



Sen. John M. Sullivan

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1 AMENDMENT TO HOUSE BILL 601

2 AMENDMENT NO. _____. Amend House Bill 601 on page 1, by
3 inserting below line 3 the following:

4 "Section 5. The Use Tax Act is amended by changing Section
5 2a as follows:

6 (35 ILCS 105/2a) (from Ch. 120, par. 439.2a)

7 Sec. 2a. Pollution control facilities.

8 (a) As used in this subsection (a), "pollution control
9 facilities" means any system, method, construction, device or
10 appliance appurtenant thereto sold or used or intended for the
11 primary purpose of eliminating, preventing, or reducing air and
12 water pollution as the term "air pollution" or "water
13 pollution" is defined in the "Environmental Protection Act",
14 enacted by the 76th General Assembly, or for the primary
15 purpose of treating, pretreating, modifying or disposing of any
16 potential solid, liquid or gaseous pollutant which if released
17 without such treatment, pretreatment, modification or disposal
18 might be harmful, detrimental or offensive to human, plant or
19 animal life, or to property.

20 Until July 1, 2003, the purchase, employment and transfer
21 of such tangible personal property as pollution control
22 facilities is not a purchase, use or sale of tangible personal
23 property.

24 (b) Beginning July 1, 2005, tangible personal property that

1 is certified by the Pollution Control Board as a "pollution
2 control facility", as that term is defined in Section 11-10 of
3 the Property Tax Code, is exempt from the tax imposed by this
4 Act if the property is used as part of a livestock management
5 facility or a livestock waste handling facility (i) that has
6 been approved by the Department of Agriculture under the
7 provisions of the Livestock Management Facilities Act and (ii)
8 that is located within an agricultural area established by a
9 county under the Agricultural Areas Conservation and
10 Protection Act.

11 To document this exemption, a purchaser must provide the
12 retailer with a copy of the certification issued by the
13 Pollution Control Board, along with a certification, verified
14 by the purchaser, that the tangible personal property will be
15 used primarily as a pollution control facility in an approved
16 livestock management facility or livestock waste handling
17 facility located in an agricultural area.

18 The provisions of this subsection (b) are exempt from
19 Section 3-90.

20 (Source: P.A. 93-24, eff. 6-20-03.)

21 Section 10. The Service Use Tax Act is amended by changing
22 Section 2a as follows:

23 (35 ILCS 110/2a) (from Ch. 120, par. 439.32a)

24 Sec. 2a. Pollution control facilities.

25 (a) As used in this subsection (a), "pollution control
26 facilities" means any system, method, construction, device or
27 appliance appurtenant thereto used in this State acquired as an
28 incident to the purchase of a service from a serviceman for the
29 primary purpose of eliminating, preventing, or reducing air and
30 water pollution as the term "air pollution" or "water
31 pollution" is defined in the "Environmental Protection Act",
32 enacted by the 76th General Assembly, or for the primary

1 purpose of treating, pretreating, modifying or disposing of any
2 potential solid, liquid or gaseous pollutant which if released
3 without such treatment, pretreatment, modification or disposal
4 might be harmful, detrimental or offensive to human, plant or
5 animal life, or to property.

6 Until July 1, 2003, the purchase, employment or transfer of
7 such tangible personal property as pollution control
8 facilities is not a purchase, use or sale of service or of
9 tangible personal property within the meaning of this Act.

10 (b) Beginning July 1, 2005, tangible personal property that
11 is certified by the Pollution Control Board as a "pollution
12 control facility", as that term is defined in Section 11-10 of
13 the Property Tax Code, is exempt from the tax imposed by this
14 Act if the property is used as part of a livestock management
15 facility or a livestock waste handling facility (i) that has
16 been approved by the Department of Agriculture under the
17 provisions of the Livestock Management Facilities Act and (ii)
18 that is located within an agricultural area established by a
19 county under the Agricultural Areas Conservation and
20 Protection Act.

21 To document this exemption, a purchaser must provide the
22 retailer with a copy of the certification issued by the
23 Pollution Control Board, along with a certification, verified
24 by the purchaser, that the tangible personal property will be
25 used primarily as a pollution control facility in an approved
26 livestock management facility or livestock waste handling
27 facility located in an agricultural area.

28 The provisions of this subsection (b) are exempt from
29 Section 3-75.

30 (Source: P.A. 93-24, eff. 6-20-03.)

31 Section 15. The Service Occupation Tax Act is amended by
32 changing Section 2a as follows:

1 (35 ILCS 115/2a) (from Ch. 120, par. 439.102a)

2 Sec. 2a. Pollution control facilities.

3 (a) As used in this subsection (a), "pollution control
4 facilities" means any system, method, construction, device or
5 appliance appurtenant thereto transferred by a serviceman for
6 the primary purpose of eliminating, preventing, or reducing air
7 and water pollution as the term "air pollution" or "water
8 pollution" is defined in the "Environmental Protection Act",
9 enacted by the 76th General Assembly, or for the primary
10 purpose of treating, pretreating, modifying or disposing of any
11 potential solid, liquid or gaseous pollutant which if released
12 without such treatment, pretreatment, modification or disposal
13 might be harmful, detrimental or offensive to human, plant or
14 animal life, or to property.

15 Until July 1, 2003, the purchase, employment and transfer
16 of such tangible personal property as pollution control
17 facilities shall not be deemed to be a purchase, use or sale of
18 service or of tangible personal property, but shall be deemed
19 to be intangible personal property.

20 (b) Beginning July 1, 2005, tangible personal property that
21 is certified by the Pollution Control Board as a "pollution
22 control facility", as that term is defined in Section 11-10 of
23 the Property Tax Code, is exempt from the tax imposed by this
24 Act if the property is used as part of a livestock management
25 facility or a livestock waste handling facility (i) that has
26 been approved by the Department of Agriculture under the
27 provisions of the Livestock Management Facilities Act and (ii)
28 that is located within an agricultural area established by a
29 county under the Agricultural Areas Conservation and
30 Protection Act.

31 To document this exemption, a purchaser must provide the
32 retailer with a copy of the certification issued by the
33 Pollution Control Board, along with a certification, verified
34 by the purchaser, that the tangible personal property will be

1 used primarily as a pollution control facility in an approved
2 livestock management facility or livestock waste handling
3 facility located in an agricultural area.

4 The provisions of this subsection (b) are exempt from
5 Section 3-55.

6 (Source: P.A. 93-24, eff. 6-20-03.)

7 Section 20. The Retailers' Occupation Tax Act is amended by
8 changing Sections 1a and 5k as follows:

9 (35 ILCS 120/1a) (from Ch. 120, par. 440a)

10 Sec. 1a. Pollution control facilities.

11 (a) As used in this subsection (a), "pollution control
12 facilities" means any system, method, construction, device or
13 appliance appurtenant thereto sold or used or intended for the
14 primary purpose of eliminating, preventing, or reducing air and
15 water pollution as the term "air pollution" or "water
16 pollution" is defined in the "Environmental Protection Act",
17 enacted by the 76th General Assembly, or for the primary
18 purpose of treating, pretreating, modifying or disposing of any
19 potential solid, liquid or gaseous pollutant which if released
20 without such treatment, pretreatment, modification or disposal
21 might be harmful, detrimental or offensive to human, plant or
22 animal life, or to property.

23 Until July 1, 2003, the purchase, employment and transfer
24 of such tangible personal property as pollution control
25 facilities is not a purchase, use or sale of tangible personal
26 property.

27 (b) Beginning July 1, 2005, tangible personal property that
28 is certified by the Pollution Control Board as a "pollution
29 control facility", as that term is defined in Section 11-10 of
30 the Property Tax Code, is exempt from the tax imposed by this
31 Act if the property is used as part of a livestock management
32 facility or a livestock waste handling facility (i) that has

1 been approved by the Department of Agriculture under the
2 provisions of the Livestock Management Facilities Act and (ii)
3 that is located within an agricultural area established by a
4 county under the Agricultural Areas Conservation and
5 Protection Act.

6 To document this exemption, a purchaser must provide the
7 retailer with a copy of the certification issued by the
8 Pollution Control Board, along with a certification, verified
9 by the purchaser, that the tangible personal property will be
10 used primarily as a pollution control facility in an approved
11 livestock management facility or livestock waste handling
12 facility located in an agricultural area.

13 The provisions of this subsection (b) are exempt from
14 Section 2-70.

15 (Source: P.A. 93-24, eff. 6-20-03.)

16 (35 ILCS 120/5k) (from Ch. 120, par. 444k)

17 Sec. 5k. Building materials exemption; enterprise zones
18 and agricultural areas.

19 (a) Each retailer who makes a qualified sale of building
20 materials to be incorporated into real estate in an enterprise
21 zone established by a county or municipality under the Illinois
22 Enterprise Zone Act by remodeling, rehabilitation or new
23 construction, may deduct receipts from such sales when
24 calculating the tax imposed by this Act. For purposes of this
25 Section, "qualified sale" means a sale of building materials
26 that will be incorporated into real estate as part of a
27 building project for which a Certificate of Eligibility for
28 Sales Tax Exemption has been issued by the administrator of the
29 enterprise zone in which the building project is located. To
30 document the exemption allowed under this Section, the retailer
31 must obtain from the purchaser a copy of the Certificate of
32 Eligibility for Sales Tax Exemption issued by the administrator
33 of the enterprise zone into which the building materials will

1 be incorporated. The Certificate of Eligibility for Sales Tax
2 Exemption must contain:

3 (1) a statement that the building project identified in
4 the Certificate meets all the requirements for the building
5 material exemption contained in the enterprise zone
6 ordinance of the jurisdiction in which the building project
7 is located;

8 (2) the location or address of the building project;
9 and

10 (3) the signature of the administrator of the
11 enterprise zone in which the building project is located.

12 In addition, the retailer must obtain certification from the
13 purchaser that contains:

14 (1) a statement that the building materials are being
15 purchased for incorporation into real estate located in an
16 Illinois enterprise zone;

17 (2) the location or address of the real estate into
18 which the building materials will be incorporated;

19 (3) the name of the enterprise zone in which that real
20 estate is located;

21 (4) a description of the building materials being
22 purchased; and

23 (5) the purchaser's signature and date of purchase.

24 The deduction allowed by this Section for the sale of building
25 materials may be limited, to the extent authorized by
26 ordinance, adopted after the effective date of this amendatory
27 Act of 1992, by the municipality or county that created the
28 enterprise zone into which the building materials will be
29 incorporated. The ordinance, however, may neither require nor
30 prohibit the purchase of building materials from any retailer
31 or class of retailers in order to qualify for the exemption
32 allowed under this Section.

33 (b) Beginning July 1, 2005, each retailer who makes a
34 qualified sale of building materials to be incorporated into

1 real estate as part of a livestock management facility,
2 livestock pasture operation, or livestock waste handling
3 facility located in an agricultural area established by a
4 county under the Agricultural Areas Conservation and
5 Protection Act by new construction, may deduct receipts from
6 those sales when calculating the tax imposed by this Act. For
7 purposes of this subsection, "qualified sale" means a sale of
8 building materials that will be incorporated into real estate
9 (i) in a livestock management facility or livestock waste
10 handling facility that has been approved by the Department of
11 Agriculture under the provisions of the Livestock Management
12 Facilities Act or (ii) in a livestock pasture operation that is
13 not subject to the Livestock Management Facilities Act, as
14 provided in the definition of "livestock management facility"
15 in that Act. For purposes of this subsection, the terms
16 "livestock management facility" and "livestock waste handling
17 facility" have the meanings set forth in Sections 10.30 and
18 10.40 of the Livestock Management Facilities Act.

19 To be eligible for the exemption under this subsection, the
20 livestock management facility, livestock pasture operation, or
21 livestock waste handling facility must be located within an
22 agricultural area established by a county pursuant to the
23 provisions of the Agricultural Areas Conservation and
24 Protection Act. To document the exemption allowed under this
25 subsection, the retailer must obtain from the purchaser a copy
26 of a Certificate of Eligibility for Sales Tax Exemption issued
27 by the Department of Agriculture, based on information provided
28 to the Department of Agriculture by the county board governing
29 the agricultural area into which the building materials will be
30 incorporated. The Certificate of Eligibility for Sales Tax
31 Exemption must contain:

- 32 (1) a certification by the Department of Agriculture
33 (i) that the livestock management facility, livestock
34 pasture operation, or livestock waste handling facility

1 has been approved by the Department of Agriculture under
2 the provisions of the Livestock Management Facilities Act
3 or (ii) that the facility is otherwise exempt from such
4 approval;

5 (2) the location or address of the livestock management
6 facility, livestock pasture operation, or livestock waste
7 handling facility; and

8 (3) a certification by the Department of Agriculture
9 that the livestock management facility, livestock pasture
10 operation, or livestock waste handling facility is located
11 within an agricultural area established by a county under
12 the provisions of the Agricultural Areas Conservation and
13 Protection Act and reported by the county to the Department
14 of Agriculture.

15 In addition, the retailer must obtain certification from the
16 purchaser that contains:

17 (1) a statement that the building materials are being
18 purchased for incorporation into real estate at a livestock
19 management facility, livestock pasture operation, or
20 livestock waste handling facility that has been approved by
21 the Department of Agriculture or that is exempt from
22 approval and that is located in an Illinois agricultural
23 area;

24 (2) the location or address of the livestock management
25 facility, livestock pasture operation, or livestock waste
26 handling facility into which the building materials will be
27 incorporated;

28 (3) the name of the agricultural area in which the
29 livestock management facility, livestock pasture
30 operation, or livestock waste handling facility is
31 located;

32 (4) a description of the building materials being
33 purchased; and

34 (5) the purchaser's signature and date of purchase.

1 (c) The provisions of this Section are exempt from Section
2 2-70.

3 (Source: P.A. 91-51, eff. 6-30-99; 91-954, eff. 1-1-02; 92-484,
4 eff. 8-23-01; 92-779, eff. 8-6-02.)"; and

5 on page 1, in line 4, by renumbering Section 5 as Section 30;
6 and

7 on page 2, by inserting below line 25 the following:

8 "Section 35. The Livestock Management Facilities Act is
9 amended by changing Sections 11, 13, 35, and 55 as follows:

10 (510 ILCS 77/11)

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

13 (a) An owner or operator shall file a notice of intent to
14 construct for a livestock management facility or livestock
15 waste handling facility with the Department prior to
16 construction to: (i) establish a base date, which shall be
17 valid for one year, for determination of setbacks in compliance
18 with setback distances or, in the case of construction that is
19 not a new facility, with the maximum feasible location
20 requirements of Section 35 of this Act; and (ii) determine
21 whether the proposed livestock management facility or
22 livestock waste handling facility is located within an
23 agricultural area established pursuant to the Agricultural
24 Areas Conservation and Protection Act.

25 (a-5) A livestock management facility or livestock waste
26 handling facility serving less than 50 animal units shall be
27 exempt from subsections (b), (c), (e), and (f) of this Section.
28 A livestock management facility or livestock waste handling
29 facility serving 150 or less animal units located wholly within
30 an agricultural area as established pursuant to the

1 Agricultural Areas Conservation and Protection Act with a
2 separation distance of not less than 2,640 feet between the
3 outermost extent of the livestock management facility or
4 livestock waste handling facility and the agricultural area
5 boundaries shall be exempt from subsections (b), (c), (e), and
6 (f) of this Section.

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

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

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

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

1 facility until the owner or operator is in compliance with this
2 Act. ~~Penalties under this subsection (d) not paid within 60~~
3 ~~days of notice from the Department shall be submitted to the~~
4 ~~Attorney General's office or an approved private collection~~
5 ~~agency.~~

6 (e) Any owner or operator who fails to file construction
7 plans with the Department prior to commencing construction,
8 upon being discovered by the Department, shall be subject to an
9 administrative hearing by the Department. The administrative
10 law judge, upon determination of a failure to file the
11 appropriate form, shall impose a civil administrative penalty
12 in an amount no more than \$1,000 and shall enter an
13 administrative order directing that the owner or operator file
14 the appropriate form within 10 business days after receiving
15 notice from the Department. If, after receiving the
16 administrative law judge's order to file, the owner or operator
17 fails to file the appropriate form with the Department, the
18 Department shall impose a civil administrative penalty in an
19 amount no less than \$1,000 and no more than \$2,500 and shall
20 enter an administrative order prohibiting the operation of the
21 facility until the owner or operator is in compliance with this
22 Act.

23 (f) Any owner or operator who commences construction prior
24 to receiving written approval from the Department shall be
25 subject to an administrative hearing by the Department. The
26 administrative law judge, upon determination of a failure to
27 receive written approval from the Department prior to
28 commencement of construction, shall impose a civil
29 administrative penalty in an amount not exceeding \$1,000 and
30 shall enter an administrative order directing that the owner or
31 operator pay the monetary penalty to the Department prior to
32 the re-commencement of any additional construction and the
33 placement of the facility into operation.

34 (g) Penalties imposed pursuant to subsections (d), (e), and

1 (f) of this Section not paid within 60 days after notice from
2 the Department shall be submitted to the Attorney General's
3 office or an approved private collection agency.

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

5 (510 ILCS 77/13)

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

9 (a) After the effective date of this amendatory Act of
10 1999, livestock waste handling facilities other than earthen
11 livestock waste lagoons used for the storage of livestock waste
12 shall be constructed in accordance with this Section. A
13 livestock management facility or livestock waste handling
14 facility serving less than 50 animal units shall be exempt from
15 the requirements of this Section. A livestock management
16 facility or livestock waste handling facility serving 150 or
17 less animal units located wholly within an agricultural area as
18 established pursuant to the Agricultural Areas Conservation
19 and Protection Act with a separation distance of not less than
20 2,640 feet between the outermost extent of the livestock
21 management facility or livestock waste handling facility and
22 the agricultural area boundaries shall be exempt from the
23 requirements of this 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

1 not less than the amount of waste generated during 150
2 days of facility operation at design capacity. The
3 owner or operator of a livestock waste handling
4 facility with a design capacity of 300 or less animal
5 units may demonstrate to the Department that a reduced
6 storage volume, not less than 60 days, is feasible due
7 to the availability of land application areas which can
8 receive manure at agronomic rates or other manure
9 disposal method is proposed which will allow for the
10 reduced manure storage design capacity. The Department
11 shall evaluate the proposal and determine whether a
12 reduced manure storage design capacity is appropriate
13 for the site; and

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

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

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

31 (4) Livestock waste handling facilities holding solid
32 livestock waste shall be constructed according to the
33 requirements set forth in the Midwest Plan Service's
34 Livestock Waste Facilities Handbook (MWPS-18) and future

1 updates or similar standards used by the Natural Resources
2 Conservation Service of the United States Department of
3 Agriculture. In addition, solid livestock waste stacking
4 structures shall be sized to store not less than the amount
5 of waste generated during 6 months of facility operation at
6 design capacity. The owner or operator of a livestock waste
7 handling facility with a design capacity of 300 or less
8 animal units may demonstrate to the Department that a
9 reduced storage volume, not less than 2 months, is feasible
10 due to the availability of land application areas which can
11 receive manure at agronomic rates or other manure disposal
12 method is proposed which will allow for the reduced storage
13 design capacity. The Department shall evaluate the
14 proposal and determine whether a reduced manure storage
15 design capacity is appropriate for the site.

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

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 77/35)

19 Sec. 35. Setbacks for livestock management and livestock
20 handling facilities.

21 (a) Grandfather provision; facilities in existence prior
22 to July 15, 1991. Livestock management facilities and livestock
23 waste handling facilities in existence prior to July 15, 1991
24 shall comply with setbacks in existence prior to July 15, 1991,
25 as set forth in the Illinois Environmental Protection Act and
26 rules promulgated under that Act.

27 (b) Grandfather provision; facilities in existence on
28 effective date and after July 15, 1991. Livestock management
29 facilities and livestock waste handling facilities in
30 existence on the effective date of this Act but after July 15,
31 1991 shall comply with setbacks in existence prior to the
32 effective date of this Act, as set forth in the Illinois
33 Environmental Protection Act and rules promulgated under that

1 Act.

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

5 (1) For purposes of determining setback distances,
6 minimum distances shall be measured from the nearest corner
7 of the residence or place of common assembly to the nearest
8 corner of the earthen waste lagoon or livestock management
9 facility, whichever is closer.

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

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

20 (3.5) A livestock management facility or waste
21 handling facility serving 50 or greater and 150 or less
22 animal units located wholly within an agricultural area as
23 established pursuant to the Agricultural Areas
24 Conservation and Protection Act with a separation distance
25 of not less than 2,640 feet between the outermost extent of
26 the livestock management facility or livestock waste
27 handling facility and the agricultural area boundaries
28 shall be exempt from setback distances as set forth in this
29 Act but shall be subject to rules adopted under the
30 Illinois Environmental Protection Act.

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

34 (A) For a populated area, the minimum setback shall

1 be increased 440 feet over the minimum setback of 1/2
2 mile for each additional 1,000 animal units over 1,000
3 animal units.

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

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

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

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

15 (d) Requirements governing the location of a new livestock
16 management facility and new livestock waste-handling facility
17 and conditions for exemptions or compliance with the maximum
18 feasible location as provided in rules adopted pursuant to the
19 Illinois Environmental Protection Act concerning agriculture
20 regulated pollution shall apply to those facilities identified
21 in subsections (b) and (c) of this Section. With regard to the
22 maximum feasible location requirements, any reference to a
23 setback distance in the rules under the Illinois Environmental
24 Protection Act shall mean the appropriate distance as set forth
25 in this Section.

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

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

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

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

1 (510 ILCS 77/55)

2 Sec. 55. Rules; Livestock Management Facilities Advisory
3 Committee.

4 (a) There is hereby established a Livestock Management
5 Facilities Advisory Committee, which shall include the
6 Directors of the Department of Agriculture, the Environmental
7 Protection Agency, the Department of Natural Resources, and the
8 Department of Public Health, or their designees. The Director
9 of Agriculture or his or her designee shall serve as the Chair
10 of the Advisory Committee. Members of the Advisory Committee
11 may organize themselves as they deem necessary and shall serve
12 without compensation.

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

1 Act for all Sections of this Act other than design and
2 construction standards for livestock waste handling facility
3 as set forth in Sections 13 and 15(a-5).

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

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

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

20 Section 99. Effective date. This Act takes effect upon
21 becoming law."