notice from the Department shall be submitted to the  
27 Attorney General's office or an approved private collection  
28 agency.

29 (d-5) Any owner or operator who commences construction  
30 prior to receiving written approval from the Department shall  
31 be subject to an administrative hearing by the Department. The  
32 administrative law judge, upon determination of a failure to  
33 receive written approval from the Department prior to  
34 commencement of construction, shall impose a civil  
35 administrative penalty in an amount not exceeding \$1,000 and  
36 shall enter an administrative order directing that the owner or

1 operator pay the monetary penalty to the Department prior to  
2 the re-commencement of any additional construction and the  
3 placement of the facility into operation.

4 (Source: P.A. 91-110, eff. 7-13-99.)

5 (510 ILCS 77/12)

6 Sec. 12. Public informational meeting; lagoons and  
7 non-lagoon structures.

8 (a) Beginning on the effective date of this amendatory Act  
9 of 1999, within 7 days after receiving a form giving notice of  
10 intent to construct (i) a new livestock management facility or  
11 livestock waste handling facility serving 1,000 or more animal  
12 units that does not propose to utilize a lagoon or (ii) a  
13 livestock waste management facility or livestock waste  
14 handling facility that does propose to utilize a lagoon, the  
15 Department shall send a copy of the notice form to the county  
16 board of the county in which the facility is to be located and  
17 shall publish a public notice in a newspaper of general  
18 circulation within the county. After receiving a copy of the  
19 notice form from the Department, the county board may, at its  
20 discretion and within 30 days after receipt of the notice,  
21 request that the Department conduct an informational meeting  
22 concerning the proposed construction that is subject to this  
23 Section. In addition, during the county's 30-day review period,  
24 county residents may petition the county board of the county  
25 where the proposed new facility will be located to request that  
26 the Department conduct an informational meeting. When  
27 petitioned by 75 or more of the county's residents who are  
28 registered voters, the county board shall request that the  
29 Department conduct an informational meeting. If the county  
30 board requests that the Department conduct the informational  
31 meeting, the Department shall conduct the informational  
32 meeting within 15 days of the county board's request. If the  
33 Department conducts such a meeting, it shall cause notice of  
34 the meeting to be published in a newspaper of general  
35 circulation in the county and in the State newspaper and shall

1 send a copy of the notice to the County Board. Upon receipt of  
2 the notice, the County Board shall post the notice on the  
3 public informational board at the county courthouse at least 10  
4 days before the meeting. The owner or operator who submitted  
5 the notice of intent to construct to the Department shall  
6 appear at the meeting. At the meeting, the Department shall  
7 afford members of the public an opportunity to ask questions  
8 and present oral or written comments concerning the proposed  
9 construction. Notwithstanding the provisions of this Section,  
10 a livestock management facility or livestock waste handling  
11 facility serving 2,000 or less animal units whose location and  
12 setbacks are located wholly within an agricultural area  
13 established pursuant to the Agricultural Areas Conservation  
14 and Protection Act shall be exempt from the requirements of  
15 this Section.

16 (b) The county board shall submit at the informational  
17 meeting or within 30 days following the meeting an advisory,  
18 non-binding recommendation to the Department about the  
19 proposed new facility's construction in accordance with the  
20 applicable requirements of this Act. The advisory, non-binding  
21 recommendation shall contain at a minimum:

22 (1) a statement of whether the proposed facility  
23 achieves or fails to achieve each of the 8 siting criteria  
24 as outlined in subsection (d); and

25 (2) a statement of the information and criteria used by  
26 the county board in determining that the proposed facility  
27 met or failed to meet any of the criteria described in  
28 subsection (d).

29 (c) When the county board requests an informational  
30 meeting, construction shall not begin until after the  
31 informational meeting has been held, the Department has  
32 reviewed the county board's recommendation and replied to the  
33 recommendation indicating if the proposed new livestock  
34 management facility or the new livestock waste handling  
35 facility is or will be in compliance with the requirements of  
36 the Act, and the owner, operator, or certified manager and

1 operator has received the Department's notice that the setbacks  
2 and all applicable requirements of this Act have been met.

3 (d) At the informational meeting for the proposed facility,  
4 the Department of Agriculture shall receive evidence by  
5 testimony or otherwise on the following subjects:

6 (1) Whether registration and livestock waste  
7 management plan certification requirements, if required,  
8 are met by the notice of intent to construct.

9 (2) Whether the design, location, or proposed  
10 operation will protect the environment by being consistent  
11 with this Act.

12 (3) Whether the location minimizes any incompatibility  
13 with the surrounding area's character by being located in  
14 any area zoned for agriculture where the county has zoning  
15 or where the county is not zoned, the setback requirements  
16 established by this Act are complied with.

17 (4) Whether the facility is located within a 100-year  
18 floodplain or an otherwise environmentally sensitive area  
19 (defined as an area of karst area or with aquifer material  
20 within 5 feet of the bottom of the livestock waste handling  
21 facility) and whether construction standards set forth in  
22 the notice of intent to construct are consistent with the  
23 goal of protecting the safety of the area.

24 (5) Whether the owner or operator has submitted plans  
25 for operation that minimize the likelihood of any  
26 environmental damage to the surrounding area from spills,  
27 runoff, and leaching.

28 (6) Whether odor control plans are reasonable and  
29 incorporate reasonable or innovative odor reduction  
30 technologies given the current state of such technologies.

31 (7) Whether traffic patterns minimize the effect on  
32 existing traffic flows.

33 (8) Whether construction or modification of a new  
34 facility is consistent with existing community growth,  
35 tourism, recreation, or economic development or with  
36 specific projects involving community growth, tourism,

1 recreation, or economic development that have been  
2 identified by government action for development or  
3 operation within one year through compliance with  
4 applicable zoning and setback requirements for populated  
5 areas as established by this Act.

6 (Source: P.A. 91-110, eff. 7-13-99.)

7 (510 ILCS 77/13)

8 Sec. 13. Livestock waste handling facilities other than  
9 earthen livestock waste lagoons; construction standards;  
10 certification; inspection; removal-from-service requirements.

11 (a) After the effective date of this amendatory Act of  
12 1999, livestock waste handling facilities other than earthen  
13 livestock waste lagoons used for the storage of livestock waste  
14 shall be constructed in accordance with this Section. A  
15 livestock management facility or livestock waste handling  
16 facility serving 150 or less animal units located wholly within  
17 an agricultural area as established pursuant to the  
18 Agricultural Areas Conservation and Protection Act with a  
19 separation distance of not less than 2,640 feet between the  
20 outermost extent of the livestock management facility or  
21 livestock waste handling facility and the agricultural area  
22 boundaries shall be exempt from the requirements of this  
23 Section.

24 (1) Livestock waste handling facilities constructed of  
25 concrete shall meet the strength and load factors set forth  
26 in the Midwest Plan Service's Concrete Manure Storage  
27 Handbook (MWPS-36) and future updates. In addition, those  
28 structures shall meet the following requirements:

29 (A) Waterstops shall be incorporated into the  
30 design of the storage structure when consistent with  
31 the requirements of paragraph (1) of this subsection;

32 (B) Storage structures that handle waste in a  
33 liquid form shall be designed to contain a volume of  
34 not less than the amount of waste generated during 150  
35 days of facility operation at design capacity. The



1 owner or operator of a livestock waste handling  
2 facility with a design capacity of 300 or less animal  
3 units may demonstrate to the Department that a reduced  
4 storage volume, not less than 60 days, is feasible due  
5 to the availability of land application areas which can  
6 receive manure at agronomic rates or other manure  
7 disposal method is proposed which will allow for the  
8 reduced manure storage design capacity. The Department  
9 shall evaluate the proposal and determine whether a  
10 reduced manure storage design capacity is appropriate  
11 for the site; and

12 (C) Storage structures not covered or otherwise  
13 protected from precipitation shall, in addition to the  
14 waste storage volume requirements of subparagraph (B)  
15 of paragraph (1) of this subsection, include a 2-foot  
16 freeboard.

17 (2) A livestock waste handling facility in a  
18 prefabricated form shall meet the strength, load, and  
19 compatibility factors for its intended use. Those factors  
20 shall be verified by the manufacturer's specifications.

21 (3) Livestock waste handling facilities holding  
22 semi-solid livestock waste, including but not limited to  
23 picket dam structures, shall be constructed according to  
24 the requirements set forth in the Midwest Plan Service's  
25 Livestock Waste Facilities Handbook (MWPS-18) and future  
26 updates or similar standards used by the Natural Resources  
27 Conservation Service of the United States Department of  
28 Agriculture.

29 (4) Livestock waste handling facilities holding solid  
30 livestock waste shall be constructed according to the  
31 requirements set forth in the Midwest Plan Service's  
32 Livestock Waste Facilities Handbook (MWPS-18) and future  
33 updates or similar standards used by the Natural Resources  
34 Conservation Service of the United States Department of  
35 Agriculture. In addition, solid livestock waste stacking  
36 structures shall be sized to store not less than the amount

1 of waste generated during 6 months of facility operation at  
2 design capacity. The owner or operator of a livestock waste  
3 handling facility with a design capacity of 300 or less  
4 animal units may demonstrate to the Department that a  
5 reduced storage volume, not less than 2 months, is feasible  
6 due to the availability of land application areas which can  
7 receive manure at agronomic rates or other manure disposal  
8 method is proposed which will allow for the reduced storage  
9 design capacity. The Department shall evaluate the  
10 proposal and determine whether a reduced manure storage  
11 design capacity is appropriate for the site.

12 (5) Holding ponds used for the temporary storage of  
13 livestock feedlot run-off shall be constructed according  
14 to the requirements set forth in the Midwest Plan Service's  
15 Livestock Waste Facilities Handbook (MWPS-18) and future  
16 updates or similar standards used by the Natural Resources  
17 Conservation Service of the United States Department of  
18 Agriculture.

19 (6) Settling basins and holding ponds that are  
20 designed, constructed, and operated solely for the  
21 management and control of feedlot runoff only and within  
22 which no livestock manure is actively stored or handled are  
23 exempt from the requirements of this Section. An additional  
24 manure storage structure must be present at the livestock  
25 management facility for this exemption to be valid.

26 (7) Permanent manure pipelines or other conveyances  
27 that are designed and utilized to transport manure from a  
28 livestock waste handling facility to a land application  
29 area shall not be subject to the provisions of this  
30 Section. Pipelines and other conveyances that transport  
31 manure from one component of a livestock waste handling  
32 facility to another component of the same livestock waste  
33 handling facility shall be subject to the provisions of  
34 this Section.

35 (b) New livestock management facilities and livestock  
36 waste handling facilities constructed after the effective date

1 of this amendatory Act of 1999 shall be subject to the  
2 additional construction requirements and siting prohibitions  
3 provided in this subsection (b).

4 (1) No new non-lagoon livestock management facility or  
5 livestock waste handling facility may be constructed  
6 within the floodway of a 100-year floodplain. A new  
7 livestock management facility or livestock waste handling  
8 facility may be constructed within the portion of a  
9 100-year floodplain that is within the flood fringe and  
10 outside the floodway provided that the facility is designed  
11 and constructed to be protected from flooding and meets the  
12 requirements set forth in the Rivers, Lakes, and Streams  
13 Act, Section 5-40001 of the Counties Code, and Executive  
14 Order Number 4 (1979). The delineation of floodplains,  
15 floodways, and flood fringes shall be in compliance with  
16 the National Flood Insurance Program. Protection from  
17 flooding shall be consistent with the National Flood  
18 Insurance Program and shall be designed so that stored  
19 livestock waste is not readily removed.

20 (2) A new non-lagoon livestock waste handling facility  
21 constructed in a karst area shall be designed to prevent  
22 seepage of the stored material into groundwater in  
23 accordance with ASAE 393.2 or future updates. Owners or  
24 operators of proposed facilities should consult with the  
25 local soil and water conservation district, the University  
26 of Illinois Cooperative Extension Service, or other local,  
27 county, or State resources relative to determining the  
28 possible presence or absence of such areas.  
29 Notwithstanding the other provisions of this paragraph  
30 (2), after the effective date of this amendatory Act of  
31 1999, no non-lagoon livestock waste handling facility may  
32 be constructed within 400 feet of any natural depression in  
33 a karst area formed as a result of subsurface removal of  
34 soil or rock materials that has caused the formation of a  
35 collapse feature that exhibits internal drainage. For the  
36 purposes of this paragraph (2), the existence of such a

1 natural depression in a karst area shall be indicated by  
2 the uppermost closed depression contour lines on a USGS 7  
3 1/2 minute quadrangle topographic map or as determined by  
4 Department field investigation in a karst area.

5 (3) A new non-lagoon livestock waste handling facility  
6 constructed in an area where aquifer material is present  
7 within 5 feet of the bottom of the facility shall be  
8 designed to ensure the structural integrity of the  
9 containment structure and to prevent seepage of the stored  
10 material to groundwater. Footings and underlying structure  
11 support shall be incorporated into the design standards of  
12 the storage structure in accordance with the requirements  
13 of Section 4.1 of the American Society of Agricultural  
14 Engineers (ASAE) EP 393.2 or future updates.

15 (c) A livestock waste handling facility owner may rely on  
16 guidance from the local soil and water conservation district,  
17 the Natural Resources Conservation Service of the United States  
18 Department of Agriculture, or the University of Illinois  
19 Cooperative Extension Service for soil type and associated  
20 information.

21 (d) The standards in subsections (a) and (b) shall serve as  
22 interim construction standards until such time as permanent  
23 rules promulgated pursuant to Section 55 of this Act become  
24 effective. In addition, the Department and the Board shall  
25 utilize the interim standards in subsections (a) and (b) as a  
26 basis for the development of such permanent rules.

27 (e) The owner or operator of a livestock management  
28 facility or livestock waste handling facility may, with the  
29 approval of the Department, elect to exceed the strength and  
30 load requirements as set forth in this Section.

31 (f) The owner or operator of a livestock management  
32 facility or livestock waste handling facility shall send, by  
33 certified mail or in person, to the Department a certification  
34 of compliance together with copies of verification documents  
35 upon completion of construction. In the case of structures  
36 constructed with the design standards used by the Natural

1 Resources Conservation Service of the United States Department  
2 of Agriculture, copies of the design standards and a statement  
3 of verification signed by a representative of the United States  
4 Department of Agriculture shall accompany the owner's or  
5 operator's certification of compliance. The certification  
6 shall state that the structure meets or exceeds the  
7 requirements in subsection (a) of this Section. A \$250 filing  
8 fee shall accompany the statement.

9 (g) The Department shall inspect the construction site  
10 prior to construction, during construction, and within 10  
11 business days following receipt of the certification of  
12 compliance to determine compliance with the construction  
13 standards.

14 (h) The Department shall require modification when  
15 necessary to bring the construction into compliance with the  
16 standards set forth in this Section. The person making the  
17 inspection shall discuss with the owner, operator, or certified  
18 livestock manager an evaluation of the livestock waste handling  
19 facility construction and shall (i) provide on-site written  
20 recommendations to the owner, operator, or certified livestock  
21 manager of what modifications are necessary or (ii) inform the  
22 owner, operator, or certified livestock manager that the  
23 facility meets the standards set forth in this Section. On the  
24 day of the inspection, the person making the inspection shall  
25 give the owner, operator, or certified livestock manager a  
26 written report of findings based on the inspection together  
27 with an explanation of remedial measures necessary to enable  
28 the livestock waste handling facility to meet the standards set  
29 forth in this Section. The Department shall, within 5 business  
30 days of the date of inspection, send an official written notice  
31 to the owner or operator of the livestock waste handling  
32 facility by certified mail, return receipt requested,  
33 indicating that the facility meets the standards set forth in  
34 this Section or identifying the remedial measures necessary to  
35 enable the livestock waste handling facility to meet the  
36 standards set forth in this Section. The owner or operator

1 shall, within 10 business days of receipt of an official  
2 written notice of deficiencies, contact the Department to  
3 develop the principles of an agreement of compliance. The owner  
4 or operator and the Department shall enter into an agreement of  
5 compliance setting forth the specific changes to be made to  
6 bring the construction into compliance with the standards  
7 required under this Section. If an agreement of compliance  
8 cannot be achieved, the Department shall issue a compliance  
9 order to the owner or operator outlining the specific changes  
10 to be made to bring the construction into compliance with the  
11 standards required under this Section. The owner or operator  
12 can request an administrative hearing to contest the provisions  
13 of the Department's compliance order.

14 (j) If any owner or operator operates in violation of an  
15 agreement of compliance, the Department shall seek an  
16 injunction in circuit court to prohibit the operation of the  
17 facility until construction and certification of the livestock  
18 waste handling facility are in compliance with the provisions  
19 of this Section.

20 (j-5) Any owner or operator who commences operation prior  
21 to receiving written approval from the Department shall be  
22 subject to an administrative hearing by the Department. The  
23 administrative law judge, upon determination of a failure to  
24 receive written approval from the Department prior to the  
25 commencement of operation shall impose a civil administrative  
26 penalty in an amount not exceeding \$1,000.

27 (k) When any livestock management facility not using an  
28 earthen livestock waste lagoon is removed from service, the  
29 accumulated livestock waste remaining within the facility  
30 shall be removed and applied to land at rates consistent with a  
31 waste management plan for the facility. Removal of the waste  
32 shall occur within 12 months after the date livestock  
33 production at the facility ceases. In addition, the owner or  
34 operator shall make provisions to prevent the accumulation of  
35 precipitation within the livestock waste handling facility.  
36 Upon completion of the removal of manure, the owner or operator

1 of the facility shall notify the Department that the facility  
2 is being removed from service and the remaining manure has been  
3 removed. The Department shall conduct an inspection of the  
4 livestock waste handling facility and inform the owner or  
5 operator in writing that the requirements imposed under this  
6 subsection (k) have been met or that additional actions are  
7 necessary. Commencement of operations at a facility that has  
8 livestock shelters left intact and that has completed the  
9 requirements imposed under this subsection (k) and that has  
10 been operated as a livestock management facility or livestock  
11 waste handling facility for 4 consecutive months at any time  
12 within the previous 10 years shall not be considered a new or  
13 expanded livestock management or waste handling facility. A new  
14 facility constructed after May 21, 1996 that has been removed  
15 from service for a period of 2 or more years shall not be  
16 placed back into service prior to an inspection of the  
17 livestock waste handling facility and receipt of written  
18 approval by the Department.

19 (Source: P.A. 91-110, eff. 7-13-99.)

20 (510 ILCS 77/20)

21 Sec. 20. Handling, storing and disposing of livestock  
22 waste.

23 (a) The livestock management facility owner or operator  
24 shall comply with the requirements for handling, storing, and  
25 disposing of livestock wastes as set forth in the rules adopted  
26 pursuant to the Illinois Environmental Protection Act  
27 concerning agriculture related pollution.

28 (b) The livestock management facility owner or operator at  
29 a facility of less than 1,000 animal units shall not be  
30 required to prepare and maintain a waste management plan.

31 (c) The livestock management facility owner or operator at  
32 a facility of 1,000 or greater animal units but less than 5,000  
33 animal units shall prepare and maintain on file at the  
34 livestock management facility a general waste management plan.  
35 Notwithstanding this requirement, a livestock management

1 facility subject to this subsection may be operated on an  
2 interim basis but not to exceed 6 months after the effective  
3 date of the rules promulgated pursuant to this Act to allow for  
4 the owner or operator of the facility to develop a waste  
5 management plan. The waste management plan shall be available  
6 for inspection during normal business hours by Department  
7 personnel. A livestock management facility owner or operator  
8 who has been issued a National Pollutant Discharge Elimination  
9 System-Concentrated Animal Feeding Operation Permit by the  
10 United States Environmental Protection Agency or the Illinois  
11 Environmental Protection Agency shall not be subject to the  
12 requirements of this subsection (c) during the time period that  
13 the permit is effective.

14 (d) The livestock management facility owner or operator at  
15 a facility of 5,000 or greater animal units shall prepare,  
16 maintain, and submit to the Department the waste management  
17 plan for approval. Approval of the waste management plan shall  
18 be predicated on compliance with provisions of subsection (f).  
19 The waste management plan shall be approved by the Department  
20 before operation of the facility or in the case of an existing  
21 facility, the waste management plan shall be submitted within  
22 60 working days after the effective date of the rules  
23 promulgated pursuant to this Act.

24 The owner or operator of an existing livestock management  
25 facility that through growth meets or exceeds 5,000 animal  
26 units shall file its waste management plan with the Department  
27 within 60 working days after reaching the stated animal units.

28 The owner or operator of a livestock management facility  
29 that is subject to this subsection (d) shall file within 60  
30 working days with the Department a revised waste management  
31 plan when there is a change as provided in subsection (e) of  
32 this Section that will materially affect compliance with the  
33 waste management plan.

34 A livestock management facility owner or operator who has  
35 been issued a National Pollutant Discharge Elimination  
36 System-Concentrated Animal Feeding Operation Permit by the



1 United States Environmental Protection Agency or the Illinois  
2 Environmental Protection Agency shall not be subject to the  
3 requirements of this subsection (d) during the time period that  
4 the permit is effective.

5 (d-5) The owner or operator of multiple livestock  
6 management facilities under common facility ownership where  
7 the cumulative animal units of the facilities are equal to or  
8 greater than the animal unit numbers provided for in subsection  
9 (c) of this Section shall prepare and keep on file at each  
10 facility a waste management plan in accordance with the  
11 requirements of subsection (c). The owner or operator of  
12 multiple livestock management facilities that are under common  
13 facility ownership where the cumulative animal units of the  
14 facilities are equal to or greater than the animal unit numbers  
15 provided for in subsection (d) of this Section shall prepare  
16 and file with the Department a waste management plan in  
17 accordance with the provisions of subsection (d). Cumulative  
18 animal units shall be determined by combining the animal units  
19 of multiple livestock management facilities under the common  
20 facility ownership based upon the design capacity of each  
21 facility. For the purposes of this subsection (d-5), "under  
22 common facility ownership" means the same person or persons  
23 own, directly or indirectly, through majority owned business  
24 entities at least 51% of any person or persons (as defined by  
25 Section 10.55) that own or operate the livestock management  
26 facility or livestock waste handling facility located in the  
27 State of Illinois.

28 (e) The owner or operator of a livestock management  
29 facility shall update the waste management plan when there is a  
30 change in values shown in the plan under item (1) of subsection  
31 (f) of this Section. The waste management plan and records of  
32 livestock waste disposal shall be kept on file for three years.

33 (f) The application of livestock waste to the land is an  
34 acceptable, recommended, and established practice in Illinois.  
35 However, when livestock waste is not applied in a responsible  
36 manner, it may create pollutional problems. It should be

1 recognized that research relative to livestock waste  
2 application based on livestock waste nutrient content is  
3 currently ongoing. The Dean of the College of Agricultural,  
4 Consumer and Environmental Sciences at the University of  
5 Illinois, or his or her designee, shall annually report to the  
6 Advisory Committee on the status of phosphorus research,  
7 including research that has been supported in whole or in part  
8 by the Illinois Council on Food and Agricultural Research. The  
9 Advisory Committee may also consult with other appropriate  
10 research entities on the status of phosphorus research. It is  
11 considered acceptable to prepare and implement a waste  
12 management plan based on a nitrogen rate, unless otherwise  
13 restricted by this Section. The waste management plan shall  
14 include the following:

15 (1) An estimate of the volume of livestock waste to be  
16 disposed of annually, which shall be obtained by  
17 multiplying the design capacity of the facility by the  
18 appropriate amount of waste generated by the animals. The  
19 values showing the amount of waste generated in Table 2-1,  
20 Midwest Plan Service's, MWPS-18, Livestock Waste  
21 Management Facilities Handbook or Design Criteria for the  
22 field application of livestock waste adopted by the Agency  
23 may be used.

24 (2) The number of acres available for disposal of the  
25 waste, whether they are owned by the owner or operator of  
26 the livestock waste management facility or are shown to be  
27 contracted with another person or persons for disposal of  
28 waste.

29 (3) An estimate of the nutrient value of the waste. The  
30 owner or operator may prepare a plan based on an average of  
31 the minimum and maximum numbers in the table values derived  
32 from Midwest Plan Service's, MWPS-18, Livestock Waste  
33 Facilities Handbook, the Agency's Agriculture Related  
34 Pollution regulations, or the results of analysis  
35 performed on samples of waste. For the purposes of  
36 compliance with this subsection, the nutrient values of

1 livestock waste may vary as indicated in the source table.  
2 In the case of laboratory analytical results, the nutrient  
3 values may vary with the accuracy of the analytical method.

4 (3.5) Results of the Bray P1 or Mehlich test for soil  
5 phosphorus reported in pounds of elemental phosphorus per  
6 acre. Soil samples shall be obtained and analyzed from the  
7 livestock waste application fields on land owned or under  
8 the control of the owner or operator where applications are  
9 planned. Fields where livestock waste is applied shall be  
10 sampled every 3 years. Sampling procedures, such as the  
11 number of samples and the depth of sampling, as outlined in  
12 the current edition of the Illinois Agronomy Handbook shall  
13 be followed when soil samples are obtained.

14 (3.6) If the average Bray P1 or Mehlich test result for  
15 soil phosphorus calculated from samples obtained from the  
16 application field is 300 pounds or less of elemental  
17 phosphorus per acre, livestock waste may continue to be  
18 applied to that field in accordance with subsection (f) of  
19 this Section. If the average Bray P1 or Mehlich test result  
20 for soil phosphorus for an application field is greater  
21 than 300 pounds of elemental phosphorus per acre, the owner  
22 or operator shall apply livestock waste at the phosphorus  
23 rate to the field until the average Bray P1 or Mehlich test  
24 for soil phosphorus indicates there is less than 300 pounds  
25 of elemental phosphorus per acre. Upon the development of a  
26 phosphorus index that is approved subject to the provisions  
27 established in Section 55 of this Act, the owner or  
28 operator shall use such index in lieu of the 300 pounds of  
29 elemental phosphorus per acre.

30 (4) An indication that the livestock waste will be  
31 applied at rates not to exceed the agronomic nitrogen  
32 demand of the crops to be grown when averaged over a 5-year  
33 period.

34 (5) A provision that livestock waste applied within 1/4  
35 mile of any residence not part of the facility shall be  
36 injected or incorporated on the day of application.

1           However, livestock management facilities and livestock  
2           waste handling facilities that have irrigation systems in  
3           operation prior to the effective date of this Act or  
4           existing facilities applying waste on frozen ground are not  
5           subject to the provisions of this item (5).

6           (6) A provision that livestock waste may not be applied  
7           within 200 feet of surface water unless the water is  
8           upgrade or there is adequate diking, and waste will not be  
9           applied within 150 feet of potable water supply wells.

10          (7) A provision that livestock waste may not be applied  
11          in a 10-year flood plain unless the injection or  
12          incorporation method of application is used.

13          (8) A provision that livestock waste may not be applied  
14          in waterways.

15          (9) A provision that if waste is spread on frozen or  
16          snow-covered land, the application will be limited to land  
17          areas on which:

18                 (A) land slopes are 5% or less, or

19                 (B) adequate erosion control practices exist.

20          (10) Methods for disposal of animal waste.

21          (g) Any person who is required to prepare and maintain a  
22          waste management plan and who fails to do so shall be issued a  
23          warning letter by the Department for the first violation and  
24          shall be given 30 working days to prepare a waste management  
25          plan. For failure to prepare and maintain a waste management  
26          plan, the person shall be fined an administrative penalty of up  
27          to \$1,000 by the Department and shall be required to enter into  
28          an agreement of compliance to prepare and maintain a waste  
29          management plan within 30 working days. For failure to prepare  
30          and maintain a waste management plan after the second 30 day  
31          period or for failure to enter into a compliance agreement, the  
32          Department may issue an operational cease and desist order  
33          until compliance is attained.

34          (Source: P.A. 91-110, eff. 7-13-99; 92-16, eff. 6-28-01.)

1           Sec. 35. Setbacks for livestock management and livestock  
2 handling facilities.

3           (a) Grandfather provision; facilities in existence prior  
4 to July 15, 1991. Livestock management facilities and livestock  
5 waste handling facilities in existence prior to July 15, 1991  
6 shall comply with setbacks in existence prior to July 15, 1991,  
7 as set forth in the Illinois Environmental Protection Act and  
8 rules promulgated under that Act.

9           (b) Grandfather provision; facilities in existence on  
10 effective date and after July 15, 1991. Livestock management  
11 facilities and livestock waste handling facilities in  
12 existence on the effective date of this Act but after July 15,  
13 1991 shall comply with setbacks in existence prior to the  
14 effective date of this Act, as set forth in the Illinois  
15 Environmental Protection Act and rules promulgated under that  
16 Act.

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

20           (1) For purposes of determining setback distances,  
21 minimum distances shall be measured from the nearest corner  
22 of the residence or place of common assembly to the nearest  
23 corner of the earthen waste lagoon or livestock management  
24 facility, whichever is closer.

25           (2) A livestock management facility or livestock waste  
26 handling facility serving less than 50 animal units shall  
27 be exempt from setback distances as set forth in this Act  
28 but shall be subject to rules promulgated under the  
29 Illinois Environmental Protection Act.

30           (3) For a livestock management facility or waste  
31 handling facility serving 50 or greater but less than 1,000  
32 animal units, the minimum setback distance shall be 1/4  
33 mile from the nearest occupied residence and 1/2 mile from  
34 the nearest populated area.

35           (3.5) A livestock management facility or waste  
36 handling facility serving 50 or greater and 150 or less

1 animal units located wholly within an agricultural area as  
2 established pursuant to the Agricultural Areas  
3 Conservation and Protection Act with a separation distance  
4 of not less than 2,640 feet between the outermost extent of  
5 the livestock management facility or livestock waste  
6 handling facility and the agricultural area boundaries  
7 shall be exempt from setback distances as set forth in this  
8 Act but shall be subject to rules adopted under the  
9 Illinois Environmental Protection Act.

10 (4) For a livestock management facility or livestock  
11 waste handling facility serving 1,000 or greater but less  
12 than 7,000 animal units, the setback is as follows:

13 (A) For a populated area, the minimum setback shall  
14 be increased 440 feet over the minimum setback of 1/2  
15 mile for each additional 1,000 animal units over 1,000  
16 animal units.

17 (B) For any occupied residence, the minimum  
18 setback shall be increased 220 feet over the minimum  
19 setback of 1/4 mile for each additional 1,000 animal  
20 units over 1,000 animal units.

21 (5) For a livestock management facility or livestock  
22 waste handling facility serving 7,000 or greater animal  
23 units, the setback is as follows:

24 (A) For a populated area, the minimum setback shall  
25 be 1 mile.

26 (B) For any occupied residence, the minimum  
27 setback shall be 1/2 mile.

28 (d) Requirements governing the location of a new livestock  
29 management facility and new livestock waste-handling facility  
30 and conditions for exemptions or compliance with the maximum  
31 feasible location as provided in rules adopted pursuant to the  
32 Illinois Environmental Protection Act concerning agriculture  
33 regulated pollution shall apply to those facilities identified  
34 in subsections (b) and (c) of this Section. With regard to the  
35 maximum feasible location requirements, any reference to a  
36 setback distance in the rules under the Illinois Environmental

1 Protection Act shall mean the appropriate distance as set forth  
2 in this Section.

3 (e) Setback category shall be determined by the design  
4 capacity in animal units of the livestock management facility.

5 (f) Setbacks may be decreased when innovative designs as  
6 approved by the Department are incorporated into the facility.

7 (g) A setback may be decreased when waivers are obtained  
8 from owners of residences that are occupied and located in the  
9 setback area.

10 (Source: P.A. 91-110, eff. 7-13-99.)

11 (510 ILCS 77/55)

12 Sec. 55. Rules; Livestock Management Facilities Advisory  
13 Committee.

14 (a) There is hereby established a Livestock Management  
15 Facilities Advisory Committee, which shall include the  
16 Directors of the Department of Agriculture, the Environmental  
17 Protection Agency, the Department of Natural Resources, and the  
18 Department of Public Health, or their designees. The Director  
19 of Agriculture or his or her designee shall serve as the Chair  
20 of the Advisory Committee. Members of the Advisory Committee  
21 may organize themselves as they deem necessary and shall serve  
22 without compensation.

23 (b) The Advisory Committee shall review, evaluate, and make  
24 recommendations to the Department of Agriculture for rules  
25 necessary for the implementation of this Act. Based upon the  
26 recommendations of the Advisory Committee, the Department of  
27 Agriculture shall: (i) propose rules to the Pollution Control  
28 Board for the implementation of design and construction  
29 standards for livestock waste handling facilities as set forth  
30 in Sections 13 and 15(a-5) of this Act based upon the standards  
31 set forth in the American Society of Agricultural Engineers'  
32 Standards, Engineering Practices and Data (ASAE Standards) and  
33 future updates, Midwest Plan Service's Concrete Manure Storage  
34 Handbook (MWPS-36) and future updates and related supplemental  
35 technical documents, the Midwest Plan Service's Livestock

1 Waste Facilities Handbook (MWPS-18) and future updates and  
2 related supplemental technical documents or similar standards  
3 used by the Natural Resources Conservation Service of the  
4 United States Department of Agriculture; and (ii) on and after  
5 the effective date of this amendatory Act of 1999, provide  
6 public notice in the State newspaper, the Illinois Register,  
7 and on the Department's Internet website; hold public hearings  
8 during the first notice period; and take public comments and  
9 adopt rules pursuant to the Illinois Administrative Procedure  
10 Act for all Sections of this Act other than design and  
11 construction standards for livestock waste handling facility  
12 as set forth in Sections 13 and 15(a-5).

13 (c) The Pollution Control Board shall hold hearings on and  
14 adopt rules for the implementation of design and construction  
15 standards for livestock waste handling facilities as set forth  
16 in Sections 13 and 15(a-5) of this Act in the manner provided  
17 for in Sections 27 and 28 of the Environmental Protection Act.  
18 Rules adopted pursuant to this Section shall take into account  
19 all available pollution control technologies and shall be  
20 technologically feasible and economically reasonable.

21 (d) The Advisory Committee shall meet as needed as  
22 determined by the Chair of the Advisory Committee to accomplish  
23 the requirements of subsection (b) ~~once every 6 months after~~  
24 ~~the effective date of this amendatory Act of 1997~~ to review,  
25 evaluate, and make recommendations to the Department of  
26 Agriculture concerning the Department's random inspection of  
27 livestock waste lagoons under Section 16 of this Act.

28 (Source: P.A. 90-565, eff. 6-1-98; 91-110, eff. 7-13-99.)

29 (510 ILCS 77/17 rep.)

30 Section 10. The Livestock Management Facilities Act is  
31 amended by repealing Section 17.