



Sen. Debbie DeFrancesco Halvorson

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1 AMENDMENT TO SENATE BILL 2088

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2088 by replacing  
3 everything after the enacting clause with the following:

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

1 separation distance of not less than 2,640 feet between the  
2 outermost extent of the livestock management facility or  
3 livestock waste handling facility and the agricultural area  
4 boundaries shall be exempt from the requirement to file a  
5 notice of intent to construct.

6 (b) For a livestock waste handling facility that is not  
7 subject to Section 12 of this Act, a construction plan of the  
8 waste handling structure with design specifications of the  
9 structure noted as prepared by or for the owner or operator  
10 shall be filed with the Department at least 10 calendar days  
11 prior to the anticipated dates of construction. Upon receipt of  
12 the notice of intent to construct form or the construction  
13 plan, the Department shall review the documents to determine if  
14 all information has been submitted or if clarification is  
15 needed. Upon notification by the Department that the notice is  
16 complete, the owner or operator shall send a copy of the notice  
17 of intent to construct for a livestock management facility or  
18 livestock waste handling facility to the owners of property  
19 within the setback distances. For the purposes of this  
20 subsection (b), the owners of property located within the  
21 setback areas are presumed, unless established to the contrary,  
22 to be the persons shown by the current tax collector's warrant  
23 book to be the party in whose name the taxes were last  
24 assessed. The Department shall, within 15 calendar days of  
25 receipt of a notice of intent to construct or the construction  
26 plan, notify the owner or operator that construction may begin  
27 or that clarification is needed.

28 (c) For a livestock waste handling facility that is subject  
29 to Section 12 of this Act, a completed registration shall be  
30 filed with the Department at least 37 calendar days prior to  
31 the anticipated dates of construction. The registration shall  
32 include the following: (i) the name and address of the owner  
33 and operator of the livestock waste handling facility; (ii) a  
34 general description of the livestock waste handling structure

1 and the type and number of the animal units of livestock it  
2 serves; (iii) the construction plan of the waste handling  
3 structure with design specifications of the structure noted as  
4 prepared by or for the owner or operator, and (iv) anticipated  
5 dates of construction. The Department shall, within 15 calendar  
6 days of receipt of the registration form, notify the person  
7 submitting the form that the registration is complete or that  
8 clarification information is needed. Upon notification by the  
9 Department that the registration is complete, the owner or  
10 operator shall send a copy of the notice of intent to construct  
11 for a livestock management facility or livestock waste handling  
12 facility to the owners of property within the setback  
13 distances. For the purposes of this subsection (c), the owners  
14 of property located within the setback areas are presumed,  
15 unless established to the contrary, to be the persons shown by  
16 the current tax collector's warrant book to be the party in  
17 whose name the taxes were last assessed.

18 (d) Any owner or operator who fails to file a notice of  
19 intent to construct form or construction plans with the  
20 Department prior to commencing construction, upon being  
21 discovered by the Department, shall be subject to an  
22 administrative hearing by the Department. The administrative  
23 law judge, upon determination of a failure to file the  
24 appropriate form, shall impose a civil administrative penalty  
25 in an amount no more than \$1,000 and shall enter an  
26 administrative order directing that the owner or operator file  
27 the appropriate form within 10 business days after receiving  
28 notice from the Department. If, after receiving the  
29 administrative law judge's order to file, the owner or operator  
30 fails to file the appropriate form with the Department, the  
31 Department shall impose a civil administrative penalty in an  
32 amount no less than \$1,000 and no more than \$2,500 and shall  
33 enter an administrative order prohibiting the operation of the  
34 facility until the owner or operator is in compliance with this

1 Act. Penalties under this subsection (d) not paid within 60  
2 days of notice from the Department shall be submitted to the  
3 Attorney General's office or an approved private collection  
4 agency.

5 (d-5) Any owner or operator who commences construction  
6 prior to receiving written approval from the Department shall  
7 be subject to an administrative hearing by the Department. The  
8 administrative law judge, upon determination of a failure to  
9 receive written approval from the Department prior to  
10 commencement of construction, shall impose a civil  
11 administrative penalty in an amount not exceeding \$1,000 and  
12 shall enter an administrative order directing that the owner or  
13 operator pay the monetary penalty to the Department prior to  
14 the re-commencement of any additional construction and the  
15 placement of the facility into operation.

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

17 (510 ILCS 77/12)

18 Sec. 12. Public informational meeting; lagoons and  
19 non-lagoon structures.

20 (a) Beginning on the effective date of this amendatory Act  
21 of 1999, within 7 days after receiving a form giving notice of  
22 intent to construct (i) a new livestock management facility or  
23 livestock waste handling facility serving 1,000 or more animal  
24 units that does not propose to utilize a lagoon or (ii) a  
25 livestock waste management facility or livestock waste  
26 handling facility that does propose to utilize a lagoon, the  
27 Department shall send a copy of the notice form to the county  
28 board of the county in which the facility is to be located and  
29 shall publish a public notice in a newspaper of general  
30 circulation within the county. After receiving a copy of the  
31 notice form from the Department, the county board may, at its  
32 discretion and within 30 days after receipt of the notice,  
33 request that the Department conduct an informational meeting

1 concerning the proposed construction that is subject to this  
2 Section. In addition, during the county's 30-day review period,  
3 county residents may petition the county board of the county  
4 where the proposed new facility will be located to request that  
5 the Department conduct an informational meeting. When  
6 petitioned by 75 or more of the county's residents who are  
7 registered voters, the county board shall request that the  
8 Department conduct an informational meeting. If the county  
9 board requests that the Department conduct the informational  
10 meeting, the Department shall conduct the informational  
11 meeting within 15 days of the county board's request. If the  
12 Department conducts such a meeting, it shall cause notice of  
13 the meeting to be published in a newspaper of general  
14 circulation in the county and in the State newspaper and shall  
15 send a copy of the notice to the County Board. Upon receipt of  
16 the notice, the County Board shall post the notice on the  
17 public informational board at the county courthouse at least 10  
18 days before the meeting. The owner or operator who submitted  
19 the notice of intent to construct to the Department shall  
20 appear at the meeting. At the meeting, the Department shall  
21 afford members of the public an opportunity to ask questions  
22 and present oral or written comments concerning the proposed  
23 construction. Notwithstanding the provisions of this Section,  
24 a livestock management facility or livestock waste handling  
25 facility serving 2,000 or less animal units whose location and  
26 setbacks are located wholly within an agricultural area  
27 established pursuant to the Agricultural Areas Conservation  
28 and Protection Act shall be exempt from the requirements of  
29 this Section.

30 (b) The county board shall submit at the informational  
31 meeting or within 30 days following the meeting an advisory,  
32 non-binding recommendation to the Department about the  
33 proposed new facility's construction in accordance with the  
34 applicable requirements of this Act. The advisory, non-binding

1 recommendation shall contain at a minimum:

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

5 (2) a statement of the information and criteria used by  
6 the county board in determining that the proposed facility  
7 met or failed to meet any of the criteria described in  
8 subsection (d).

9 (c) When the county board requests an informational  
10 meeting, construction shall not begin until after the  
11 informational meeting has been held, the Department has  
12 reviewed the county board's recommendation and replied to the  
13 recommendation indicating if the proposed new livestock  
14 management facility or the new livestock waste handling  
15 facility is or will be in compliance with the requirements of  
16 the Act, and the owner, operator, or certified manager and  
17 operator has received the Department's notice that the setbacks  
18 and all applicable requirements of this Act have been met.

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

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

25 (2) Whether the design, location, or proposed  
26 operation will protect the environment by being consistent  
27 with this Act.

28 (3) Whether the location minimizes any incompatibility  
29 with the surrounding area's character by being located in  
30 any area zoned for agriculture where the county has zoning  
31 or where the county is not zoned, the setback requirements  
32 established by this Act are complied with.

33 (4) Whether the facility is located within a 100-year  
34 floodplain or an otherwise environmentally sensitive area

1 (defined as an area of karst area or with aquifer material  
2 within 5 feet of the bottom of the livestock waste handling  
3 facility) and whether construction standards set forth in  
4 the notice of intent to construct are consistent with the  
5 goal of protecting the safety of the area.

6 (5) Whether the owner or operator has submitted plans  
7 for operation that minimize the likelihood of any  
8 environmental damage to the surrounding area from spills,  
9 runoff, and leaching.

10 (6) Whether odor control plans are reasonable and  
11 incorporate reasonable or innovative odor reduction  
12 technologies given the current state of such technologies.

13 (7) Whether traffic patterns minimize the effect on  
14 existing traffic flows.

15 (8) Whether construction or modification of a new  
16 facility is consistent with existing community growth,  
17 tourism, recreation, or economic development or with  
18 specific projects involving community growth, tourism,  
19 recreation, or economic development that have been  
20 identified by government action for development or  
21 operation within one year through compliance with  
22 applicable zoning and setback requirements for populated  
23 areas as established by this Act.

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

25 (510 ILCS 77/13)

26 Sec. 13. Livestock waste handling facilities other than  
27 earthen livestock waste lagoons; construction standards;  
28 certification; inspection; removal-from-service requirements.

29 (a) After the effective date of this amendatory Act of  
30 1999, livestock waste handling facilities other than earthen  
31 livestock waste lagoons used for the storage of livestock waste  
32 shall be constructed in accordance with this Section. A  
33 livestock management facility or livestock waste handling

1 facility serving 150 or less animal units located wholly within  
2 an agricultural area as established pursuant to the  
3 Agricultural Areas Conservation and Protection Act with a  
4 separation distance of not less than 2,640 feet between the  
5 outermost extent of the livestock management facility or  
6 livestock waste handling facility and the agricultural area  
7 boundaries shall be exempt from the requirements of this  
8 Section.

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

14 (A) Waterstops shall be incorporated into the  
15 design of the storage structure when consistent with  
16 the requirements of paragraph (1) of this subsection;

17 (B) Storage structures that handle waste in a  
18 liquid form shall be designed to contain a volume of  
19 not less than the amount of waste generated during 150  
20 days of facility operation at design capacity. The  
21 owner or operator of a livestock waste handling  
22 facility with a design capacity of 300 or less animal  
23 units may demonstrate to the Department that a reduced  
24 storage volume, not less than 60 days, is feasible due  
25 to the availability of land application areas which can  
26 receive manure at agronomic rates or other manure  
27 disposal method is proposed which will allow for the  
28 reduced manure storage design capacity. The Department  
29 shall evaluate the proposal and determine whether a  
30 reduced manure storage design capacity is appropriate  
31 for the site; and

32 (C) Storage structures not covered or otherwise  
33 protected from precipitation shall, in addition to the  
34 waste storage volume requirements of subparagraph (B)



1 of paragraph (1) of this subsection, include a 2-foot  
2 freeboard.

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

7 (3) Livestock waste handling facilities holding  
8 semi-solid livestock waste, including but not limited to  
9 picket dam structures, shall be constructed according to  
10 the requirements set forth in the Midwest Plan Service's  
11 Livestock Waste Facilities Handbook (MWPS-18) and future  
12 updates or similar standards used by the Natural Resources  
13 Conservation Service of the United States Department of  
14 Agriculture.

15 (4) Livestock waste handling facilities holding solid  
16 livestock waste shall be constructed according to the  
17 requirements set forth in the Midwest Plan Service's  
18 Livestock Waste Facilities Handbook (MWPS-18) and future  
19 updates or similar standards used by the Natural Resources  
20 Conservation Service of the United States Department of  
21 Agriculture. In addition, solid livestock waste stacking  
22 structures shall be sized to store not less than the amount  
23 of waste generated during 6 months of facility operation at  
24 design capacity. The owner or operator of a livestock waste  
25 handling facility with a design capacity of 300 or less  
26 animal units may demonstrate to the Department that a  
27 reduced storage volume, not less than 2 months, is feasible  
28 due to the availability of land application areas which can  
29 receive manure at agronomic rates or other manure disposal  
30 method is proposed which will allow for the reduced storage  
31 design capacity. The Department shall evaluate the  
32 proposal and determine whether a reduced manure storage  
33 design capacity is appropriate for the site.

34 (5) Holding ponds used for the temporary storage of

1 livestock feedlot run-off shall be constructed according  
2 to the requirements set forth in the Midwest Plan Service's  
3 Livestock Waste Facilities Handbook (MWPS-18) and future  
4 updates or similar standards used by the Natural Resources  
5 Conservation Service of the United States Department of  
6 Agriculture.

7 (6) Settling basins and holding ponds that are  
8 designed, constructed, and operated solely for the  
9 management and control of feedlot runoff only and within  
10 which no livestock manure is actively stored or handled are  
11 exempt from the requirements of this Section. An additional  
12 manure storage structure must be present at the livestock  
13 management facility for this exemption to be valid.

14 (7) Permanent manure pipelines or other conveyances  
15 that are designed and utilized to transport manure from a  
16 livestock waste handling facility to a land application  
17 area shall not be subject to the provisions of this  
18 Section. Pipelines and other conveyances that transport  
19 manure from one component of a livestock waste handling  
20 facility to another component of the same livestock waste  
21 handling facility shall be subject to the provisions of  
22 this Section.

23 (b) New livestock management facilities and livestock  
24 waste handling facilities constructed after the effective date  
25 of this amendatory Act of 1999 shall be subject to the  
26 additional construction requirements and siting prohibitions  
27 provided in this subsection (b).

28 (1) No new non-lagoon livestock management facility or  
29 livestock waste handling facility may be constructed  
30 within the floodway of a 100-year floodplain. A new  
31 livestock management facility or livestock waste handling  
32 facility may be constructed within the portion of a  
33 100-year floodplain that is within the flood fringe and  
34 outside the floodway provided that the facility is designed

1 and constructed to be protected from flooding and meets the  
2 requirements set forth in the Rivers, Lakes, and Streams  
3 Act, Section 5-40001 of the Counties Code, and Executive  
4 Order Number 4 (1979). The delineation of floodplains,  
5 floodways, and flood fringes shall be in compliance with  
6 the National Flood Insurance Program. Protection from  
7 flooding shall be consistent with the National Flood  
8 Insurance Program and shall be designed so that stored  
9 livestock waste is not readily removed.

10 (2) A new non-lagoon livestock waste handling facility  
11 constructed in a karst area shall be designed to prevent  
12 seepage of the stored material into groundwater in  
13 accordance with ASAE 393.2 or future updates. Owners or  
14 operators of proposed facilities should consult with the  
15 local soil and water conservation district, the University  
16 of Illinois Cooperative Extension Service, or other local,  
17 county, or State resources relative to determining the  
18 possible presence or absence of such areas.  
19 Notwithstanding the other provisions of this paragraph  
20 (2), after the effective date of this amendatory Act of  
21 1999, no non-lagoon livestock waste handling facility may  
22 be constructed within 400 feet of any natural depression in  
23 a karst area formed as a result of subsurface removal of  
24 soil or rock materials that has caused the formation of a  
25 collapse feature that exhibits internal drainage. For the  
26 purposes of this paragraph (2), the existence of such a  
27 natural depression in a karst area shall be indicated by  
28 the uppermost closed depression contour lines on a USGS 7  
29 1/2 minute quadrangle topographic map or as determined by  
30 Department field investigation in a karst area.

31 (3) A new non-lagoon livestock waste handling facility  
32 constructed in an area where aquifer material is present  
33 within 5 feet of the bottom of the facility shall be  
34 designed to ensure the structural integrity of the

1           containment structure and to prevent seepage of the stored  
2           material to groundwater. Footings and underlying structure  
3           support shall be incorporated into the design standards of  
4           the storage structure in accordance with the requirements  
5           of Section 4.1 of the American Society of Agricultural  
6           Engineers (ASAE) EP 393.2 or future updates.

7           (c) A livestock waste handling facility owner may rely on  
8           guidance from the local soil and water conservation district,  
9           the Natural Resources Conservation Service of the United States  
10          Department of Agriculture, or the University of Illinois  
11          Cooperative Extension Service for soil type and associated  
12          information.

13          (d) The standards in subsections (a) and (b) shall serve as  
14          interim construction standards until such time as permanent  
15          rules promulgated pursuant to Section 55 of this Act become  
16          effective. In addition, the Department and the Board shall  
17          utilize the interim standards in subsections (a) and (b) as a  
18          basis for the development of such permanent rules.

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

23          (f) The owner or operator of a livestock management  
24          facility or livestock waste handling facility shall send, by  
25          certified mail or in person, to the Department a certification  
26          of compliance together with copies of verification documents  
27          upon completion of construction. In the case of structures  
28          constructed with the design standards used by the Natural  
29          Resources Conservation Service of the United States Department  
30          of Agriculture, copies of the design standards and a statement  
31          of verification signed by a representative of the United States  
32          Department of Agriculture shall accompany the owner's or  
33          operator's certification of compliance. The certification  
34          shall state that the structure meets or exceeds the

1 requirements in subsection (a) of this Section. A \$250 filing  
2 fee shall accompany the statement.

3 (g) The Department shall inspect the construction site  
4 prior to construction, during construction, and within 10  
5 business days following receipt of the certification of  
6 compliance to determine compliance with the construction  
7 standards.

8 (h) The Department shall require modification when  
9 necessary to bring the construction into compliance with the  
10 standards set forth in this Section. The person making the  
11 inspection shall discuss with the owner, operator, or certified  
12 livestock manager an evaluation of the livestock waste handling  
13 facility construction and shall (i) provide on-site written  
14 recommendations to the owner, operator, or certified livestock  
15 manager of what modifications are necessary or (ii) inform the  
16 owner, operator, or certified livestock manager that the  
17 facility meets the standards set forth in this Section. On the  
18 day of the inspection, the person making the inspection shall  
19 give the owner, operator, or certified livestock manager a  
20 written report of findings based on the inspection together  
21 with an explanation of remedial measures necessary to enable  
22 the livestock waste handling facility to meet the standards set  
23 forth in this Section. The Department shall, within 5 business  
24 days of the date of inspection, send an official written notice  
25 to the owner or operator of the livestock waste handling  
26 facility by certified mail, return receipt requested,  
27 indicating that the facility meets the standards set forth in  
28 this Section or identifying the remedial measures necessary to  
29 enable the livestock waste handling facility to meet the  
30 standards set forth in this Section. The owner or operator  
31 shall, within 10 business days of receipt of an official  
32 written notice of deficiencies, contact the Department to  
33 develop the principles of an agreement of compliance. The owner  
34 or operator and the Department shall enter into an agreement of

1 compliance setting forth the specific changes to be made to  
2 bring the construction into compliance with the standards  
3 required under this Section. If an agreement of compliance  
4 cannot be achieved, the Department shall issue a compliance  
5 order to the owner or operator outlining the specific changes  
6 to be made to bring the construction into compliance with the  
7 standards required under this Section. The owner or operator  
8 can request an administrative hearing to contest the provisions  
9 of the Department's compliance order.

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

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

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

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

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

18 (510 ILCS 77/20)

19 Sec. 20. Handling, storing and disposing of livestock  
20 waste.

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

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

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



1 been issued a National Pollutant Discharge Elimination  
2 System-Concentrated Animal Feeding Operation Permit by the  
3 United States Environmental Protection Agency or the Illinois  
4 Environmental Protection Agency shall not be subject to the  
5 requirements of this subsection (d) during the time period that  
6 the permit is effective.

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

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

1 (f) The application of livestock waste to the land is an  
2 acceptable, recommended, and established practice in Illinois.  
3 However, when livestock waste is not applied in a responsible  
4 manner, it may create pollutional problems. It should be  
5 recognized that research relative to livestock waste  
6 application based on livestock waste nutrient content is  
7 currently ongoing. The Dean of the College of Agricultural,  
8 Consumer and Environmental Sciences at the University of  
9 Illinois, or his or her designee, shall annually report to the  
10 Advisory Committee on the status of phosphorus research,  
11 including research that has been supported in whole or in part  
12 by the Illinois Council on Food and Agricultural Research. The  
13 Advisory Committee may also consult with other appropriate  
14 research entities on the status of phosphorus research. It is  
15 considered acceptable to prepare and implement a waste  
16 management plan based on a nitrogen rate, unless otherwise  
17 restricted by this Section. The waste management plan shall  
18 include the following:

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

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

33 (3) An estimate of the nutrient value of the waste. The  
34 owner or operator may prepare a plan based on an average of

1 the minimum and maximum numbers in the table values derived  
2 from Midwest Plan Service's, MWPS-18, Livestock Waste  
3 Facilities Handbook, the Agency's Agriculture Related  
4 Pollution regulations, or the results of analysis  
5 performed on samples of waste. For the purposes of  
6 compliance with this subsection, the nutrient values of  
7 livestock waste may vary as indicated in the source table.  
8 In the case of laboratory analytical results, the nutrient  
9 values may vary with the accuracy of the analytical method.

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

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

1 elemental phosphorus per acre.

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

6 (5) A provision that livestock waste applied within 1/4  
7 mile of any residence not part of the facility shall be  
8 injected or incorporated on the day of application.  
9 However, livestock management facilities and livestock  
10 waste handling facilities that have irrigation systems in  
11 operation prior to the effective date of this Act or  
12 existing facilities applying waste on frozen ground are not  
13 subject to the provisions of this item (5).

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

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

21 (8) A provision that livestock waste may not be applied  
22 in waterways.

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

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

27 (B) adequate erosion control practices exist.

28 (10) Methods for disposal of animal waste.

29 (g) Any person who is required to prepare and maintain a  
30 waste management plan and who fails to do so shall be issued a  
31 warning letter by the Department for the first violation and  
32 shall be given 30 working days to prepare a waste management  
33 plan. For failure to prepare and maintain a waste management  
34 plan, the person shall be fined an administrative penalty of up

1 to \$1,000 by the Department and shall be required to enter into  
2 an agreement of compliance to prepare and maintain a waste  
3 management plan within 30 working days. For failure to prepare  
4 and maintain a waste management plan after the second 30 day  
5 period or for failure to enter into a compliance agreement, the  
6 Department may issue an operational cease and desist order  
7 until compliance is attained.

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

9 (510 ILCS 77/35)

10 Sec. 35. Setbacks for livestock management and livestock  
11 handling facilities.

12 (a) Grandfather provision; facilities in existence prior  
13 to July 15, 1991. Livestock management facilities and livestock  
14 waste handling facilities in existence prior to July 15, 1991  
15 shall comply with setbacks in existence prior to July 15, 1991,  
16 as set forth in the Illinois Environmental Protection Act and  
17 rules promulgated under that Act.

18 (b) Grandfather provision; facilities in existence on  
19 effective date and after July 15, 1991. Livestock management  
20 facilities and livestock waste handling facilities in  
21 existence on the effective date of this Act but after July 15,  
22 1991 shall comply with setbacks in existence prior to the  
23 effective date of this Act, as set forth in the Illinois  
24 Environmental Protection Act and rules promulgated under that  
25 Act.

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

29 (1) For purposes of determining setback distances,  
30 minimum distances shall be measured from the nearest corner  
31 of the residence or place of common assembly to the nearest  
32 corner of the earthen waste lagoon or livestock management  
33 facility, whichever is closer.

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

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

11           (3.5) A livestock management facility or waste  
12 handling facility serving 50 or greater and 150 or less  
13 animal units located wholly within an agricultural area as  
14 established pursuant to the Agricultural Areas  
15 Conservation and Protection Act with a separation distance  
16 of not less than 2,640 feet between the outermost extent of  
17 the livestock management facility or livestock waste  
18 handling facility and the agricultural area boundaries  
19 shall be exempt from setback distances as set forth in this  
20 Act but shall be subject to rules adopted under the  
21 Illinois Environmental Protection Act.

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

25           (A) For a populated area, the minimum setback shall  
26 be increased 440 feet over the minimum setback of 1/2  
27 mile for each additional 1,000 animal units over 1,000  
28 animal units.

29           (B) For any occupied residence, the minimum  
30 setback shall be increased 220 feet over the minimum  
31 setback of 1/4 mile for each additional 1,000 animal  
32 units over 1,000 animal units.

33           (5) For a livestock management facility or livestock  
34 waste handling facility serving 7,000 or greater animal

1 units, the setback is as follows:

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

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

6 (d) Requirements governing the location of a new livestock  
7 management facility and new livestock waste-handling facility  
8 and conditions for exemptions or compliance with the maximum  
9 feasible location as provided in rules adopted pursuant to the  
10 Illinois Environmental Protection Act concerning agriculture  
11 regulated pollution shall apply to those facilities identified  
12 in subsections (b) and (c) of this Section. With regard to the  
13 maximum feasible location requirements, any reference to a  
14 setback distance in the rules under the Illinois Environmental  
15 Protection Act shall mean the appropriate distance as set forth  
16 in this Section.

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

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

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

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

25 (510 ILCS 77/55)

26 Sec. 55. Rules; Livestock Management Facilities Advisory  
27 Committee.

28 (a) There is hereby established a Livestock Management  
29 Facilities Advisory Committee, which shall include the  
30 Directors of the Department of Agriculture, the Environmental  
31 Protection Agency, the Department of Natural Resources, and the  
32 Department of Public Health, or their designees. The Director  
33 of Agriculture or his or her designee shall serve as the Chair

1 of the Advisory Committee. Members of the Advisory Committee  
2 may organize themselves as they deem necessary and shall serve  
3 without compensation.

4 (b) The Advisory Committee shall review, evaluate, and make  
5 recommendations to the Department of Agriculture for rules  
6 necessary for the implementation of this Act. Based upon the  
7 recommendations of the Advisory Committee, the Department of  
8 Agriculture shall: (i) propose rules to the Pollution Control  
9 Board for the implementation of design and construction  
10 standards for livestock waste handling facilities as set forth  
11 in Sections 13 and 15(a-5) of this Act based upon the standards  
12 set forth in the American Society of Agricultural Engineers'  
13 Standards, Engineering Practices and Data (ASAE Standards) and  
14 future updates, Midwest Plan Service's Concrete Manure Storage  
15 Handbook (MWPS-36) and future updates and related supplemental  
16 technical documents, the Midwest Plan Service's Livestock  
17 Waste Facilities Handbook (MWPS-18) and future updates and  
18 related supplemental technical documents or similar standards  
19 used by the Natural Resources Conservation Service of the  
20 United States Department of Agriculture; and (ii) on and after  
21 the effective date of this amendatory Act of 1999, provide  
22 public notice in the State newspaper, the Illinois Register,  
23 and on the Department's Internet website; hold public hearings  
24 during the first notice period; and take public comments and  
25 adopt rules pursuant to the Illinois Administrative Procedure  
26 Act for all Sections of this Act other than design and  
27 construction standards for livestock waste handling facility  
28 as set forth in Sections 13 and 15(a-5).

29 (c) The Pollution Control Board shall hold hearings on and  
30 adopt rules for the implementation of design and construction  
31 standards for livestock waste handling facilities as set forth  
32 in Sections 13 and 15(a-5) of this Act in the manner provided  
33 for in Sections 27 and 28 of the Environmental Protection Act.  
34 Rules adopted pursuant to this Section shall take into account



1 all available pollution control technologies and shall be  
2 technologically feasible and economically reasonable.

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

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

11 (510 ILCS 77/17 rep.)

12 Section 10. The Livestock Management Facilities Act is  
13 amended by repealing Section 17."