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AN ACT to implement recommendations of the Illinois
 Environmental Regulatory Review Commission.

3 Be it enacted by the People of the State of Illinois,4 represented in the General Assembly:

The Environmental Protection Act is amended 5 Section 5. by changing Sections 3, 3.32, 3.53, 4, 5, 7, 9.2, 9.3, б 9.4, 7 12, 13.1, 14.1, 14.2, 14.3, 14.4, 14.6, 17, 19.10, 21, 21.3, 21.5, 22.2, 22.2b, 22.9, 22.15, 22.16, 22.16a, 22.22, 8 22.23, 22.23a, 22.27, 22.33, 22.40, 22.43, 22.44, 22.45, 22.47, 9 22.48, 25b-5, 30, 31, 39, 39.2, 39.3, 40, 40.1, 40.2, 45, 49, 10 55, 56.1, 56.2, 57.7, 57.8, 57.13, 58.7, 58.8, 58.14, and 11 58.17 and renumbering Sections 3.01 through 3.94 as follows: 12

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(415 ILCS 5/3) (from Ch. 111 1/2, par. 1003)

14 Sec. 3. <u>Definitions</u>.

15 <u>(a)</u> For the purposes of this Act, the words and terms 16 defined in the Sections which follow this Section and precede 17 Section 4 shall have the meaning therein given, unless the 18 context otherwise clearly requires.

19 (b) This amendatory Act of the 92nd General Assembly 20 renumbers the definition Sections formerly included in this 21 Act as Sections 3.01 through 3.94. The new numbering scheme 22 is intended to alphabetize the defined terms and to leave 23 room for additional terms to be added in alphabetical order 24 in the future. It does not reuse any of the original 25 numbers.

In the bill for this amendatory Act, the renumbered Sections are shown in the manner commonly used to show renumbering in revisory bills. The Sections being renumbered are shown as existing (rather than new) text; only the changes being made to the existing text are shown with striking and underscoring. The original source lines have <u>been retained.</u>

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2 (c) In a statute, rule, permit, or other document in 3 existence on the effective date of this amendatory Act of the 4 92nd General Assembly, a reference to one of the definition 5 Sections renumbered by this amendatory Act shall be deemed to 6 refer to the corresponding Section as renumbered by this 7 amendatory Act.

8 (Source: P.A. 84-1308; 84-1319; 84-1320; 84-1438.)

9 (415 ILCS 5/3.105 new) (was 415 ILCS 5/3.01)
 10 Sec. <u>3.105. Agency.</u> 3.01. "Agency" is the Environmental
 11 Protection Agency established by this Act.
 12 (Source: P.A. 84-1308.)

13 (415 ILCS 5/3.110 new) (was 415 ILCS 5/3.77)

Sec. <u>3.110. Agrichemical facility.</u> 3-77- "Agrichemical 14 facility" means a site used for commercial purposes, where 15 16 bulk pesticides are stored in a single container in excess of 17 300 gallons of liquid pesticide or 300 pounds of dry pesticide for more than 30 days per year or where more than 18 300 gallons of liquid pesticide or 300 pounds of dry 19 20 pesticide are being mixed, repackaged or transferred from one 21 container to another within a 30 day period or a site where bulk fertilizers are stored, mixed, repackaged or transferred 22 23 from one container to another.

24 (Source: P.A. 86-671.)

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(415 ILCS 5/3.115 new) (was 415 ILCS 5/3.02)

Sec. <u>3.115. Air pollution.</u> 3-02- "Air pollution" is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

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1 (Source: P.A. 84-1308.)

(415 ILCS 5/3.120 new) (was 415 ILCS 5/3.03)

Sec. <u>3.120. Air pollution control equipment.</u> 3-03- "Air pollution control equipment" means any equipment or facility of a type intended to eliminate, prevent, reduce or control the emission of specified air contaminants to the atmosphere. Air pollution control equipment includes, but is not limited to, landfill gas recovery facilities.

9 (Source: P.A. 84-1308.)

10 (415 ILCS 5/3.125 new) (was 415 ILCS 5/3.68)

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Sec. <u>3.125. Biodeterioration; biodegradation.</u> 3-68-

12 (a) "Biodeterioration", when used in connection with 13 recycling or composting, means the biologically mediated loss 14 of utilitarian or physical characteristics of a plastic or 15 hybrid material containing plastic as a major component.

16 (b) "Biodegradation", when used in connection with 17 recycling, means the conversion of all constituents of a plastic or hybrid material containing plastic as a major 18 19 component to carbon dioxide, inorganic salts, microbial 20 cellular components and miscellaneous by-products 21 characteristically formed from the breakdown of natural materials such as corn starch. 22

23 (Source: P.A. 85-1429.)

24 (415 ILCS 5/3.130 new) (was 415 ILCS 5/3.04)

Sec. <u>3.130. Board.</u> 3-θ4- "Board" is the Pollution
Control Board established by this Act.

27 (Source: P.A. 84-1308.)

28 (415 ILCS 5/3.135 new) (was 415 ILCS 5/3.94)

Sec. <u>3.135. Coal combustion by-product; CCB.</u> 3-94- "Coal combustion by-product" (CCB) means coal combustion waste when

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1 used beneficially for any of the following purposes:

2 (1) The extraction or recovery of material compounds3 contained within CCB.

4 (2) The use of CCB as a raw ingredient or mineral filler 5 in the manufacture of cement; concrete and concrete mortars; б concrete products including block, pipe and precast/prestressed components; asphalt or cement based 7 8 roofing shingles; plastic products including pipes and 9 fittings; paints and metal alloys.

10 (3) CCB used in conformance with the specifications and11 under the approval of the Department of Transportation.

12 (4) Bottom ash used as antiskid material, athletic13 tracks, or foot paths.

14 (5) Use as a substitute for lime (CaO and MgO) in the 15 lime modification of soils providing the CCB meets the 16 Illinois Department of Transportation ("IDOT") specifications 17 for byproduct limes.

18 (6) CCB used as a functionally equivalent substitute for19 agricultural lime as a soil conditioner.

20 (7) Bottom ash used in non-IDOT pavement base, pipe21 bedding, or foundation backfill.

(8) Structural fill, when used in an engineered application or combined with cement, sand, or water to produce a controlled strength fill material and covered with 12 inches of soil unless infiltration is prevented by the material itself or other cover material.

27 (9) Mine subsidence, mine fire control, mine sealing,28 and mine reclamation.

(10) Except to the extent that the uses are otherwise authorized by law without such restrictions, uses (7) through (9) shall be subject to the following conditions:

32 (A) CCB shall not have been mixed with hazardous
33 waste prior to use;

34 (B) CCB shall not exceed Class I Groundwater

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Standards for metals when tested utilizing test method
 ASTM D3987-85;

(C) Unless otherwise exempted, users of CCB shall 3 4 provide notification to the Agency for each project utilizing CCB documenting the quantity of CCB utilized 5 and certification of compliance with conditions (A) and 6 7 (B). Notification shall not be required for pavement 8 base, parking lot base, or building base projects 9 utilizing less than 10,000 tons, flowable fill/grout projects utilizing less than 1,000 cubic yards or other 10 11 applications utilizing less than 100 tons;

12 (D) Fly ash shall be applied in a manner that 13 minimizes the generation of airborne particles and dust 14 using techniques such as moisture conditioning, 15 granulating, inground application, or other demonstrated 16 method; and

17 (E) CCB is not to be accumulated speculatively.
18 CCB is not accumulated speculatively if during the
19 calendar year, the CCB used is equal to 75% of the CCB by
20 weight or volume accumulated at the beginning of the
21 period.

22 To encourage and promote the utilization of CCB in productive 23 and beneficial applications, the Agency may make a written determination that coal-combustion waste is CCB when used in 24 25 a manner other than that specified in this Section if the use has been shown to have no adverse environmental impact 26 greater than the beneficial uses specified, in consultation 27 with the Department of Mines and Minerals, the Illinois Clean 28 29 Coal Institute, the Department of Transportation, and such other agencies as may be appropriate. 30

31 (Source: P.A. 89-93, eff. 7-6-95.)

32 (415 ILCS 5/3.140 new) (was 415 ILCS 5/3.76)

33 Sec. <u>3.140. Coal combustion waste.</u> 3-76- "Coal

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1 combustion waste" means any fly ash, bottom ash, slag, or 2 flue gas or fluid bed boiler desulfurization by-products 3 generated as a result of the combustion of:

4 (1) coal, or

5 (2) coal in combination with: (i) fuel grade petroleum 6 coke, (ii) other fossil fuel, or (iii) both fuel grade 7 petroleum coke and other fossil fuel, or

coal (with or without: (i) fuel grade petroleum 8 (3) 9 coke, (ii) other fossil fuel, or (iii) both fuel grade petroleum coke and other fossil fuel) in combination with no 10 11 more than 20% of tire derived fuel or wood or other materials by weight of the materials combusted; provided that the coal 12 is burned with other materials, the Agency has made a written 13 determination that the storage or disposal of the resultant 14 wastes in accordance with the provisions of 15 item (r) of 16 Section 21 would result in no environmental impact greater than that of wastes generated as a result of the combustion 17 of coal alone, and the storage disposal of the resultant 18 19 wastes would not violate applicable federal law.

20 (Source: P.A. 88-668, eff. 9-16-94; 89-93, eff. 7-6-95.)

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(415 ILCS 5/3.145 new) (was 415 ILCS 5/3.05)

22 Sec. <u>3.145</u>. Community water supply. 3.05. "Community 23 water supply" means a public water supply which serves or is 24 intended to serve at least 15 service connections used by 25 residents or regularly serves at least 25 residents.

26 "Non-community water supply" means a public water supply 27 that is not a community water supply. The requirements of 28 this Act shall not apply to non-community water supplies. 29 (Source: P.A. 84-1308.)

30 (415 ILCS 5/3.150 new) (was 415 ILCS 5/3.69)

31 Sec. <u>3.150. Compost.</u> 3-69- "Compost" is defined as the 32 humus-like product of the process of composting waste, which

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1 may be used as a soil conditioner.

2 (Source: P.A. 85-1429.)

3 (415 ILCS 5/3.155 new) (was 415 ILCS 5/3.70)

Sec. <u>3.155. Composting.</u> 3.7θ. "Composting" means the
biological treatment process by which microorganisms
decompose the organic fraction of waste, producing compost.
(Source: P.A. 85-1429.)

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(415 ILCS 5/3.160 new) (was 415 ILCS 5/3.78 and 3.78a) Sec. <u>3.160. Construction or demolition debris.</u> 3-78-

(a) "General construction or demolition debris" means 10 non-hazardous, uncontaminated materials resulting from the 11 remodeling, repair, demolition 12 construction, and of utilities, structures, and roads, limited to the following: 13 14 bricks, concrete, and other masonry materials; soil; rock; wood, including non-hazardous painted, treated, and coated 15 16 wood and wood products; wall coverings; plaster; drywall; 17 plumbing fixtures; non-asbestos insulation; roofing shingles and other roof coverings; reclaimed asphalt pavement; glass; 18 19 plastics that are not sealed in a manner that conceals waste; 20 electrical wiring and components containing no hazardous 21 substances; and piping or metals incidental to any of those 22 materials.

23 General construction or demolition debris does not 24 include uncontaminated soil generated during construction, 25 remodeling, repair, and demolition of utilities, structures, 26 and roads provided the uncontaminated soil is not commingled 27 with any general construction or demolition debris or other 28 waste.

29 (b) See.--3.78a. "Clean construction or demolition 30 debris" means uncontaminated broken concrete without 31 protruding metal bars, bricks, rock, stone, reclaimed asphalt 32 pavement, or soil generated from construction or demolition

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1 activities.

2 Clean construction or demolition debris does not include 3 uncontaminated soil generated during construction, 4 remodeling, repair, and demolition of utilities, structures, 5 and roads provided the uncontaminated soil is not commingled 6 with any clean construction or demolition debris or other 7 waste.

To the extent allowed by federal law, clean construction 8 9 or demolition debris shall not be considered "waste" if it is (i) used as fill material below grade outside of a setback 10 11 zone if covered by sufficient uncontaminated soil to support vegetation within 30 days of the completion of filling or if 12 13 covered by a road or structure, or (ii) separated or processed and returned to the economic mainstream in the form 14 of raw materials or products, if it is not speculatively 15 16 accumulated and, if used as a fill material, it is used in accordance with item (i), or (iii) solely broken concrete 17 without protruding metal bars used for erosion control, or 18 19 (iv) generated from the construction or demolition of a building, road, or other structure and used to construct, on 20 the site where the construction or demolition has taken 21 22 place, an above-grade area shaped so as to blend into an 23 extension of the surrounding topography or an above-grade manmade functional structure not to exceed 20 feet in height, 24 25 provided that the area or structure shall be covered with sufficient soil materials to sustain vegetation or by a road 26 or structure, and further provided that no such area or 27 structure shall be constructed within a home 28 rule 29 municipality with a population over 500,000. (Source: P.A. 90-475, eff. 8-17-97; 90-761, eff. 8-14-98; 30

31 91-909, eff. 7-7-00.)

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(415 ILCS 5/3.165 new) (was 415 ILCS 5/3.06)

33 Sec. <u>3.165. Contaminant.</u> 3-θ6- "Contaminant" is any

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solid, liquid, or gaseous matter, any odor, or any form of
 energy, from whatever source.
 (Source: P.A. 84-1308.)

4 (415 ILCS 5/3.170 new) (was 415 ILCS 5/3.63)
5 Sec. <u>3.170. Contamination; contaminate.</u> 3-636 "Contamination" or "contaminate", when used in connection
7 with groundwater, means water pollution of such groundwater.
8 (Source: P.A. 85-863.)

9 (415 ILCS 5/3.175 new) (was 415 ILCS 5/3.80)

Sec. <u>3.175. Criterion.</u> 3-80- "Criterion" means the numerical concentration of one or more toxic substances calculated by the Agency as a basis for establishing a permit limitation or violation of a water quality standard pursuant to standards and procedures provided for in board regulations.

16 (Source: P.A. 86-1409.)

17 (415 ILCS 5/3.180 new) (was 415 ILCS 5/3.07)

18 Sec. <u>3.180. Department.</u> 3-07- "Department", when а 19 particular entity is not specified, means (i) in the case of 20 a function to be performed on or after July 1, 1995 (the effective date of the Department of Natural Resources Act), 21 22 either the Department of Natural Resources or the Department of Commerce and Community Affairs, whichever, in the specific 23 24 context, is the successor to the Department of Energy and Natural Resources under the Department of Natural Resources 25 26 Act; or (ii) in the case of a function performed before July 27 1, 1995, the former Illinois Department of Energy and Natural 28 Resources.

29 (Source: P.A. 89-445, eff. 2-7-96.)

30 (415 ILCS 5/3.185 new) (was 415 ILCS 5/3.08)

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Sec. <u>3.185. Disposal.</u> 3.08. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

8 (Source: P.A. 84-1308.)

9 (415 ILCS 5/3.190 new) (was 415 ILCS 5/3.09)

10 Sec. 3.190. Existing fuel combustion stationary emission source. 3-09- "Existing fuel combustion stationary emission 11 12 source" means any stationary furnace, boiler, oven, or similar equipment used for the primary purpose of producing 13 14 heat or power, of a type capable of emitting specified air 15 contaminants to the atmosphere, the construction or modification of which commenced prior to April 13, 1972. 16 (Source: P.A. 84-1308.) 17

18 (415 ILCS 5/3.195 new) (was 415 ILCS 5/3.10)

Sec. <u>3.195. Fluid.</u> 3.10. "Fluid" means material or substance which flows or moves whether in a semi-solid, liquid, sludge, gas or any other form or state. (Source: P.A. 84-1308.)

23 (415 ILCS 5/3.200 new) (was 415 ILCS 5/3.11)

Sec. <u>3.200. Garbage.</u> 3-11- "Garbage" is waste resulting from the handling, processing, preparation, cooking, and consumption of food, and wastes from the handling, processing, storage, and sale of produce.

28 (Source: P.A. 84-1308.)

29 (415 ILCS 5/3.205 new) (was 415 ILCS 5/3.12)

30 Sec. <u>3.205. Generator.</u> 3.12. "Generator" means any

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1 person whose act or process produces waste.

2 (Source: P.A. 87-650.)

3 (415 ILCS 5/3.210 new) (was 415 ILCS 5/3.64)

Sec. <u>3.210. Groundwater.</u> 3-64- "Groundwater" means
underground water which occurs within the saturated zone and
geologic materials where the fluid pressure in the pore space
is equal to or greater than atmospheric pressure.
(Source: P.A. 85-863.)

9 (415 ILCS 5/3.215 new) (was 415 ILCS 5/3.14)

10 Sec. <u>3.215. Hazardous substance.</u> 3-14-"Hazardous (A) any substance designated pursuant to 11 substance" means: Section 311(b)(2)(A) of the Federal Water Pollution Control 12 Act (P.L. 92-500), as amended, (B) any element, compound, 13 14 mixture, solution, or substance designated pursuant to Section 102 of the Comprehensive Environmental Response, 15 16 Compensation, and Liability Act of 1980 (P.L. 96-510), as 17 amended, (C) any hazardous waste, (D) any toxic pollutant listed under Section 307(a) of the Federal Water Pollution 18 Control Act (P.L. 92-500), as amended, (E) any hazardous air 19 pollutant listed under Section 112 of the Clean Air Act (P.L. 20 21 95-95), as amended, (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator 22 23 of the U.S. Environmental Protection Agency has taken action pursuant to Section 7 of the Toxic Substances Control Act 24 (P.L. 94-469), as amended. 25 The term does not include petroleum, including crude oil or any fraction thereof which 26 27 is not otherwise specifically listed or designated as a 28 hazardous substance under subparagraphs (A) through (F) of this paragraph, and the term does not include natural gas, 29 30 natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel or mixtures of natural gas and such synthetic 31 32 gas.

(Source: P.A. 84-1308.) 1

(415 ILCS 5/3.220 new) (was 415 ILCS 5/3.15)

3 Sec. <u>3.220. Hazardous waste.</u> 3-15- "Hazardous waste" means a waste, or combination of wastes, which because of its 4 5 quantity, concentration, or physical, chemical, or infectious б characteristics may cause or significantly contribute to an 7 increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose 8 a substantial present or potential hazard to human health or 9 10 the environment when improperly treated, stored, transported, or disposed of, or otherwise managed, and which has been 11 identified, by characteristics or listing, as hazardous 12 pursuant to Section 3001 of the Resource Conservation and 13 Recovery Act of 1976, P.L. 94-580, or pursuant to Board 14 15 regulations. Potentially infectious medical waste is not a hazardous waste, except for those potentially infectious 16 17 medical wastes identified by characteristics or listing as 18 hazardous under Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Board 19 20 regulations.

(Source: P.A. 87-752.) 21

(415 ILCS 5/3.225 new) (was 415 ILCS 5/3.16) 22

23 3.225. Hazardous waste disposal site. 3-16-Sec. "Hazardous waste disposal site" is a site at which hazardous 24 25 waste is disposed.

(Source: P.A. 84-1308.) 26

27 (415 ILCS 5/3.230 new) (was 415 ILCS 5/3.89)

Sec. <u>3.230. Household waste.</u> 3-89- "Household waste" 28 29 means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including 30 31 single and multiple residences, hotels and motels,

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1 bunkhouses, ranger stations, crew quarters, campgrounds, 2 picnic grounds, and day-use recreation areas). (Source: P.A. 88-496.) 3

(415 ILCS 5/3.235 new) (was 415 ILCS 5/3.17) Sec. <u>3.235. Industrial process waste.</u> 3-17- "Industrial 5 process waste" means any liquid, solid, semi-solid, or 6 7 gaseous waste generated as a direct or indirect result of the manufacture of a product or the performance of a service. 8 Any such waste which would pose a present or potential threat 9 10 to human health or to the environment or with inherent properties which make the disposal of such waste in a 11 landfill difficult to manage by normal means is an industrial 12 process waste. "Industrial Process Waste" includes but is 13 14 not limited to spent pickling liquors, cutting oils, chemical 15 catalysts, distillation bottoms, etching acids, equipment cleanings, paint sludges, incinerator ashes (including but 16 17 not limited to ash resulting from the incineration of 18 potentially infectious medical waste), core sands, metallic 19 dust sweepings, asbestos dust, and off-specification, contaminated or recalled wholesale or retail products. 20 21 Specifically excluded are uncontaminated packaging materials, 22 uncontaminated machinery components, general household waste, landscape waste and construction or demolition debris. 23 24 (Source: P.A. 87-752.)

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(415 ILCS 5/3.240 new) (was 415 ILCS 5/3.18)

3.240. Intermittent control system. 26 Sec. 3-18-27 "Intermittent control system" is a system which provides for 28 the planned reduction of source emissions of sulfur dioxide during periods when meteorological conditions are such, or 29 30 are anticipated to be such, that sulfur dioxide ambient air quality standards may be violated unless such reductions are 31 32 made.

(Source: P.A. 84-1308.) (415 ILCS 5/3.245 new) (was 415 ILCS 5/3.72) Sec. <u>3.245. Label.</u> 3.72. "Label" means the written,

3 Sec. <u>3.245. Label.</u> 3-72- "Label" means the written,
4 printed or graphic matter on or attached to the pesticide or
5 device or any of its containers or wrappings.

6 (Source: P.A. 86-820.)

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7 (415 ILCS 5/3.250 new) (was 415 ILCS 5/3.73)

Sec. <u>3.250. Labeling.</u> 3-73- "Labeling" means the label 8 9 and all other written, printed or graphic matters: (a) on the pesticide or device or any of its containers or wrappings, 10 (b) accompanying the pesticide or device or referring to it 11 in any other media used to disseminate information to the 12 public, (c) to which reference is made to the pesticide or 13 14 device except when references are made to current official publications of the U.S. Environmental Protection Agency, 15 16 Departments of Agriculture, Health and Human Services or 17 other Federal Government institutions, the state experiment station or colleges of agriculture or other similar state 18 19 institution authorized to conduct research in the field of 20 pesticides.

21 (Source: P.A. 86-820.)

22 (415 ILCS 5/3.255 new) (was 415 ILCS 5/3.79)

23 Sec. <u>3.255. Land form.</u> 3.79. "Land form" means a manmade 24 above-grade mound, less than 50 feet in height, covered with 25 sufficient soil materials to sustain vegetation.

26 (Source: P.A. 86-633; 86-1028.)

27 (415 ILCS 5/3.260 new) (was 415 ILCS 5/3.19)
 28 Sec. <u>3.260. Landfill gas recovery facility.</u>

29 "Landfill gas recovery facility" means any facility which 30 recovers and processes landfill gas from a sanitary landfill

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1 or waste disposal site.

2 (Source: P.A. 84-1308.)

3 (415 ILCS 5/3.265 new) (was 415 ILCS 5/3.75)

Sec. <u>3.265. Landfill waste.</u> 3.75. "Landfill waste" is 4 5 waste from a closed pollution control facility, closed б dumping site, closed sanitary landfill, or a closed waste site; provided however, "landfill waste" shall not 7 disposal 8 include waste removed by or pursuant to the authority of the State or a unit of local government from the public way or 9 10 household waste removed by or pursuant to the authority of the State or a unit of local government from any unauthorized 11 12 open dumping site.

13 (Source: P.A. 88-681, eff. 12-22-94.)

14 (415 ILCS 5/3.270 new) (was 415 ILCS 5/3.20)

Sec. <u>3.270. Landscape waste.</u> 3.20. "Landscape waste" means all accumulations of grass or shrubbery cuttings, leaves, tree limbs and other materials accumulated as the result of the care of lawns, shrubbery, vines and trees. (Source: P.A. 84-1308.)

20 (415 ILCS 5/3.275 new) (was 415 ILCS 5/3.88)

Sec. <u>3.275. Lateral expansion.</u> 3.88. "Lateral expansion" means a horizontal expansion of the actual waste boundaries of an existing MSWLF unit occurring on or after October 9, 1993. For purposes of this Section, a horizontal expansion is any area where solid waste is placed for the first time directly upon the bottom liner of the unit, excluding side slopes, on or after October 9, 1993.

28 (Source: P.A. 88-496.)

29 (415 ILCS 5/3.280 new) (was 415 ILCS 5/3.92)

30 Sec. <u>3.280. Lawncare wash water containment area.</u> 3-92-

1 "Lawncare wash water containment area" means an area utilized 2 for the capture of spills or washing or rinsing of pesticide residues from vehicles, application equipment, mixing 3 4 equipment, floors, loading areas, or other items used for the storage, handling, preparation for use, transport, 5 or application of pesticides to land areas covered with turf 6 7 kept closely mown or land area covered with turf and trees or 8 shrubs.

9 (Source: P.A. 88-474; 88-670, eff. 12-2-94.)

10 (415 ILCS 5/3.285 new) (was 415 ILCS 5/3.85, 3.86, and 11 3.87)

Sec. 3.285. Municipal Solid Waste Landfill Unit; MSWLF 12 unit. 3-85- "Municipal Solid Waste Landfill Unit" or "MSWLF 13 14 unit" means a contiguous area of land or an excavation that 15 receives household waste, and that is not a land application unit, surface impoundment, injection well, or any pile of 16 17 noncontainerized accumulations of solid, nonflowing waste 18 that is used for treatment or storage. A MSWLF unit may also receive other types of RCRA Subtitle D wastes, such as 19 20 commercial solid waste, nonhazardous sludge, small quantity 21 generator waste and industrial solid waste. Such a landfill 22 may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit, or a lateral 23 24 expansion. A sanitary landfill is subject to regulation as a MSWLF unit if it receives household waste. 25

See.-3.86. "New MSWLF unit" means any municipal solid waste landfill unit that receives household waste on or after October 9, 1993, for the first time.

See.--3.87. "Existing MSWLF unit" means any municipal solid waste landfill unit that has received solid waste before October 9, 1993.

32 (Source: P.A. 88-496; 88-670, eff. 12-2-94.)

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1 (415 ILCS 5/3.290 new) (was 415 ILCS 5/3.21) 2 Sec. <u>3.290. Municipal waste.</u> 3-21- "Municipal waste" means garbage, general household and commercial waste, 3 4 industrial lunchroom or office waste, landscape waste, and 5 construction or demolition debris. (Source: P.A. 87-650.) 6 7 (415 ILCS 5/3.295 new) (was 415 ILCS 5/3.22) 8 Sec. <u>3.295. Municipality.</u> 3-22- "Municipality" means any city, village or incorporated town. 9 (Source: P.A. 84-1308.) 10 (415 ILCS 5/3.300 new) (was 415 ILCS 5/3.23) 11 Sec. 3.300. Open burning. 3-23- "Open burning" is the 12 13 combustion of any matter in the open or in an open dump. (Source: P.A. 84-1308.) 14 (415 ILCS 5/3.305 new) (was 415 ILCS 5/3.24) 15 16 Sec. <u>3.305. Open dumping.</u> 3-24- "Open dumping" means the

17 consolidation of refuse from one or more sources at a 18 disposal site that does not fulfill the requirements of a 19 sanitary landfill.

20 (Source: P.A. 84-1308.)

21 (415 ILCS 5/3.310 new) (was 415 ILCS 5/3.25)

2.2 Sec. 3.310. Organized amateur or professional sporting activity. 3-25- "Organized amateur or professional sporting 23 activity" means an activity or event carried out at a 24 25 facility by persons who engaged in that activity as a 26 business or for education, charity or entertainment for the general public, including all necessary actions 27 and 28 activities associated with such an activity. This definition includes, but is not limited to, (i) rifle and pistol ranges, 29 30 licensed shooting preserves, and skeet, trap or shooting

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sports clubs in existence prior to January 1, 1994, (ii)
public hunting areas operated by a governmental entity, (iii)
organized motor sports, and (iv) sporting events organized or
controlled by school districts, units of local government,
state agencies, colleges, universities, or professional
sports clubs offering exhibitions to the public.

7 (Source: P.A. 88-598, eff. 8-31-94.)

8 (415 ILCS 5/3.315 new) (was 415 ILCS 5/3.26)

9 Sec. <u>3.315. Person.</u> 3-26- "Person" is any individual, 10 partnership, co-partnership, firm, company, limited liability 11 company, corporation, association, joint stock company, 12 trust, estate, political subdivision, state agency, or any 13 other legal entity, or their legal representative, agent or 14 assigns.

15 (Source: P.A. 88-480.)

16 (415 ILCS 5/3.320 new) (was 415 ILCS 5/3.71)

Sec. <u>3.320. Pesticide.</u> 3.71. "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

22 (Source: P.A. 86-820.)

23 (415 ILCS 5/3.325 new) (was 415 ILCS 5/3.74)

Sec. <u>3.325. Pesticide release.</u> 3-74- "Pesticide release" 24 or "release of a pesticide" means any release resulting in a 25 26 concentration of pesticides in waters of the State which exceeds levels for which: (1) a Maximum Contaminant Level 27 (MCL) has been promulgated by the U. S. Environmental 28 29 Protection Agency or a Maximum Allowable Concentration (MAC) has been promulgated by the Board pursuant to the Safe 30 Drinking Water Act (P.L. 93-523), as amended; or (2) a Health 31

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1 Advisory used on an interim basis has been issued by the U. 2 S. Environmental Protection Agency; or (3) a standard has adopted by the Board pursuant to the Illinois 3 been 4 Groundwater Protection Act; or (4) in the absence of such advisories or standards, an action level has been developed 5 by the Agency using guidance or procedures issued by the 6 7 federal government for developing health based levels. (Source: P.A. 86-820.) 8

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9 (415 ILCS 5/3.330 new) (was 415 ILCS 5/3.32)
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Sec. <u>3.330.</u> 3-32- Pollution control facility.

(a) "Pollution control facility" is any waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, or waste incinerator. This includes sewers, sewage treatment plants, and any other facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act.

The following are not pollution control facilities:

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(1) (Blank);

19 (2) waste storage sites regulated under 40 CFR,
20 Part 761.42;

21 (3) sites or facilities used by any person 22 conducting a waste storage, waste treatment, waste disposal, waste transfer or waste incineration operation, 23 24 or a combination thereof, for wastes generated by such person's own activities, when such wastes are stored, 25 treated, disposed of, transferred or incinerated within 26 the site or facility owned, controlled or operated by 27 28 such person, or when such wastes are transported within 29 or between sites or facilities owned, controlled or 30 operated by such person;

31 (4) sites or facilities at which the State is 32 performing removal or remedial action pursuant to Section 33 22.2 or 55.3;

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1 (5) abandoned quarries used solely for the disposal 2 of concrete, earth materials, gravel, or aggregate debris 3 resulting from road construction activities conducted by 4 a unit of government or construction activities due to 5 the construction and installation of underground pipes, 6 lines, conduit or wires off of the premises of a public 7 utility company which are conducted by a public utility;

(6) sites or facilities used by any person to specifically conduct a landscape compositing operation;

10 (7) regional facilities as defined in the Central
 11 Midwest Interstate Low-Level Radioactive Waste Compact;

12 (8) the portion of a site or facility where coal
13 combustion wastes are stored or disposed of in accordance
14 with subdivision (r)(2) or (r)(3) of Section 21;

15 (9) the portion of a site or facility used for the 16 collection, storage or processing of waste tires as 17 defined in Title XIV;

(10) the portion of a site or facility used for 18 treatment of petroleum contaminated materials 19 by application onto or incorporation into the soil surface 20 21 and any portion of that site or facility used for storage 22 of petroleum contaminated materials before treatment. 23 Only those categories of petroleum listed in paragraph (5)-of-subsection-(a)-of Section 57.9(a)(3) 22-18b are 24 exempt under this subdivision (10); 25

(11) the portion of a site or facility where used
oil is collected or stored prior to shipment to a
recycling or energy recovery facility, provided that the
used oil is generated by households or commercial
establishments, and the site or facility is a recycling
center or a business where oil or gasoline is sold at
retail;

33 (12) the portion of a site or facility utilizing34 coal combustion waste for stabilization and treatment of

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1 only waste generated on that site or facility when used 2 in connection with response actions pursuant to the 3 federal Comprehensive Environmental Response, 4 Compensation, and Liability Act of 1980, the federal Resource Conservation and Recovery Act of 1976, or the 5 Illinois Environmental Protection Act or as authorized by 6 7 the Agency;

(13) the portion of a site or facility accepting 8 9 exclusively general construction or demolition debris, located in a county with a population over 700,000, and 10 11 operated and located in accordance with Section 22.38 of 12 this Act.

A new pollution control facility is: 13 (b)

pollution control facility initially 14 (1) a 15 permitted for development or construction after July 1, 16 1981; or

(2) the area of expansion beyond the boundary of a 17 currently permitted pollution control facility; or 18

19 (3) a permitted pollution control facility 20 requesting approval to store, dispose of, transfer or 21 incinerate, for the first time, any special or hazardous 22 waste.

23 (Source: P.A. 89-93, eff. 7-6-95; 90-475, eff. 8-17-97.)

(415 ILCS 5/3.335 new) (was 415 ILCS 5/3.27) 24

25 Sec. 3.335. Pollution control waste. 3-27- "Pollution control waste" means any liquid, solid, semi-solid or gaseous 26 waste generated as a direct or indirect result of the removal 27 28 of contaminants from the air, water or land, and which pose a 29 present or potential threat to human health or to the environment or with inherent properties which make the 30 31 disposal of such waste in a landfill difficult to manage by normal means. "Pollution control waste" includes but is not 32 33 limited to water and wastewater treatment plant sludges,

baghouse dusts, landfill waste, scrubber sludges and chemical
 spill cleanings.

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3 (Source: P.A. 85-1428.)

4 (415 ILCS 5/3.340 new) (was 415 ILCS 5/3.65)
5 Sec. <u>3.340. Potable.</u> 3.65. "Potable" means generally fit
6 for human consumption in accordance with accepted water
7 supply principles and practices.

8 (Source: P.A. 85-863.)

9 (415 ILCS 5/3.345 new) (was 415 ILCS 5/3.59)

Sec. <u>3.345. Potential primary source.</u> 3-59- "Potential primary source" means any unit at a facility or site not currently subject to a removal or remedial action which:

(1) is utilized for the treatment, storage, or
disposal of any hazardous or special waste not generated
at the site; or

16 (2) is utilized for the disposal of municipal waste
17 not generated at the site, other than landscape waste and
18 construction and demolition debris; or

19 (3) is utilized for the landfilling, land treating,
20 surface impounding or piling of any hazardous or special
21 waste that is generated on the site or at other sites
22 owned, controlled or operated by the same person; or

(4) stores or accumulates at any time more than
75,000 pounds above ground, or more than 7,500 pounds
below ground, of any hazardous substances.

26 A new potential primary source is:

(i) a potential primary source which is not in
existence or for which construction has not commenced at
its location as of January 1, 1988; or

30 (ii) a potential primary source which expands
31 laterally beyond the currently permitted boundary or, if
32 the primary source is not permitted, the boundary in

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existence as of January 1, 1988; or

2 (iii) a potential primary source which is part of a 3 facility that undergoes major reconstruction. Such 4 reconstruction shall be deemed to have taken place where 5 the fixed capital cost of the new components constructed 6 within a 2-year period exceed 50% of the fixed capital 7 cost of a comparable entirely new facility.

8 Construction shall be deemed commenced when all necessary 9 federal, State and local approvals have been obtained, and 10 work at the site has been initiated and proceeds in a 11 reasonably continuous manner to completion.

12 (Source: P.A. 85-863.)

13 (415 ILCS 5/3.350 new) (was 415 ILCS 5/3.58)

Sec. <u>3.350. Potential route.</u> 3-58- "Potential route" means abandoned and improperly plugged wells of all kinds, drainage wells, all injection wells, including closed loop heat pump wells, and any excavation for the discovery, development or production of stone, sand or gravel.

19 A new potential route is:

20 (1) a potential route which is not in existence or
21 for which construction has not commenced at its location
22 as of January 1, 1988, or

(2) a potential route which expands laterally
beyond the currently permitted boundary or, if the
potential route is not permitted, the boundary in
existence as of January 1, 1988.

27 Construction shall be deemed commenced when all necessary 28 federal, State and local approvals have been obtained, and 29 work at the site has been initiated and proceeds in a 30 reasonably continuous manner to completion.

31 (Source: P.A. 85-863.)

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(415 ILCS 5/3.355 new) (was 415 ILCS 5/3.60)

Sec. <u>3.355. Potential secondary source.</u> 3.60. "Potential secondary source" means any unit at a facility or a site not currently subject to a removal or remedial action, other than a potential primary source, which:

5 (1) is utilized for the landfilling, land treating, 6 or surface impounding of waste that is generated on the 7 site or at other sites owned, controlled or operated by 8 the same person, other than livestock and landscape 9 waste, and construction and demolition debris; or

10 (2) stores or accumulates at any time more than 11 25,000 but not more than 75,000 pounds above ground, or 12 more than 2,500 but not more than 7,500 pounds below 13 ground, of any hazardous substances; or

14 (3) stores or accumulates at any time more than
15 25,000 gallons above ground, or more than 500 gallons
16 below ground, of petroleum, including crude oil or any
17 fraction thereof which is not otherwise specifically
18 listed or designated as a hazardous substance; or

19 (4) stores or accumulates pesticides, fertilizers,
20 or road oils for purposes of commercial application or
21 for distribution to retail sales outlets; or

(5) stores or accumulates at any time more than
50,000 pounds of any de-icing agent; or

24 (6) is utilized for handling livestock waste or for
25 treating domestic wastewaters other than private sewage
26 disposal systems as defined in the "Private Sewage
27 Disposal Licensing Act".

28 A new potential secondary source is:

(i) a potential secondary source which is not in
existence or for which construction has not commenced at
its location as of July 1, 1988; or

(ii) a potential secondary source which expands
laterally beyond the currently permitted boundary or, if
the secondary source is not permitted, the boundary in

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1 existence as of July 1, 1988, other than an expansion for 2 handling of livestock waste or for treating domestic 3 wastewaters; or

4 (iii) a potential secondary source which is part of 5 a facility that undergoes major reconstruction. Such 6 reconstruction shall be deemed to have taken place where 7 the fixed capital cost of the new components constructed 8 within a 2-year period exceed 50% of the fixed capital 9 cost of a comparable entirely new facility.

10 Construction shall be deemed commenced when all necessary 11 federal, State and local approvals have been obtained, and 12 work at the site has been initiated and proceeds in a 13 reasonably continuous manner to completion.

14 (Source: P.A. 85-863.)

15 (415 ILCS 5/3.360 new) (was 415 ILCS 5/3.84)

Sec. 3.360. Potentially infectious medical waste. 3-84-16 17 "Potentially infectious medical waste" means the (a) following types of waste generated in connection with the 18 diagnosis, treatment (i.e., provision of medical services), 19 20 or immunization of human beings or animals; research 21 pertaining to the provision of medical services; or the production or testing of biologicals: 22

(1) Cultures and stocks. This waste shall include 23 24 but not be limited to cultures and stocks of agents infectious to humans, 25 and associated biologicals; cultures from medical or pathological laboratories; 26 cultures and stocks of infectious agents from research 27 and industrial laboratories; wastes from the production 28 of biologicals; discarded live or attenuated vaccines; or 29 culture dishes and devices used to transfer, inoculate, 30 or mix cultures. 31

32 (2) Human pathological wastes. This waste shall33 include tissue, organs, and body parts (except teeth and

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1 the contiguous structures of bone and gum); body fluids 2 that are removed during surgery, autopsy, or other 3 medical procedures; or specimens of body fluids and their 4 containers.

5 (3) Human blood and blood products. This waste 6 shall include discarded human blood, blood components 7 (e.g., serum and plasma), or saturated material 8 containing free flowing blood or blood components.

9 (4) Used sharps. This waste shall include but not be limited to discarded sharps used in animal or human 10 patient care, medical research, or clinical 11 or 12 pharmaceutical laboratories; hypodermic, intravenous, or 13 other medical needles; hypodermic or intravenous syringes; Pasteur pipettes; scalpel blades; or blood 14 15 vials. This waste shall also include but not be limited 16 to other types of broken or unbroken glass (including 17 slides and cover slips) in contact with infectious agents. 18

19 (5) Animal waste. Animal waste means discarded
20 materials, including carcasses, body parts, body fluids,
21 blood, or bedding originating from animals inoculated
22 during research, production of biologicals, or
23 pharmaceutical testing with agents infectious to humans.

This waste shall include 24 (6) Isolation waste. 25 discarded materials contaminated with blood, excretions, exudates, and secretions from humans that are isolated to 26 27 protect others from highly communicable diseases. "Highly communicable diseases" means those 28 diseases 29 identified by the Board in rules adopted under subsection 30 (e) of Section 56.2 of this Act.

31 (7) Unused sharps. This waste shall include but
32 not be limited to the following unused, discarded sharps:
33 hypodermic, intravenous, or other needles; hypodermic or
34 intravenous syringes; or scalpel blades.

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1 (b) Potentially infectious medical waste does not 2 include: (1) waste generated as general household waste; 3 4 (2) waste (except for sharps) for which the infectious potential has been eliminated by treatment; or 5 (3) sharps that meet both of the following 6 conditions: 7 infectious potential 8 (A) the has been

9 eliminated from the sharps by treatment; and
10 (B) the sharps are rendered unrecognizable by

11 treatment.

12 (Source: P.A. 87-752; 87-895; 87-1097.)

13 (415 ILCS 5/3.365 new) (was 415 ILCS 5/3.28)

Sec. 3.365. Public water supply. 3-28- "Public water 14 15 supply" means all mains, pipes and structures through which water is obtained and distributed to the public, including 16 17 wells and well structures, intakes and cribs, pumping 18 stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or 19 20 intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 21 22 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is 23 24 either a "community water supply" or a "non-community water 25 supply".

26 (Source: P.A. 84-1308.)

27

(415 ILCS 5/3.370 new) (was 415 ILCS 5/3.29)

Sec. <u>3.370. RCRA permit.</u> 3-29- "RCRA permit" means a permit issued by the Agency pursuant to authorization received by the Agency from the United States Environmental Protection Agency under Subtitle C of the Resource Conservation and Recovery Act of 1976, (P.L. 94-580) (RCRA)

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and which meets the requirements of Section 3005 of RCRA and
 of this Act.

3 (Source: P.A. 84-1308.)

(415 ILCS 5/3.375 new) (was 415 ILCS 5/3.81) 4 5 Sec. <u>3.375. Recycling center.</u> 3-81- "Recycling center" means a site or facility that accepts only segregated, 6 7 nonhazardous, nonspecial, homogeneous, nonputrescible materials, such as dry paper, glass, cans or plastics, for 8 subsequent use in the secondary materials market. 9 (Source: P.A. 87-650.) 10

11 (415 ILCS 5/3.380 new) (was 415 ILCS 5/3.30)

3.380. Recycling, reclamation or reuse. 12 Sec. 3-30-13 "Recycling, reclamation or reuse" means a method, technique, 14 or process designed to remove any contaminant from waste so as to render such waste reusable, or any process by which 15 16 materials that would otherwise be disposed of or discarded 17 are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products. 18 (Source: P.A. 87-650.) 19

20 (415 ILCS 5/3.385 new) (was 415 ILCS 5/3.31)
21 Sec. <u>3.385. Refuse.</u> 3-31- "Refuse" means waste.
22 (Source: P.A. 84-1308.)

23 (415 ILCS 5/3.390 new) (was 415 ILCS 5/3.67)

Sec. <u>3.390. Regulated recharge area.</u> 3.67. "Regulated recharge area" means a compact geographic area, as determined by the Board, the geology of which renders a potable resource groundwater particularly susceptible to contamination. (Source: P.A. 85-863.)

29 (415 ILCS 5/3.395 new) (was 415 ILCS 5/3.33)

1 Sec. 3.395. Release. 3-33- "Release" means any spilling, 2 leaking, pumping, pouring, emitting, emptying, discharging, 3 injecting, escaping, leaching, dumping, or disposing into the 4 environment, but excludes (a) any release which results in exposure to persons solely within a workplace, with respect 5 to a claim which such persons may assert against the employer 6 7 of such persons; (b) emissions from the engine exhaust of a 8 motor vehicle, rolling stock, aircraft, vessel, or pipeline 9 pumping station engine; (c) release of source, byproduct, or special nuclear material from a nuclear incident, as those 10 11 terms are defined in the Atomic Energy Act of 1954, if such 12 release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission 13 under Section 170 of such Act; and (d) the normal application 14 15 of fertilizer.

16 (Source: P.A. 84-1308.)

17 (415 ILCS 5/3.400 new) (was 415 ILCS 5/3.34)

Sec. <u>3.400. Remedial action.</u> 3-34- "Remedial action" 18 19 means those actions consistent with permanent remedy taken 20 instead of or in addition to removal actions in the event of a release or threatened release of a hazardous substance into 21 22 the environment, to prevent or minimize the release of hazardous substances so that they do not migrate to cause 23 24 substantial danger to present or future public health or welfare or the environment. The term includes, but is not 25 limited to, such actions at the location of the release as 26 storage, confinement, perimeter protection using 27 dikes, 28 trenches, or ditches, clay cover, neutralization, cleanup of 29 released hazardous substances or contaminated materials, 30 recycling or reuse, diversion destruction, segregation of dredging or excavations, repair or 31 reactive wastes, replacement of leaking containers, collection of leachate and 32 33 runoff, onsite treatment or incineration, provision of

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1 alternative water supplies, and any monitoring reasonably 2 required to assure that such actions protect the public health and welfare and the environment. The term includes 3 4 the costs of permanent relocation of residents and businesses 5 and community facilities where the Governor and the Director 6 determine that, alone or in combination with other measures, 7 more cost-effective such relocation is than and 8 environmentally preferable to the transportation, storage, 9 treatment, destruction, or secure disposition offsite of hazardous substances, or may otherwise be necessary to 10 11 protect the public health or welfare. The term includes 12 offsite transport of hazardous substances, or the storage, treatment, destruction, or secure disposition offsite of such 13 hazardous substances or contaminated materials. 14

15 (Source: P.A. 86-671.)

16 (415 ILCS 5/3.405 new) (was 415 ILCS 5/3.35)

17 Sec. <u>3.405. Remove; removal.</u> 3-35- "Remove" or "removal" means the cleanup or removal of released hazardous substances 18 19 from the environment, actions as may be necessary taken in 20 the event of the threat of release of hazardous substances 21 into the environment, actions as may be necessary to monitor, assess, and evaluate the release or threat of release of 22 hazardous substances, the disposal of removed material, or 23 24 the taking of other actions as may be necessary to prevent, 25 minimize, or mitigate damage to the public health or welfare 26 or the environment, that may otherwise result from a release or threat of release. The term includes, in addition, 27 28 without being limited to, security fencing or other measures to limit access, provision of alternative water supplies, 29 temporary evacuation and housing of threatened individuals, 30 and any emergency assistance that may be provided under the 31 32 Illinois Emergency Management Agency Act or any other law. (Source: P.A. 87-168.) 33

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1	(415 ILCS 5/3.410 new) (was 415 ILCS 5/3.36)
2	Sec. <u>3.410. Re-refined oil.</u> 3-36- "Re-refined oil" means
3	any oil which has been refined from used oil meeting
4	substantially the same standards as new oil.
5	(Source: P.A. 84-1308.)

6 (415 ILCS 5/3.415 new) (was 415 ILCS 5/3.37)
7 Sec. <u>3.415. Resident.</u> 3-37- "Resident" means a person

8 who dwells or has a place of abode which is occupied by that 9 person for 60 days or more each calendar year. 10 (Source: P.A. 84-1308.)

11 (415 ILCS 5/3.420 new) (was 415 ILCS 5/3.38)

Sec. <u>3.420. Resource conservation.</u> 3.38. "Resource conservation" means reduction of the amounts of waste that are generated, reduction of overall resource consumption and the utilization of recovered resources.

16 (Source: P.A. 84-1308.)

17 (415 ILCS 5/3.425 new) (was 415 ILCS 5/3.90)

Sec. <u>3.425. Resource Conservation and Recovery Act; RCRA.</u>
3.90. "Resource Conservation and Recovery Act" or "RCRA"
means the Resource Conservation and Recovery Act of 1976
(P.L. 94-580), as amended.

22 (Source: P.A. 88-496.)

23 (415 ILCS 5/3.430 new) (was 415 ILCS 5/3.66)

Sec. <u>3.430. Resource groundwater.</u> 3-66- "Resource groundwater" means groundwater that is presently being or in the future capable of being put to beneficial use by reason of being of suitable quality.

28 (Source: P.A. 85-863.)

29 (415 ILCS 5/3.435 new) (was 415 ILCS 5/3.39)

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Sec. <u>3.435. Resource recovery.</u> 3-39- "Resource recovery"
 means the recovery of material or energy from waste.
 (Source: P.A. 84-1308.)

4 (415 ILCS 5/3.440 new) (was 415 ILCS 5/3.40)
5 Sec. <u>3.440. Respond; response.</u> 3.40. "Respond" or
6 "response" means remove, removal, remedy, and remedial
7 action.

8 (Source: P.A. 84-1308.)

9 (415 ILCS 5/3.445 new) (was 415 ILCS 5/3.41)

Sec. <u>3.445. Sanitary landfill.</u> 3-41- "Sanitary landfill" 10 means a facility permitted by the Agency for the disposal of 11 waste on land meeting the requirements of the Resource 12 Conservation and Recovery Act, P.L. 94-580, and regulations 13 14 thereunder, and without creating nuisances or hazards to public health or safety, by confining the refuse to the 15 16 smallest practical volume and covering it with a layer of 17 earth at the conclusion of each day's operation, or by such other methods and intervals as the Board may provide by 18 19 regulation.

20 (Source: P.A. 84-1308.)

21 (415 ILCS 5/3.450 new) (was 415 ILCS 5/3.61)

Sec. <u>3.450.</u> <u>Setback zone.</u> <u>3.61.</u> "Setback zone" means a geographic area, designated pursuant to this Act, containing a potable water supply well or a potential source or potential route, having a continuous boundary, and within which certain prohibitions or regulations are applicable in order to protect groundwaters.

28 (Source: P.A. 85-863.)

29 (415 ILCS 5/3.455 new) (was 415 ILCS 5/3.42)

30 Sec. <u>3.455. Sewage works.</u> 3.42. "Sewage works" means

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individually or collectively those constructions or devices
 used for collecting, pumping, treating, and disposing of
 sewage, industrial waste or other wastes or for the recovery
 of by-products from such wastes.

5 (Source: P.A. 84-1308.)

6 (415 ILCS 5/3.460 new) (was 415 ILCS 5/3.43)

Sec. <u>3.460. Site.</u> 3-43- "Site" means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder.

12 (Source: P.A. 84-1308.)

13 (415 ILCS 5/3.465 new) (was 415 ILCS 5/3.44)

Sec. <u>3.465. Sludge.</u> 3.44. "Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effects.

20 (Source: P.A. 84-1308.)

21 (415 ILCS 5/3.470 new) (was 415 ILCS 5/3.82)

22 Sec. <u>3.470. Solid waste.</u> 3-82- "Solid waste" means 23 waste.

24 (Source: P.A. 87-650.)

25

(415 ILCS 5/3.475 new) (was 415 ILCS 5/3.45)

26 Sec. <u>3.475.</u> 3-45- Special waste. "Special waste" means 27 any of the following:

28 (a) potentially infectious medical waste;

(b) hazardous waste, as determined in conformance withRCRA hazardous waste determination requirements set forth in

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Section 722.111 of Title 35 of the Illinois Administrative Code, including a residue from burning or processing hazardous waste in a boiler or industrial furnace unless the residue has been tested in accordance with Section 726.212 of Title 35 of the Illinois Administrative Code and proven to be nonhazardous;

7 (c) industrial process waste or pollution control waste, 8 except:

9 (1) any such waste certified by its generator, 10 pursuant to Section 22.48 of this Act, not to be any of 11 the following:

12 (A) a liquid, as determined using the paint
13 filter test set forth in subdivision (3)(A) of
14 subsection (m) of Section 811.107 of Title 35 of the
15 Illinois Administrative Code;

16 (B) regulated asbestos-containing waste
17 materials, as defined under the National Emission
18 Standards for Hazardous Air Pollutants in 40 CFR
19 Section 61.141;

20(C) polychlorinatedbiphenyls(PCB's)21regulated pursuant to 40 CFR Part 761;

22 (D) an industrial process waste or pollution 23 control waste subject to the waste analysis and 24 recordkeeping requirements of Section 728.107 of 25 Title 35 of the Illinois Administrative Code under 26 the land disposal restrictions of Part 728 of Title 27 35 of the Illinois Administrative Code; and

(E) a waste material generated by processing
recyclable metals by shredding and required to be
managed as a special waste under Section 22.29 of
this Act;

32 (2) any empty portable device or container,
33 including but not limited to a drum, in which a special
34 waste has been stored, transported, treated, disposed of,

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1 or otherwise handled, provided that the generator has 2 certified that the device or container is empty and does not contain a liquid, as determined pursuant to item (A) 3 4 of subdivision (1) of this subsection. For purposes of this subdivision, "empty portable device or container" 5 means a device or container in which removal of special 6 7 waste, except for a residue that shall not exceed one 8 inch in thickness, has been accomplished by a practice 9 commonly employed to remove materials of that type. An inner liner used to prevent contact between the special 10 11 waste and the container shall be removed and managed as a 12 special waste; or

13 (3) as may otherwise be determined under Section14 22.9 of this Act.

"Special waste" does not mean fluorescent and high 15 16 intensity discharge lamps as defined in subsection (a) of Section 22.23a of this Act, waste that is managed in 17 accordance with the universal waste requirements set forth in 18 19 Title 35 of the Illinois Administrative Code, Subtitle G, Chapter I, Subchapter c, Part 733, or waste that is subject 20 21 to rules adopted pursuant to subsection (c)(2) of Section 22 22.23a of this Act.

23 (Source: P.A. 89-619, eff. 1-1-97; 90-502, eff. 8-19-97.)

24 (415 ILCS 5/3.480 new) (was 415 ILCS 5/3.46)

25 Sec. <u>3.480. Storage.</u> 3.46. "Storage" means the 26 containment of waste, either on a temporary basis or for a 27 period of years, in such a manner as not to constitute 28 disposal.

29 (Source: P.A. 87-650.)

30 (415 ILCS 5/3.485 new) (was 415 ILCS 5/3.47)

31 Sec. <u>3.485. Storage site.</u> 3-47- "Storage site" is a site 32 at which waste is stored. "Storage site" includes transfer

1 stations but does not include (i) a site that accepts or 2 receives waste in transfer containers unless the waste is removed from the transfer container or unless the transfer 3 4 container becomes stationary, en route to a disposal, treatment, or storage facility for more than 5 business days, 5 or (ii) a site that accepts or receives open top units 6 7 containing only clean construction and demolition debris, or (iii) a site that stores waste on a refuse motor vehicle or 8 in the vehicle's detachable refuse receptacle for no more 9 10 than 24 hours, excluding Saturdays, Sundays, and holidays, 11 but only if the detachable refuse receptacle is completely covered or enclosed and is stored on the same site as the 12 13 refuse motor vehicle that transported the receptacle to the 14 site.

Nothing in this Section shall be construed to be less stringent than or inconsistent with the provisions of the federal Resource Conservation and Recovery Act of 1976 (P.L. 94-480) or regulations adopted under it.

19 (Source: P.A. 89-122, eff. 7-7-95.)

20 (415 ILCS 5/3.490 new) (was 415 ILCS 5/3.48)

21 Sec. <u>3.490. Trade secret.</u> 3.48. "Trade secret" means the 22 whole or any portion or phase of any scientific or technical information, design, process (including a manufacturing 23 24 process), procedure, formula or improvement, or business plan which is secret in that it has not been published or 25 disseminated or otherwise become a matter of general public 26 knowledge, and which has competitive value. A trade secret 27 28 is presumed to be secret when the owner thereof takes 29 reasonable measures to prevent it from becoming available to persons other than those selected by the owner to have access 30 thereto for limited purposes. 31

32 (Source: P.A. 84-1308.)

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(415 ILCS 5/3.495 new) (was 415 ILCS 5/3.48-5)

Sec. <u>3.495. Transfer container.</u> 3-48-5- "Transfer 2 container "means a reusable transportable shipping container 3 4 that is completely covered or enclosed, that has a volume of 5 less than 250 cubic feet based on the external not. 6 dimensions, and that is constructed and maintained to protect 7 the container contents (which may include smaller containers 8 that are or are not transfer containers) from water, rain, and wind, to prevent the free movement of rodents and vectors 9 into or out of the container, and to prevent leaking from the 10 11 container.

12 (Source: P.A. 89-122, eff. 7-7-95.)

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13 (415 ILCS 5/3.500 new) (was 415 ILCS 5/3.83)

14 Sec. <u>3.500. Transfer station.</u> 3-83-"Transfer station" 15 means a site or facility that accepts waste for temporary storage or consolidation and further transfer to a waste 16 17 disposal, treatment or storage facility. "Transfer station" 18 includes a site where waste is transferred from (1) a rail carrier to a motor vehicle or water carrier; (2) a water 19 20 carrier to a rail carrier or motor vehicle; (3) a motor 21 vehicle to a rail carrier, water carrier or motor vehicle; (4) a rail carrier to a rail carrier, if the waste is removed 22 from a rail car; or (5) a water carrier to a water carrier, 23 24 if the waste is removed from a vessel.

"Transfer station" does not include (i) a site where 25 waste is not removed from the transfer container, or (ii) a 26 site that accepts or receives open top units containing only 27 28 clean construction and demolition debris, or (iii) a site 29 that stores waste on a refuse motor vehicle or in the vehicle's detachable refuse receptacle for no more than 24 30 31 hours, excluding Saturdays, Sundays, and holidays, but only 32 if the detachable refuse receptacle is completely covered or 33 enclosed and is stored on the same site as the refuse motor 1 vehicle that transported the receptacle to the site.

2 Nothing in this Section shall be construed to be less 3 stringent than or inconsistent with the provisions of the 4 federal Resource Conservation and Recovery Act of 1976 (P.L. 5 94-480) or regulations adopted under it.

6 (Source: P.A. 89-122, eff. 7-7-95.)

7 (415 ILCS 5/3.505 new) (was 415 ILCS 5/3.49)

8 Sec. <u>3.505. Treatment.</u> 3-49- "Treatment" means any 9 method, technique or process, including neutralization, 10 designed to change the physical, chemical, or biological 11 character or composition of any waste so as to neutralize it or render it nonhazardous, safer for transport, amenable for 12 recovery, amenable for storage, or reduced in volume. Such 13 term includes any activity or processing designed to change 14 15 the physical form or chemical composition of hazardous waste so as to render it nonhazardous. 16

17 (Source: P.A. 87-650.)

18 (415 ILCS 5/3.510 new) (was 415 ILCS 5/3.50)

Sec. <u>3.510. Underground injection.</u> 3.50. "Underground injection" means the subsurface emplacement of fluids by well injection.

22 (Source: P.A. 84-1308.)

23 (415 ILCS 5/3.515 new) (was 415 ILCS 5/3.62)

Sec. <u>3.515. Unit.</u> 3.62. "Unit" means any device, mechanism, equipment, or area (exclusive of land utilized only for agricultural production). This term includes secondary containment structures and their contents at agrichemical facilities.

29 (Source: P.A. 87-1108.)

30 (415 ILCS 5/3.520 new) (was 415 ILCS 5/3.51)

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Sec. <u>3.520. Used oil.</u> 3.51. "Used oil" means any oil which has been refined from crude oil or refined from used oil, has been used, and as a result of such use has been contaminated by physical or chemical impurities, except that "used oil" shall not include that type of oil generated on farmland property devoted to agricultural use and used on that property for heating or burning.

8 (Source: P.A. 84-1308.)

9 (415 ILCS 5/3.525 new) (was 415 ILCS 5/3.91)

10 Sec. <u>3.525. Vegetable by-products.</u> 3-91- "Vegetable by-products" means any waste consisting solely of the unused 11 portion of fruits and vegetables, associated solids, and 12 process water resulting from any commercial 13 canning, 14 freezing, preserving or other processing of fruits and 15 vegetables. Vegetable by-products are not special wastes. (Source: P.A. 88-454; 88-670, eff. 12-2-94.) 16

17 (415 ILCS 5/3.530 new) (was 415 ILCS 5/3.52)

Sec. <u>3.530. Virgin oil.</u> 3-52- "Virgin oil" means any oil which has been refined from crude oil which may or may not contain additives and has not been used.

21 (Source: P.A. 84-1308.)

22 (415 ILCS 5/3.535 new) (was 415 ILCS 5/3.53)

Sec. <u>3.535. Waste.</u> 3-53- "Waste" means any garbage, 23 sludge from a waste treatment plant, water supply treatment 24 plant, or air pollution control facility or other discarded 25 material, including solid, liquid, semi-solid, or contained 26 27 gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community 28 29 activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in 30 irrigation return flows, or coal combustion by-products as 31

1 defined in Section 3.135 3-94, or industrial discharges which 2 are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as now or hereafter 3 4 amended, or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended (68 5 6 Stat. 921) or any solid or dissolved material from any 7 facility subject to the Federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) or the rules and 8 regulations thereunder or any law or rule or regulation 9 adopted by the State of Illinois pursuant thereto. 10 (Source: P.A. 89-93, eff. 7-6-95.) 11

12 (415 ILCS 5/3.540 new) (was 415 ILCS 5/3.54)

Sec. <u>3.540. Waste disposal site.</u> 3.54. "Waste disposal site" is a site on which solid waste is disposed. (Source: P.A. 84-1308.)

16 (415 ILCS 5/3.545 new) (was 415 ILCS 5/3.55)

Sec. <u>3.545. Water pollution.</u> 3-55- "Water pollution" is 17 18 such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the 19 20 State, or such discharge of any contaminant into any waters 21 of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to 22 23 public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate 24 uses, or to livestock, wild animals, birds, fish, or other 25 aquatic life. 26

27 (Source: P.A. 84-1308.)

(415 ILCS 5/3.550 new) (was 415 ILCS 5/3.56)
Sec. <u>3.550. Waters.</u> 3-56- "Waters" means all
accumulations of water, surface and underground, natural, and
artificial, public and private, or parts thereof, which are

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wholly or partially within, flow through, or border upon this
 State.

3 (Source: P.A. 84-1308.)

4 (415 ILCS 5/3.555 new) (was 415 ILCS 5/3.57)
5 Sec. <u>3.555. Well.</u> 3.57. "Well" means a bored, drilled or
6 driven shaft, or dug hole, the depth of which is greater than
7 the largest surface dimension.
8 (Source: P.A. 84-1308.)

9 (415 ILCS 5/4) (from Ch. 111 1/2, par. 1004)

Sec. 4. Environmental Protection Agency; establishment; duties.

There is established in the Executive Branch of the 12 (a) 13 State Government an agency to be known as the Environmental 14 Protection Agency. This Agency shall be under the supervision and direction of a Director who shall 15 be 16 appointed by the Governor with the advice and consent of the 17 Senate. The term of office of the Director shall expire on the third Monday of January in odd numbered years, provided 18 19 that he or she shall hold his office until a his successor is 20 appointed and has qualified. The Director shall receive an 21 annual salary as set by the Governor from time to time or as set by the Compensation Review Board, whichever is greater. 22 23 If set by the Governor, the Director's annual salary may not exceed 85% of the Governor's annual salary. The Director, in 24 accord with the Personnel Code, shall employ and direct such 25 personnel, and shall provide for such laboratory and other 26 27 facilities, as may be necessary to carry out the purposes of 28 this Act. In addition, the Director may by agreement secure such services as he or she may deem necessary from any other 29 30 department, agency, or unit of the State Government, and may employ and compensate such consultants and technical 31 32 assistants as may be required.

1 (b) The Agency shall have the duty to collect and 2 disseminate such information, acquire such technical data, and conduct such experiments as may be required to carry out 3 4 the purposes of this Act, including ascertainment of the 5 quantity and nature of discharges from any contaminant source 6 and data on those sources, and to operate and arrange for the 7 operation of devices for the monitoring of environmental 8 quality.

9 (c) The Agency shall have authority to conduct a program 10 of continuing surveillance and of regular or periodic 11 inspection of actual or potential contaminant or noise 12 sources, of public water supplies, and of refuse disposal 13 sites.

14 (d) In accordance with constitutional limitations, the
15 Agency shall have authority to enter at all reasonable times
16 upon any private or public property for the purpose of:

(1) Inspecting and investigating to ascertain possible violations of the Act or of regulations thereunder, or of permits or terms or conditions thereof; or

20 (2) In accordance with the provisions of this Act, 21 taking whatever preventive or corrective action, including 22 but not limited to removal or remedial action, that is 23 necessary or appropriate whenever there is a release or a 24 substantial threat of a release of (A) a hazardous substance 25 or pesticide or (B) petroleum from an underground storage 26 tank.

(e) The Agency shall have the duty to investigate
violations of this Act or of regulations adopted thereunder,
or of permits or terms or conditions thereof, to issue
administrative citations as provided in Section 31.1 of this
Act, and to take such summary enforcement action as is
provided for by Section 34 of this Act.

33 (f) The Agency shall appear before the Board in any34 hearing upon a petition for variance, the denial of a permit,

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or the validity or effect of a rule or regulation of the Board, and shall have the authority to appear before the

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4 The Agency shall have the duty to administer, in (q) 5 accord with Title X of this permit Act, such and 6 certification systems as may be established by this Act or by 7 regulations adopted thereunder. The Agency may enter into 8 written delegation agreements with any department, agency, or 9 unit of State or local government under which all or portions of this duty may be delegated for public water supply storage 10 11 and transport systems, sewage collection and transport systems, air pollution control sources with uncontrolled 12 emissions of 100 tons per year or less and application of 13 algicides to waters of the State. Such delegation agreements 14 15 will require that the work to be performed thereunder will be 16 in accordance with Agency criteria, subject to Agency review, and shall include such financial and program auditing by the 17 18 Agency as may be required.

(h) The Agency shall have authority to require the submission of complete plans and specifications from any applicant for a permit required by this Act or by regulations thereunder, and to require the submission of such reports regarding actual or potential violations of the Act or of regulations thereunder, or of permits or terms or conditions thereof, as may be necessary for purposes of this Act.

26 (i) The Agency shall have authority to make
27 recommendations to the Board for the adoption of regulations
28 under Title VII of the Act.

(j) The Agency shall have the duty to represent the State of Illinois in any and all matters pertaining to plans, procedures, or negotiations for interstate compacts or other governmental arrangements relating to environmental protection.

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(k) The Agency shall have the authority to accept,

Board in any hearing under the Act.

1 receive, and administer on behalf of the State any grants, 2 gifts, loans, indirect cost reimbursements, or other funds made available to the State from any source for purposes of 3 4 this Act or for air or water pollution control, public water supply, solid waste disposal, noise abatement, or other 5 б environmental protection activities, surveys, or programs. 7 Any federal funds received by the Agency pursuant to this subsection shall be deposited in a trust fund with the State 8 9 Treasurer and held and disbursed by him in accordance with Treasurer as Custodian of Funds Act, provided that such 10 11 monies shall be used only for the purposes for which they are contributed and any balance remaining shall be returned to 12 13 the contributor.

14 The Agency is authorized to promulgate such regulations 15 and enter into such contracts as it may deem necessary for 16 carrying out the provisions of this subsection.

(1) The Agency is hereby designated as water pollution 17 agency for the state for all purposes of the Federal Water 18 19 Pollution Control Act, as amended; as implementing agency for 20 the State for all purposes of the Safe Drinking Water Act, 21 Public Law 93-523, as now or hereafter amended, except 22 Section 1425 of that Act; as air pollution agency for the 23 state for all purposes of the Clean Air Act of 1970, Public Law 91-604, approved December 31, 1970, as amended; and as 24 25 solid waste agency for the state for all purposes of the Solid Waste Disposal Act, Public Law 89-272, approved October 26 20, 1965, and amended by the Resource Recovery Act of 1970, 27 Public Law 91-512, approved October 26, 1970, as amended, and 28 29 amended by the Resource Conservation and Recovery Act of 30 1976, (P.L. 94-580) approved October 21, 1976, as amended; as noise control agency for the state for all purposes of the 31 32 Noise Control Act of 1972, Public Law 92-574, approved October 27, 1972, as amended; and as implementing agency for 33 the State for all purposes of the Comprehensive Environmental 34

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1 Response, Compensation, and Liability Act of 1980 (P.L. 2 96-510), as amended; and otherwise as pollution control agency for the State pursuant to federal laws integrated with 3 4 the foregoing laws, for financing purposes or otherwise. The 5 Agency is hereby authorized to take all action necessary or 6 appropriate to secure to the State the benefits of such 7 federal Acts, provided that the Agency shall transmit to the 8 United States without change any standards adopted by the 9 Pollution Control Board pursuant to Section 5(c) of this Act. This subsection (1) of Section 4 shall not be construed to 10 11 bar or prohibit the Environmental Protection Trust Fund Commission from accepting, receiving, and administering on 12 behalf of the State any grants, gifts, loans or other funds 13 which the Commission is eligible pursuant to 14 for the Environmental Protection Trust Fund Act. 15 The Agency is 16 hereby designated as the State agency for all purposes of administering the requirements of Section 313 of the federal 17 18 Emergency Planning and Community Right-to-Know Act of 1986.

Any municipality, sanitary district, or other political subdivision, or any Agency of the State or interstate Agency, which makes application for loans or grants under such federal Acts shall notify the Agency of such application; the Agency may participate in proceedings under such federal Acts.

25 (m) The Agency shall have authority, consistent with Section 5(c) and other provisions of this Act, and for 26 purposes of Section 303(e) of the Federal Water Pollution 27 Control Act, as now or hereafter amended, to engage in 28 29 planning processes and activities and to develop plans in 30 cooperation with units of local government, state agencies and officers, and other appropriate persons in connection 31 32 with the jurisdiction or duties of each such unit, agency, officer or person. Public hearings shall be held on the 33 34 planning process, at which any person shall be permitted to

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appear and be heard, pursuant to procedural regulations
 promulgated by the Agency.

(n) In accordance with the powers conferred upon the 3 4 Agency by Sections 10(g), 13(b), 19, 22(d) and 25 of this 5 Act, the Agency shall have authority to establish and enforce 6 minimum standards for the operation of laboratories relating 7 to analyses and laboratory tests for air pollution, water 8 pollution, noise emissions, contaminant discharges onto land 9 and sanitary, chemical, and mineral quality of water distributed by a public water supply. The Agency may enter 10 11 into formal working agreements with other departments or agencies of state government under which all or portions of 12 this authority may be delegated to the cooperating department 13 14 or agency.

(o) The Agency shall have the authority to 15 issue 16 certificates of competency to persons and laboratories meeting the minimum standards established by the Agency in 17 18 accordance with Section 4(n) of this Act and to promulgate 19 and enforce regulations relevant to the issuance and use of 20 such certificates. The Agency may enter into formal working 21 agreements with other departments or agencies of state government under which all or portions of this authority may 22 23 be delegated to the cooperating department or agency.

(p) Except as provided in Section 17.7, the Agency shall 24 25 have the duty to analyze samples as required from each public water supply to determine compliance with the contaminant 26 levels specified by the Pollution Control Board. The maximum 27 number of samples which the Agency shall be required to 28 analyze for microbiological quality shall be 6 per month, but 29 30 the Agency may, at its option, analyze a larger number each month for any supply. Results of sample analyses for 31 32 additional required bacteriological testing, turbidity, residual chlorine and radionuclides are to be provided to the 33 Agency in accordance with Section 19. Owners of water 34

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supplies may enter into agreements with the Agency to provide
 for reduced Agency participation in sample analyses.

3 (q) The Agency shall have the authority to provide 4 notice to any person who may be liable pursuant to Section 5 22.2(f) of this Act for a release or a substantial threat of 6 a release of a hazardous substance or pesticide. Such notice 7 shall include the identified response action and an 8 opportunity for such person to perform the response action.

9 The Agency may enter into written delegation (r) agreements with any unit of local government under which it 10 11 may delegate all or portions of its inspecting, investigating and enforcement functions. Such delegation agreements shall 12 require that work performed thereunder be in accordance with 13 subject to 14 Agency criteria and Agency review. 15 Notwithstanding any other provision of law to the contrary, 16 no unit of local government shall be liable for any injury resulting from the exercise of its authority pursuant to such 17 a delegation agreement unless the injury is proximately 18 19 caused by the willful and wanton negligence of an agent or employee of the unit of local government, and any policy of 20 21 insurance coverage issued to a unit of local government may provide for the denial of liability and the nonpayment of 22 23 claims based upon injuries for which the unit of local government is not liable pursuant to this subsection (r). 24

25 (s) The Agency shall have authority to take whatever preventive or corrective action is necessary or appropriate, 26 limited 27 including but not to expenditure of monies appropriated from the Build Illinois Bond Fund and the Build 28 Illinois Purposes Fund for removal or remedial action, 29 30 whenever any hazardous substance or pesticide is released or there is a substantial threat of such a release into the 31 32 environment. The State, the Director, and any State employee shall be indemnified for any damages or injury arising out of 33 or resulting from any action taken under this subsection. 34

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The Director of the Agency is authorized to enter into such contracts and agreements as are necessary to carry out the

4 The Agency shall have authority to (t) distribute 5 grants, subject to appropriation by the General Assembly, for 6 financing and construction of municipal wastewater 7 facilities. With respect to all monies appropriated from the Build Illinois Bond Fund and the Build Illinois Purposes Fund 8 9 for wastewater facility grants, the Agency shall make distributions in conformity with the rules and regulations 10 11 established pursuant to the Anti-Pollution Bond Act, as now 12 or hereafter amended.

13 (u) Pursuant to the Illinois Administrative Procedure 14 Act, the Agency shall have the authority to adopt such rules 15 as are necessary or appropriate for the Agency to implement 16 Section 31.1 of this Act.

17 (v) (Blank.)

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18 (w) Neither the State, nor the Director, nor the Board, 19 nor any State employee shall be liable for any damages or 20 injury arising out of or resulting from any action taken 21 under subsection (s) or-subsection-(v).

22 (x)(1) The Agency shall have authority to distribute 23 grants, subject to appropriation by the General Assembly, to units of local government for financing and construction of 24 25 public water supply facilities. With respect to all monies appropriated from the Build Illinois Bond Fund or the Build 26 Illinois Purposes Fund for public water supply grants, such 27 grants shall be made in accordance with rules promulgated by 28 29 the Agency. Such rules shall include a requirement for a 30 local match of 30% of the total project cost for projects funded through such grants. 31

32 (2) The Agency shall not terminate a grant to a unit of
 33 local government for the financing and construction of public
 34 water supply facilities unless and until the Agency adopts

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Agency's duties under this subsection.

1 rules that set forth precise and complete standards, pursuant 2 to Section 5-20 of the Illinois Administrative Procedure Act, for the termination of such grants. The Agency shall not 3 4 make determinations on whether specific grant conditions are necessary to ensure the integrity of a project or on whether 5 subagreements shall be awarded, with respect to grants for 6 7 the financing and construction of public water supply 8 facilities, unless and until the Agency adopts rules that set forth precise and complete standards, pursuant to Section 9 5-20 of the Illinois Administrative Procedure Act, for making 10 11 such determinations. The Agency shall not issue a stop-work 12 order in relation to such grants unless and until the Agency 13 adopts precise and complete standards, pursuant to Section 5-20 of the Illinois Administrative Procedure Act, 14 for 15 determining whether to issue a stop-work order.

16 (y) The Agency shall have authority to release any 17 person from further responsibility for preventive or 18 corrective action under this Act following successful 19 completion of preventive or corrective action undertaken by 20 such person upon written request by the person.

21 (Source: P.A. 91-25, eff. 6-9-99.)

22

(415 ILCS 5/5) (from Ch. 111 1/2, par. 1005)

23 Sec. 5. <u>Pollution Control Board.</u>

(a) There is hereby created an independent board to be 24 25 known as the Pollution Control Board, consisting of 7 26 technically qualified members, no more than 4 of whom may be the same political party, to be appointed by the Governor 27 of 28 with the advice and consent of the Senate. One-of-the-members of-the-Board--first--appointed--shall--be--appointed--for--an 29 30 initial--term--expiring--July--1,--1971;-two-members-shall-be appointed-for--initial--terms--expiring--July--1,--1972;--two 31 members-shall-be-appointed-for-initial-terms-expiring-July-1, 32 33 1973;---and--the--two--members--appointed--pursuant--to--this 1 amendatory-Act-of-1983-shall-be-appointed-for--initial--terms
2 expiring-on-July-1,-1986.

3 Notwithstanding--any--provision--of--this--Section-to-the 4 contrary,-the-term-of-office-of-each-member-of-the--Board--is 5 abolished--on--the--effective--date-of-this-amendatory-Act-of 1985,-but-the-incumbent-members-shall--continue--to--exercise 6 7 all--of--the--powers--and--be-subject-to-all-of-the-duties-of 8 members-of-the-Board-until-their--respective--successors--are 9 appointed--and-qualified---Thereafter,-3-members-of-the-Board 10 shall-be-appointed-to-initial-terms-expiring-July-1,-1986;--2 11 members--of--the--Board--shall--be-appointed-to-initial-terms 12 expiring-July-1,-1987;-and-2-members-of-the--Board--shall--be 13 appointed-to-initial-terms-expiring-July-1,-1988.

All members successors shall hold office for 3 three 14 15 years from the first day of July in the year in which they 16 were appointed, except in case of an appointment to fill a vacancy. In case of a vacancy in the office when the Senate 17 is not in session, the Governor may make a temporary 18 19 appointment until the next meeting of the Senate, when he or 20 she shall nominate some person to fill such office; and any 21 person so nominated, who is confirmed by the Senate, shall 22 hold the his office during the remainder of the term. ∃£-the 23 Senate-is-not-in-session-at-the-time-this-Act--takes--effect7 24 the--Governor-shall-make-temporary-appointments-as-in-case-of 25 vacancies-

Members of the Board shall hold office until their respective successors have been appointed and qualified. Any member may resign from his office, such resignation to take effect when <u>a</u> his successor has been appointed and has qualified.

Board members shall be paid \$30,000-per-year--until--July
1,--1979;--\$33,000-from-July-1,-1979-to-July-1,-1980;-\$34,900
from-July-1,-1980-to-July--1,--1981;--and \$37,000 per year
thereafter, or an amount set by the Compensation Review

1 Board, whichever is greater, and the Chairman shall be paid 2 \$35,000--per--year--until--July-1,-1979;-\$38,500-from-July-1, 1979-to-July-1,-1980;-\$40,800-from-July-1,-1980--to--July--1, 3 4 1981-and \$43,000 per year thereafter, or an amount set by the Compensation Review Board, whichever is greater. Each member 5 shall be reimbursed for expenses necessarily incurred, shall 6 7 devote full time to the performance of his or her duties and 8 shall make a financial disclosure upon appointment. Each Board member may employ one secretary and one assistant, 9 and the Chairman one secretary and $\underline{2}$ two assistants. The Board 10 11 also may employ and compensate hearing officers to preside at hearings under this Act, and such other personnel as may be 12 Hearing officers shall be attorneys licensed to 13 necessary. practice law in Illinois. 14

15 The Governor shall designate one Board member to be16 Chairman, who shall serve at the pleasure of the Governor.

The Board shall hold at least one meeting each month and 17 such additional meetings as may be prescribed by Board rules. 18 In addition, special meetings may be called by the Chairman 19 20 or by any 2 two Board members, upon delivery of 24 hours 21 written notice to the office of each member. All Board 22 meetings shall be open to the public, and public notice of 23 all meetings shall be given at least 24 hours in advance of each meeting. In emergency situations in which a majority of 24 25 the Board certifies that exigencies of time require the requirements of public notice and of 24 hour written notice 26 to members may be dispensed with, and Board members shall 27 receive such notice as is reasonable under the circumstances. 28

Four members of the Board shall constitute a quorum, and votes shall be required for any final determination by the Board, except in a proceeding to remove a seal under paragraph (d) of Section 34 of this Act. The Board shall keep a complete and accurate record of all its meetings.

34 (b) The Board shall determine, define and implement the

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environmental control standards applicable in the State of
 Illinois and may adopt rules and regulations in accordance
 with Title VII of this Act.

4 (c) The Board shall have authority to act for the State in regard to the adoption of standards for submission to the 5 United States under any federal law respecting environmental 6 7 protection. Such standards shall be adopted in accordance 8 with Title VII of the Act and upon adoption shall be 9 forwarded to the Environmental Protection Agency for submission to the United States pursuant to subsections (1) 10 11 and (m) of Section 4 of this Act. Nothing in this paragraph shall limit the discretion of the Governor to delegate 12 authority granted to the Governor him under any federal law. 13

shall authority to conduct 14 (d) The Board have 15 proceedings hearings upon complaints charging violations of 16 this Act, any rule or regulation adopted under this Act, or 17 any permit or term or condition of a permit; upon administrative citations or-of-regulations-thereunder; upon 18 petitions for variances or adjusted standards; upon petitions 19 for review of the Agency's final determinations on denial--of 20 21 a permit <u>applications</u> in accordance with Title X of this Act; 22 upon petitions petition to remove seals a-seal under Section 23 34 of this Act; and upon other petitions for review of final 24 determinations which are made pursuant to this the Act or 25 Board rule and which involve a subject which the Board is authorized to regulate. The Board may also conduct +-and-such 26 27 other proceedings hearings as may be provided by this Act or 28 any other statute or rule.

(e) In connection with any proceeding hearing pursuant to <u>subsection</u> subsections (b) or (d) of this Section, the Board may subpoena and compel the attendance of witnesses and the production of evidence reasonably necessary to resolution of the matter under consideration. The Board shall issue such subpoenas upon the request of any party to a proceeding

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1 under subsection (d) of this Section or upon its own motion. 2 (f) The Board may prescribe reasonable fees for permits required pursuant to this Act. Such fees in the aggregate 3 4 may not exceed the total cost to the Agency for its 5 inspection and permit systems. The Board may not prescribe б any permit fees which are different in amount from those 7 established by this Act. (Source: P.A. 84-1308.) 8 9 (415 ILCS 5/7) (from Ch. 111 1/2, par. 1007) 10 Sec. 7. Public inspection; fees. (a) All files, records, and data of the Agency, the 11 Board, and the Department shall be open to reasonable public 12 inspection and may be copied upon payment of reasonable fees 13 14 to be established where appropriate by the Agency, the Board, 15 or the Department, except for the following: (i) information which constitutes a trade secret; 16 17 information privileged against introduction in (ii) judicial proceedings; 18 of the several 19 (iii) internal communications 20 agencies; information concerning secret manufacturing 21 (iv) 22 processes or confidential data submitted by any person under this Act. 23 24 (b) Notwithstanding subsection (a) above, as to 25 information from or concerning persons subject to NPDES permit requirements: 26

27 (i) effluent data may under no circumstances be28 kept confidential; and

(ii) the Agency, the Board, and the Department may make available to the public for inspection and copying any required records, reports, information, permits, and permit applications obtained from contaminant sources subject to the provisions of Section 12 (f) of this Act;

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1 provided that upon a showing satisfactory to the Agency, 2 the Board or the Department, as the case may be, by any person that such information, or any part thereof (other 3 4 than effluent data) would, if made public, divulge methods or processes entitled to protection as trade 5 secrets of such person, the Agency, the Board, or the 6 7 Department, as the case may be, shall treat such 8 information as confidential.

9 (c) Notwithstanding any other provision of this Title or 10 any other law to the contrary, all emission data reported to 11 or otherwise obtained by the Agency, the Board or the 12 Department in connection with any examination, inspection or 13 proceeding under this Act shall be available to the public to 14 the extent required by the federal Clean Air Act, Amendments 15 of-1977-(P-b-95-95) as amended.

(d) Notwithstanding subsection (a) above, the quantity and identity of substances being placed or to be placed in landfills or hazardous waste treatment, storage or disposal facilities, and the name of the generator of such substances may under no circumstances be kept confidential.

21 (e) Notwithstanding any other provisions of this Title, 22 or any other law to the contrary, any information accorded 23 confidential treatment may be disclosed or transmitted to other officers, employees or authorized representatives of 24 25 this State or of the United States concerned with or for the purposes of carrying out this Act or federal environmental 26 27 statutes and regulations; provided, however, that such information shall be identified as confidential by the 28 29 Agency, the Board, or the Department, as the case may be. 30 Any confidential information disclosed or transmitted under this provision shall be used for the purposes stated herein. 31

32 (f) Except as provided in this Act neither the Agency,
33 the Board, nor the Department shall charge any fee for the
34 performance of its respective duties under this Act.

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1 (q) All files, records and data of the Agency, the Board 2 and the Department shall be made available to the Department Public Health pursuant to the Illinois Health and 3 of 4 Hazardous Substances Registry Act. Expenses incurred in the copying and transmittal of files, records and data requested 5 pursuant to this subsection (g) shall be the responsibility 6 7 of the Department of Public Health.

8 (Source: P.A. 85-1331.)

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(415 ILCS 5/9.2) (from Ch. 111 1/2, par. 1009.2)

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Sec. 9.2. <u>Sulfur dioxide emission standards.</u>

11 (Blank.) The-Agency-shall-review-all-Illinois-sulfur (a) 12 dioxide--emission--standards--for--existing--fuel--combustion 13 stationary--emission--sources-located-within-the-Chicago,-St. 14 Louis-(Illinois),-and-Peoria-major-metropolitan-areas-and,-if 15 appropriate-following-such-review,-propose-amendments-to-such 16 standards-to-the-Board-by-July-1,-1980,-or-within-90-days--of 17 receipt--of--the-initial-reports-required-pursuant-to-Section 6.1-of-this-Act,-whichever-is-later.--The-standards--proposed 18 by--the--Agency--shall--be--designed--to--enhance--the-use-of 19 20 Illinois--coal,--consistent--with--the--need--to--attain--and 21 maintain-the--National--Ambient--Air--Quality--Standards--for 22 sulfur-dioxide-and-particulate-matter.

23 (b) In granting any alternative emission standard or 24 variance relating to sulfur dioxide emissions from а coal-burning stationary source, the Board may require the use 25 of Illinois coal as a condition of such alternative standard 26 or variance, provided that the Board determines that Illinois 27 28 coal of the proper quality is available and competitive in price; such determination shall include consideration of the 29 cost of pollution control equipment and the economic impact 30 on the Illinois coal mining industry. 31

32 (Source: P.A. 84-585.)

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(415 ILCS 5/9.3) (from Ch. 111 1/2, par. 1009.3)

2 Sec. 9.3. <u>Alternative control strategies.</u>

1

(a) The General Assembly finds that control strategies, 3 4 emission limitations, alternative including but. environmentally equivalent to those required by Board 5 6 regulations or the terms of this Act, can assure equivalent 7 protection of the environment and that the use of such alternative control strategies can encourage technological 8 9 innovation, reduce the likelihood of shutdown of older sources, and can result in decreased costs of compliance and 10 11 increased availability of resources for use in productive 12 capital investments.

(Blank.) Within-120-days-after-the-effective-date-of 13 (b) this--amendatory--Act--of-1981,-the-Board-shall-adopt-interim 14 15 rules-pursuant-to-the-Illinois-Administrative--Procedure--Act 16 for--the--standards--of--issuance-of-permits-to-sources-under 17 Section-39.1,-provided,--that--processing--of--permits--under 18 Section--39-1--is--of--vital--benefit--to--the-State,-and-may 19 proceed--immediately--upon--the--effective---date---of---this amendatory--Act--of--1981----Such--interim--rules-shall-be-in 20 21 effect--until--the--effective--date--of---Board---regulations 22 promulgated-pursuant-to-subsection-(c),-below.

(c) On or before December 31, 1982, the Board shall
adopt regulations establishing a permit program pursuant to
Section 39.1 in accordance with Title VII of this Act.

(d) Board rules pursuant to this Section 9.3 shall set 26 forth reasonable requirements for issuance of an alternative 27 control strategy permit, provided that the Board may not 28 29 impose any condition or requirement more stringent than 30 required by the Clean Air Act or for compliance with this Act or other Board regulations thereunder. The Agency shall 31 procedures 32 for promptly adopt any necessary the 33 administration of such permit programs. The burden of 34 establishing that any procedure, condition or requirement 1 imposed by the Agency in or for the issuance of a permit is 2 more stringent than required by applicable law shall be upon 3 the permit applicant.

4 (Source: P.A. 88-45.)

5 (415 ILCS 5/9.4) (from Ch. 111 1/2, par. 1009.4)
6 Sec. 9.4. <u>Municipal waste incineration emission</u>
7 <u>standards.</u>

8

(a) The General Assembly finds:

from 9 (1) That air pollution municipal waste incineration may constitute a threat to public health, 10 welfare and the environment. The amounts and kinds of 11 pollutants depend on the nature of the waste stream, 12 operating conditions of the incinerator, 13 and the 14 effectiveness of emission controls. Under normal 15 operating conditions, municipal waste incinerators produce pollutants such as organic compounds, metallic 16 17 compounds and acid gases which may be a threat to public health, welfare and the environment. 18

19 (2) That a combustion and flue-gas control system,
20 which is properly designed, operated and maintained, can
21 substantially reduce the emissions of organic materials,
22 metallic compounds and acid gases from municipal waste
23 incineration.

(b) It is the purpose of this Section to insure that
emissions from new municipal waste incineration facilities
which burn a total of 25 tons or more of municipal waste per
day are adequately controlled.

Such facilities shall be subject to emissions limits and operating standards based upon the application of Best Available Control Technology, as determined by the Agency, for emissions of the following categories of pollutants:

32 (1) particulate matter, sulfur dioxide and nitrogen33 oxides;

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1

(2) acid gases;

(3) heavy metals; and

3

2

(4) organic materials.

4 The Agency shall issue permits, pursuant to Section (C) new municipal waste incineration facilities only if 5 39, to the Agency finds that such facilities designed, 6 are 7 operated so constructed and as to comply with the requirements prescribed by this Section. 8

9 Prior to adoption of Board regulations under subsection 10 (d) of this Section the Agency may issue permits for the 11 construction of new municipal waste incineration facilities. 12 The Agency determination of Best Available Control Technology 13 shall be based upon consideration of the specific pollutants 14 named in subsection (d), and emissions of particulate matter, 15 sulfur dioxide and nitrogen oxides.

16 Nothing in this Section shall limit the applicability of any other Sections of this Act, or of other standards or 17 regulations adopted by the Board, to municipal 18 waste 19 incineration facilities. In issuing such permits, the Agency may prescribe those conditions necessary to assure continuing 20 21 compliance with the emission limits and operating standards 22 determined pursuant to subsection (b); such conditions may 23 include the monitoring and reporting of emissions.

Within one year after July 1, 1986 the-effective 24 (d) 25 date-of-this-amendatory-Act-of-1985, the Board shall adopt regulations pursuant to Title VII of this Act, which define 26 the terms in items (2), (3) and (4) of subsection (b) of this 27 Section which are to be used by the Agency in making its 28 29 determination pursuant to this Section. The provisions of 30 Section 27(b) of this Act shall not apply to this rulemaking. Such regulations shall be written so that the categories 31 of pollutants include, but need not be limited to, the 32 33 following specific pollutants:

34

(1) hydrogen chloride in the definition of acid

1 gases;

2

(2) arsenic, cadmium, mercury, chromium, nickel and lead in the definition of heavy metals; and

4 5

6

(3) polychlorinated dibenzo-p-dioxins,
 polychlorinated dibenzofurans and polynuclear aromatic
 hydrocarbons in the definition of organic materials.

7 (e) For the purposes of this Section, the term "Best Available Control Technology" means an emission limitation 8 9 (including a visible emission standard) based on the maximum degree of pollutant reduction which the Agency, on a 10 11 case-by-case basis, taking into account energy, environmental and economic impacts, determines is achievable through the 12 application of production processes or available methods, 13 systems and techniques, including fuel cleaning or treatment 14 innovative fuel combustion techniques. If the Agency 15 or 16 determines that technological or economic limitations on the application of measurement methodology to a particular class 17 18 of sources would make the imposition of an emission standard 19 not feasible, it may instead prescribe a design, equipment, work practice or operational standard, or combination 20 21 thereof, to require the application of best available control 22 technology. Such standard shall, to the degree possible, set 23 forth the emission reduction achievable by implementation of such design, equipment, work practice or operation and shall 24 25 provide for compliance by means which achieve equivalent 26 results.

(f) "Municipal waste incineration" means the burning of municipal waste or fuel derived therefrom in a combustion apparatus designed to burn municipal waste that may produce electricity or steam as a by-product. A "new municipal waste incinerator" is an incinerator initially permitted for development or construction after January 1, 1986.

33 (g) The provisions of this Section shall not apply to34 industrial incineration facilities that burn waste generated

1 at the same site.

2 (Source: P.A. 91-357, eff. 7-29-99.)

3

(415 ILCS 5/12) (from Ch. 111 1/2, par. 1012)

4

Sec. 12. Actions prohibited. No person shall:

5 (a) Cause or threaten or allow the discharge of any 6 contaminants into the environment in any State so as to cause 7 or tend to cause water pollution in Illinois, either alone or 8 in combination with matter from other sources, or so as to 9 violate regulations or standards adopted by the Pollution 10 Control Board under this Act.

(b) Construct, install, or operate any equipment, facility, vessel, or aircraft capable of causing or contributing to water pollution, or designed to prevent water pollution, of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit.

17 (c) Increase the quantity or strength of any discharge 18 of contaminants into the waters, or construct or install any 19 sewer or sewage treatment facility or any new outlet for 20 contaminants into the waters of this State, without a permit 21 granted by the Agency.

(d) Deposit any contaminants upon the land in such placeand manner so as to create a water pollution hazard.

(e) Sell, offer, or use any article in any area in which
the Board has by regulation forbidden its sale, offer, or use
for reasons of water pollution control.

(f) Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any well or from any point source within the State, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established
 under Section 39(b), or in violation of any regulations
 adopted by the Board or of any order adopted by the Board
 with respect to the NPDES program.

5 No permit shall be required under this subsection and 6 under Section 39(b) of this Act for any discharge for which a 7 permit is not required under the Federal Water Pollution 8 Control Act, as now or hereafter amended, and regulations 9 pursuant thereto.

For all purposes of this Act, a permit issued by 10 the 11 Administrator of the United States Environmental Protection Agency under Section 402 of the Federal Water Pollution 12 Control Act, as now or hereafter amended, shall be deemed to 13 be a permit issued by the Agency pursuant to Section 39(b) of 14 15 this Act. However, this shall not apply to the exclusion 16 from the requirement of an operating permit provided under 17 Section 13(b)(i).

Compliance with the terms and conditions of any permit issued under Section 39(b) of this Act shall be deemed compliance with this subsection except that it shall not be deemed compliance with any standard or effluent limitation imposed for a toxic pollutant injurious to human health.

23 In any case where a permit has been timely applied for 39(b) of this Act but final 24 pursuant to Section 25 administrative disposition of such application has not been made, it shall not be a violation of this subsection to 26 discharge without such permit unless the complainant proves 27 that final administrative disposition has not been made 28 29 because of the failure of the applicant to furnish 30 information reasonably required or requested in order to 31 process the application. For--purposes--of--this--provision, 32 until--implementing-requirements-have-been-established-by-the 33 Board-and-the-Agency,-all-applications-deemed-filed-with--the 34 Administrator--of--the-United-States-Environmental-Protection

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Agency-pursuant--to--the--provisions--of--the--Federal--Water
 Pollution--Control-Act,-as-now-or-hereafter-amended,-shall-be
 deemed-filed-with-the-Agency.

4 (g) Cause, threaten or allow the underground injection 5 of contaminants without a UIC permit issued by the Agency 6 under Section 39(d) of this Act, or in violation of any term 7 or condition imposed by such permit, or in violation of any 8 regulations or standards adopted by the Board or of any order 9 adopted by the Board with respect to the UIC program.

10 No permit shall be required under this subsection and 11 under Section 39(d) of this Act for any underground injection 12 of contaminants for which a permit is not required under Part 13 C of the Safe Drinking Water Act (P.L. 93-523), as amended, 14 unless a permit is authorized or required under regulations 15 adopted by the Board pursuant to Section 13 of this Act.

(h) Introduce contaminants into a sewage works from any
nondomestic source except in compliance with the regulations
and standards adopted by the Board under this Act.

19 (Source: P.A. 86-671.)

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(415 ILCS 5/13.1) (from Ch. 111 1/2, par. 1013.1)

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Sec. 13.1. Groundwater monitoring network.

(Blank.) The--Department, ---in--cooperation-with-the 22 (a) 23 Environmental-Protection-Agency-and-the-Department-of--Public 24 Health,--shall--complete--a--study--of-groundwater-quality-in 25 Illinois----Such--study---at--a--minimum---shall--include--a 26 compilation--of--currently--available--data--on---groundwater 27 quality--and--a-limited-amount-of-taking-of-new-water-samples 28 from-existing-wells-to-fill-in-major-data-gaps-to--provide--a 29 preliminary--assessment-of-current-levels-of-contamination-of 30 the-groundwaters-in-the-State-by-hazardous-substances,-and-an 31 identification--of--the--location--of--critical---underground 32 resources-such-as-recharge-zones-and-high-water-tables.--Such 33 study--shall--give--priority-to-the-assessment-of-groundwater

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1 quality-near-hazardous-waste--facilities--and--shall--include 2 recommendations-on-priorities-for-future-studies-and-research 3 necessary--to--administer--a--groundwater-protection-program. 4 The-Agency-and-the-Department-of-Public-Health-and-any--other 5 State--agency-shall-provide-to-the-Department-any-information relating-to-groundwater-quality--necessary--to--complete--the 6 7 study----The--Department--shall-complete-its-study-by-July-1, 8 1985-and-shall-report-its-findings-to-the--Pollution--Control 9 Board,-the-Agency,-the-General-Assembly-and-the-Governor.

The Agency shall establish a Statewide groundwater 10 (b) 11 monitoring network. Such network shall include a sufficient 12 number of testing wells to assess the current levels of 13 contamination in the groundwaters of the State and to detect degradation of groundwater resources. 14 any future The 15 monitoring network shall give special emphasis to critical 16 groundwater areas and to locations near hazardous waste 17 disposal facilities. To the extent possible, the network utilize existing publicly or privately operated 18 shall 19 drinking water or monitoring wells.

20 (Blank.) By--January--17--19867--the--Ageney--shall (C) 21 formulate-a-groundwater-protection--plan---Such--plan--shall 22 identify---critical---groundwaters--that--have--been--or--are 23 particularly--susceptible--to--contamination---by---hazardous 24 substances--and--probable--sources-of-such-contamination,-and 25 shall--recommend--the--steps--to--be--taken--to--prevent--the 26 degradation-of-the-water-quality-of-such-areas----Such--plan 27 may---also---recommend--the--establishment--of--a--system--of 28 elassifying-groundwaters-based-on-their-quality-and--use--and 29 for--the-establishment-of-groundwater-quality-standards---The 30 Agency-shall-hold-at-least--3--public--hearings,--each--at--a 31 different--location--within--the-State,-before-finalizing-the plan.--By-January-1,-1986,-the-Agency--shall--report--on--its 32 33 plan--to-the-Governor,-the-General-Assembly-and-the-Pollution 34 Control---Board,---along---with---recommendations---for---any

legislation,-regulations-or-administrative-changes--necessary to-implement-the-groundwater-protection-plan.

3 (d) <u>(Blank.)</u> Following-the-completion-of-the-groundwater 4 quality--study--and--the--groundwater--protection--plan,--the 5 Pollution--Control-Board-shall-conduct-public-hearings-on-the 6 results-and-recommendations-as-provided-in-Title-VII-of--this 7 Act.---Upon--conclusion--of--such--hearings,--the-Board-shall 8 publish-its-findings-and-conclusions-on-the-areas-covered--by 9 the-study-and-the-plan-and-the-testimony-received.

10 (Source: P.A. 89-445, eff. 2-7-96.)

11 (415 ILCS 5/14.1) (from Ch. 111 1/2, par. 1014.1)

Sec. 14.1. <u>Community water supply</u>; <u>minimum setback zone</u>.
A minimum setback zone is established for the location of
each new community water supply well as follows:

15 (a) No new community water supply well may be located 16 within 200 feet of any potential primary or potential 17 secondary source or any potential route.

18 (b) No new community water supply well deriving water from fractured or highly permeable bedrock or from an 19 20 unconsolidated and unconfined sand and gravel formation may 21 be located within 400 feet of any potential primary or 22 potential secondary source or any potential route. Such 400 foot setback is not applicable to any new community water 23 24 supply well where the potential primary or potential secondary source is located within a site for which 25 certification is currently in effect pursuant to Section 26 14.5. 27

(c) Nothing in this Section shall affect any location
and construction requirement imposed in Section 6 of the
"Illinois Water Well Construction Code", approved August 20,
1965, as amended, and the regulations promulgated thereunder.
(d) For the purposes of this Section, a community water
supply well is "new" if it is constructed after <u>September 24</u>,

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1 <u>1987</u> the-effective-date-of-this-Section.

2 (e) Nothing in this Section shall affect the minimum 3 distance requirements for new community water supply wells 4 relative to common sources of sanitary pollution as specified 5 by rules adopted under Section 17 of this Act.

6 (Source: P.A. 85-863.)

7 (415 ILCS 5/14.2) (from Ch. 111 1/2, par. 1014.2)

8 Sec. 14.2. <u>New potential source or route; minimum setback</u> 9 <u>zone.</u> A minimum setback zone is established for the location 10 of each new potential source or new potential route as 11 follows:

(a) Except as provided in subsections (b), (c) and (h) of this Section, no new potential route or potential primary source or potential secondary source may be placed within 200 feet of any existing or permitted community water supply well or other potable water supply well.

17 The owner of a new potential primary source or (b) а potential secondary source or a potential route may secure a 18 waiver from the requirement of subsection (a) of this Section 19 20 for a potable water supply well other than a community water 21 supply well. A written request for a waiver shall be made to 22 the owner of the water well and the Agency. Such request shall identify the new or proposed potential source or 23 24 potential route, shall generally describe the possible effect of such potential source or potential route upon the water 25 well and any applicable technology-based controls which will 26 be utilized to minimize the potential for contamination, and 27 28 shall state whether, and under what conditions, the requestor 29 will provide an alternative potable water supply. Waiver may be granted by the owner of the water well no less than 90 30 31 days after receipt of the request unless prior to such time the Agency notifies the well owner that it does not concur 32 33 with the request.

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1 The Agency shall not concur with any such request which 2 fails to accurately describe reasonably foreseeable effects of the potential source or potential route upon the water 3 4 or any applicable technology-based controls. well Such notification by the Agency shall be in writing, and shall 5 6 include a statement of reasons for the nonconcurrence. Waiver 7 of the minimum setback zone established under subsection (a) 8 of this Section shall extinguish the water well owner's 9 rights under Section 6b of the Illinois Water Well Construction Code but shall not preclude enforcement of any 10 11 law regarding water pollution. If the owner of the water well has not granted a waiver within 120 days after receipt 12 of the request or the Agency has notified the owner that it 13 does not concur with the request, the owner of a potential 14 15 source or potential route may file a petition for an 16 exception with the Board and the Agency pursuant to subsection (c) of this Section. 17

No waiver under this Section is required where 18 the 19 potable water supply well is part of a private water system as defined in the Illinois Groundwater Protection Act, and 20 the owner of such well will also be the owner of a new 21 22 potential secondary source or a potential route. In such 23 instances, a prohibition of 75 feet shall apply and the owner shall notify the Agency of the intended action so that the 24 25 Agency may provide information regarding the potential hazards associated with location of a potential secondary 26 source or potential route in close proximity to a potable 27 water supply well. 28

(c) The Board may grant an exception from the setback requirements of this Section and subsection (e) of Section 14.3 to the owner of a new potential route, a new potential primary source other than landfilling or land treating, or a new potential secondary source. The owner seeking an exception with respect to a community water supply well shall

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1 file a petition with the Board and the Agency. The owner 2 seeking an exception with respect to a potable water supply well other than a community water supply well shall file a 3 4 petition with the Board and the Agency, and set forth therein 5 the circumstances under which a waiver has been sought but 6 not obtained pursuant to subsection (b) of this Section. Α 7 petition shall be accompanied by proof that the owner of each 8 potable water supply well for which setback requirements 9 would be affected by the requested exception has been notified and been provided with a copy of the petition. 10 Α 11 petition shall set forth such facts as may be required to support an exception, including a general description of the 12 potential impacts of such potential source or potential route 13 upon groundwaters and the affected water well, and an 14 explanation of the applicable technology-based controls which 15 16 will be utilized to minimize the potential for contamination of the potable water supply well. 17

The Board shall grant an exception, whenever it is found 18 19 upon presentation of adequate proof, that compliance with the setback requirements of this Section would pose an arbitrary 20 21 and unreasonable hardship upon the petitioner, that the 22 petitioner will utilize the best available technology 23 controls economically achievable to minimize the likelihood of contamination of the potable water supply well, that the 24 25 maximum feasible alternative setback will be utilized, and that the location of such potential source or potential route 26 will not constitute a significant hazard to the potable water 27 28 supply well.

Not--later--than--January--1,-1988, The Board shall adopt procedural rules governing requests for exceptions under this subsection. The rulemaking provisions of Title VII of this Act and of Section 5-35 of the Illinois Administrative Procedure Act shall not apply to such rules. A decision made by the Board pursuant to this subsection shall constitute a

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1 final determination.

The granting of an exception by the Board shall not extinguish the water well owner's rights under Section 6b of the Illinois Water Well Construction Code in instances where the owner has elected not to provide a waiver pursuant to subsection (b) of this Section.

(d) Except as provided in subsections (c) and (h) of 7 this Section and Section 14.5, no new potential route or 8 9 potential primary source or potential secondary source may be placed within 400 feet of any existing or permitted community 10 11 water supply well deriving water from an unconfined shallow fractured or highly permeable bedrock formation or from an 12 unconsolidated and unconfined sand and gravel formation. 13 The Agency shall notify,--not--later--than-January-1,-1988, the 14 15 owner and operator of each existing well which is afforded 16 this setback protection and shall maintain a directory of all community water supply wells to which the 400 foot minimum 17 18 setback zone applies.

19 (e) The minimum setback zones established under subsections (a) and (b) of this Section shall not apply to 20 21 new common sources of sanitary pollution as specified 22 pursuant to Section 17 and the regulations adopted thereunder 23 by the Agency; however, no such common sources may be located within the applicable minimum distance from a community water 24 25 supply well specified by such regulations.

(f) Nothing in this Section shall be construed as
limiting the power of any county or municipality to adopt
ordinances which are consistent with but not more stringent
than the prohibitions herein.

30 (g) Nothing in this Section shall preclude any 31 arrangement under which the owner or operator of a new source 32 or route does the following:

33 (1) purchases an existing water supply well and34 attendant property with the intent of eventually

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abandoning or totally removing the well;

2 (2) replaces an existing water supply well with a 3 new water supply of substantially equivalent quality and 4 quantity as a precondition to locating or constructing 5 such source or route;

6 (3) implements any other arrangement which is 7 mutually agreeable with the owner of a water supply well; 8 or

9 (4) modifies the on-site storage capacity at an agrichemical facility such that the volume of pesticide 10 11 storage does not exceed 125% of the available capacity in existence on April 1, 1990, or the volume of fertilizer 12 storage does not exceed 150% of the available capacity in 13 existence on April 1, 1990; provided that a written 14 15 endorsement for an agrichemical facility permit is in 16 effect under Section 39.4 of this Act and the maximum feasible setback is maintained. 17 This on-site storage capacity includes mini-bulk pesticides, package 18 19 agrichemical storage areas, liquid or dry fertilizers, 20 and liquid or dry pesticides.

21 (h) A new potential route, which is an excavation for 22 stone, sand or gravel and which becomes active on lands which 23 were acquired or were being held as mineral reserves prior to September 24, 1987, shall only be subject to the setback 24 25 requirements of subsections (a) and (d) of this Section with 26 respect to any community water supply well, non-community 27 water system well, or semi-private water system well in existence prior to January 1, 1988. 28

29 (Source: P.A. 90-14, eff. 7-1-97.)

30 (415 ILCS 5/14.3) (from Ch. 111 1/2, par. 1014.3)
31 Sec. 14.3. Community water supply; maximum setback zone.
32 A maximum setback zone may be established for a community
33 water supply well as follows:

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1 (a) Owners of community water supplies which utilize any 2 water well, or any county or municipality served by any community water supply well, may determine the lateral area 3 4 of influence of the well under normal operational conditions. 5 adopt The Agency shall procedures by which such 6 determinations may be made including, where appropriate, 7 pumping tests and estimation techniques.

Where the results of any determination made pursuant 8 (b) 9 to subsection (a) of this Section disclose that the distance from the well to the outermost boundary of the lateral area 10 11 of influence of the well under normal operational conditions exceeds the radius of the minimum setback zone established 12 for that well pursuant to Section 14.2, any county or 13 municipality served by such water supply may in writing 14 request the Agency to review and confirm the technical 15 16 adequacy of such determination. The Agency shall, within 90 days of the request, notify the county or municipality 17 determination is technically adequate for 18 whether the 19 describing the outer boundary of drawdown of the affected groundwater by the well under normal operational conditions. 20 21 Any action by the Agency hereunder shall be in writing and shall constitute a final determination of the Agency. 22

23 Upon receipt of Agency confirmation of the technical (C) adequacy of such determination, the county or municipality 24 25 may, after notice and opportunity for comment, adopt an ordinance setting forth the location of each affected well 26 and specifying the boundaries of a maximum setback zone, 27 which boundaries may be irregular. In no event, however, 28 shall any portion of such a boundary be in excess of 29 1,000 30 feet from the wellhead, except as provided by subsection (f) of this Section. Such ordinance shall include the area 31 32 within the applicable minimum setback zone and shall incorporate requirements which are consistent with but not 33 more stringent than the prohibitions of this Act and the 34

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1 regulations promulgated by the Board under Section 14.4, 2 except as provided by subsection (f) of this Section. Upon adoption, the county or municipality shall provide a copy of 3 4 the ordinance to the Agency. Any county or municipality 5 which fails to adopt such an ordinance within 2 years of б receipt of Agency confirmation of technical adequacy may not 7 proceed under the authority of this Section without obtaining a new confirmation of the technical adequacy pursuant to 8 9 subsection (b) of this Section.

(d) After July 1, 1989, and upon written notice to the 10 11 county or municipality, the Agency may propose to the Board a regulation establishing a maximum setback zone for any well 12 subject to this Section. Such proposal shall be based upon 13 all reasonably available hydrogeologic information, include 14 15 the justification for expanding the zone of wellhead 16 protection, and specify the boundaries of such zone, no portion of which boundaries shall be in excess of 1,000 feet 17 from the wellhead. Such justification may include the need 18 19 to protect a sole source of public water supply or a highly vulnerable source of groundwater, or an Agency finding that 20 21 the presence of potential primary or potential secondary 22 sources or potential routes represents a significant hazard 23 to the public health or the environment. The Agency may proceed with the filing of such a proposal unless the county 24 25 or municipality, within 30 days of the receipt of the written notice, files a written request for a conference with the 26 Agency. Upon receipt of such a request, the Agency shall 27 schedule a conference to be held within 90 days thereafter. 28 At the conference, the Agency shall inform the county or 29 30 municipality regarding the proposal. Within 30 days after the conference, the affected unit of local government may 31 32 provide written notice to the Agency of its intent to establish a maximum setback zone in lieu of the Agency acting 33 on a proposal. Upon receipt of such a notice of intent, the 34

Agency may not file a proposal with the Board for a period of 6 months. Rulemaking proceedings initiated by the Agency under this subsection shall be conducted by the Board pursuant to Title VII of this Act, except that subsection (b) of Section 27 shall not apply.

Nothing in this Section shall be construed as limiting 6 7 the general authority of the Board to promulgate regulations 8 pursuant to Title VII of this Act. Nothing in this 9 subsection shall limit the right of any person to participate in rulemaking proceedings conducted by the Board under this 10 11 subsection.

(e) Except as provided in subsection (c) of Section 12 14.2, no new potential primary source shall be placed within 13 the maximum setback zone established for any community water 14 15 supply well pursuant to subsection (c) or (d) of this 16 Section. Nothing in this subsection shall be construed as limiting the power of any county or municipality to adopt 17 ordinances which are consistent with but not more stringent 18 19 than the prohibition as stated herein.

active community water supply well is 20 (f) Τf an 21 withdrawing groundwater from within the alluvial deposits and is located within 1000 feet of public waters, the boundaries 22 23 of a maximum setback zone adopted by ordinance pursuant to subsection (c) may be established to a distance of 2,500 feet 24 25 from the wellhead. No new potential route shall be placed, utilized within the maximum setback zone 26 operated or established for any community water supply well pursuant to 27 Restrictions provided in subsection (e) this subsection. 28 shall not be applied beyond 1,000 feet from the wellhead for 29 30 maximum setback zones adopted pursuant to this subsection. An ordinance which creates a maximum setback zone 31 as 32 described by this subsection shall also be consistent with subsections (a), (b) and (c) of this Section, including 33 34 incorporation of requirements which are consistent with but

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no more stringent than the prohibitions of this amendatory Act of--1989. For purposes of this subsection, the term "public waters" means public waters as defined in Section 18 of <u>the Rivers, Lakes, and Streams Act</u> "An-Act-in-relation-to the-regulation-of-the-rivers, -lakes-and-streams-of-the--State of--Illinois", --approved--June--10, -1911, as now or hereafter amended.

8 (Source: P.A. 86-125.)

9

(415 ILCS 5/14.4) (from Ch. 111 1/2, par. 1014.4)

10 Sec. 14.4. Groundwater rules.

(a) No later than January 1, 1989, the Agency, after consultation with the Interagency Coordinating Committee on Groundwater and the Groundwater Advisory Council, shall propose regulations to the Board prescribing standards and requirements for the following activities:

16 (1) landfilling, land treating, surface impounding 17 or piling of special waste and other wastes which could 18 cause contamination of groundwater and which are 19 generated on the site, other than hazardous, livestock 20 and landscape waste, and construction and demolition 21 debris;

(2) storage of special waste in an underground
storage tank for which federal regulatory requirements
for the protection of groundwater are not applicable;

(3) storage and related handling of pesticides and
fertilizers at a facility for the purpose of commercial
application;

28 (4) storage and related handling of road oils and
 29 de-icing agents at a central location; and

30 (5) storage and related handling of pesticides and
31 fertilizers at a central location for the purpose of
32 distribution to retail sales outlets.

33 In preparing such regulation, the Agency shall provide as

1 it deems necessary for more stringent provisions for those 2 activities enumerated in this subsection which are not already in existence. Any activity for which such standards 3 4 and requirements are proposed may be referred to as a new 5 activity. For the purposes of this Section, the term 6 "commercial application" shall not include the use of pesticides or fertilizers in a manner incidental to the 7 8 primary business activity.

9 (b) No later than October 1, 1993, the Board shall 10 promulgate appropriate regulations for existing activities. 11 In promulgating these regulations, the Board shall, in 12 addition to the factors set forth in Title VII of this Act, 13 consider the following:

14 (1) appropriate programs for water quality 15 monitoring;

16 (2) reporting, recordkeeping and remedial response 17 measures;

18 (3) appropriate technology-based measures for19 pollution control; and

20 (4) requirements for closure or discontinuance of21 operations.

22 Such regulations as are promulgated pursuant to this 23 subsection shall be for the express purpose of protecting 24 groundwaters. The applicability of such regulations shall be 25 limited to any existing activity which is located:

26 (A) within a setback zone regulated by this Act,
27 other than an activity located on the same site as a
28 non-community water system well and for which the owner
29 is the same for both the activity and the well; or

30 (B) within a regulated recharge area as delineated31 by Board regulation, provided that:

32 (i) the boundary of the lateral area of
33 influence of a community water supply well located
34 within the recharge area includes such activity

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therein;

1

2 (ii) the distance from the wellhead of the 3 community water supply to the activity does not 4 exceed 2500 feet; and

5 (iii) the community water supply well was in
6 existence prior to January 1, 1988.

7 In addition, the Board shall ensure that the promulgated regulations are consistent with and not pre-emptive of 8 the 9 certification system provided by Section 14.5. Pursuant-to this-amendatory-Act-of-1992, The Board shall modify the 10 regulations adopted under this subsection to provide an 11 exception for existing activities subject to Section 14.6. 12 In--taking--this--action,--the--Board--shall--proceed--in--an 13 expeditious--manner-to-prevent-affected-activities-from-being 14 15 in-noncompliance-on-or-after-January-1,-1993.

16 (c) Concurrently with the action mandated by subsection the Agency shall evaluate, with respect to the 17 (a), protection of groundwater, the adequacy of existing federal 18 19 and State regulations regarding the disposal of hazardous waste and the offsite disposal of special and municipal 20 21 wastes. The Agency shall then propose, as it deems 22 necessary, additional regulations for such new disposal 23 activities as may be necessary to achieve a level of groundwater protection that is consistent with 24 the 25 regulations proposed under subsection (a) of this Section.

(d) Following receipt of proposed regulations submitted
by the Agency pursuant to subsection (a) of this Section, the
Board shall promulgate appropriate regulations for new
activities. In promulgating these regulations, the Board
shall, in addition to the factors set forth in Title VII of
this Act, consider the following:

32 (1) appropriate programs for water quality
33 monitoring, including, where appropriate, notification
34 limitations to trigger preventive response activities;

(2) design practices and technology-based measures
 appropriate for minimizing the potential for groundwater
 contamination;

4 (3) reporting, recordkeeping and remedial response 5 measures; and

6 (4) requirements for closure or discontinuance of 7 operations.

8 Such regulations as are promulgated pursuant to this 9 subsection shall be for the express purpose of protecting groundwaters. The applicability of such regulations shall be 10 11 limited to any new activity which is to be located within a setback zone regulated by this Act, or which is to be located 12 13 within a regulated recharge area as delineated by Board In addition, the Board shall ensure that the 14 regulation. 15 promulgated regulations are consistent with and not 16 pre-emptive of the certification system provided by Section 14.5. Pursuant-to-this-amendatory-Act--of--1992, 17 The Board shall modify the regulations adopted under this subsection to 18 19 provide an exception for new activities subject to Section 14.6. In-taking-this-action_-the-Board-shall-proceed--in--an 20 21 expeditious--manner-to-prevent-affected-activities-from-being 22 in-noncompliance-on-or-after-January-1,-1993.

23 Nothing in this Section shall be construed as (e) prohibiting any person for whom regulations are promulgated 24 25 by the Board pursuant to subsection (b) or (c) of this Section, from proposing and obtaining, concurrently with the 26 27 regulations proposed by the Agency pursuant to subsection (a) of this Section, a rule specific to individual persons or 28 sites pursuant to Title VII of this Act which codifies 29 30 alternative groundwater protection methods that provide substantially equivalent protection for community water 31 32 supplies.

33 (f) Nothing in this Section shall be construed as34 limiting the power of any county or municipality to adopt

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ordinances, which are consistent with but not more stringent
 than the regulations adopted by the Board pursuant to this
 Section, for application of standards and requirements within
 such setback zones as are provided by this Act.

5 (g) The Agency shall prepare a groundwater protection for 6 regulatory agenda submittal to the Interagency 7 Coordinating Committee on Groundwater and the Groundwater 8 Advisory Council. In preparing this agenda, the Agency shall 9 consider situations where gaps may exist in federal or State regulatory protection for groundwater, or where further 10 11 refinements could be necessary to achieve adequate protection 12 of groundwater.

(h) Nothing in this Section shall be construed as
limiting the general authority of the Board to promulgate
regulations pursuant to Title VII of this Act.

16 (i) The Board's rulemaking with respect to subsection 17 (a)(3) of this Section shall take into account the relevant 18 aspects of the Department of Agriculture's Part 255 19 regulations which specify containment rules for agrichemical 20 facilities.

21 (Source: P.A. 87-1108.)

22

23

(415 ILCS 5/14.6) (from Ch. 111 1/2, par. 1014.6) Sec. 14.6. Agrichemical facilities.

24 (a) Notwithstanding the provisions of Section 14.4, groundwater protection for storage and related handling of 25 pesticides and fertilizers at a facility for the purpose of 26 commercial application or at a central location for the 27 purpose of distribution to retail sales outlets may be 28 29 provided by adherence to the provisions of this Section. For any such activity to be subject to this Section, 30 the 31 following action must be taken by an owner or operator:

32 (1) with respect to agrichemical facilities, as
33 defined by the Illinois Pesticide Act, the Illinois

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1 Fertilizer Act and regulations adopted thereunder, file a 2 written notice of intent to be subject to the provisions of this Section with the Department of Agriculture by 3 4 January 1, 1993, or within 6 months after the date on which a maximum setback zone is established or 5 а regulated recharge area regulation is adopted that 6 7 affects such a facility;

with respect to lawn care facilities 8 (2) that are 9 subject to the containment area provisions of the Lawn Care Products Application and Notice Act 10 and its 11 regulations, file a written notice of intent to be subject to the provisions of this Section with the 12 Department of Agriculture by January 1, 1993, or within 6 13 months after the date on which a maximum setback zone is 14 15 established or a regulated recharge area regulation is 16 adopted that affects such a facility;

17 (3) with respect to a central distribution location 18 that is not an agrichemical facility, certify intent to 19 be subject to the provisions of this Section on the 20 appropriate license or renewal application form submitted 21 to the Department of Agriculture; or

(4) with respect to any other affected facility,
certify intent to be subject to the provisions of this
Section on the appropriate renewal application forms
submitted to the Department of Agriculture or other
appropriate agency.

An owner or operator of a facility that takes the action 27 described in this subsection shall be subject to 28 the 29 provisions of this Section and shall not be regulated under 30 the provisions of Section 14.4, except as provided in subsection (d) of this Section and-unless--a--regulatory 31 32 program--is--not--in--effect--by-January-1,-1994,-pursuant-to 33 subsection-(b)-or-(c)-of-this--Section. The Department of 34 Agriculture or other appropriate agency shall provide copies

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of the written notices and certifications to the Agency. For the purposes of this subsection, the term "commercial application" shall not include the use of pesticides or fertilizers in a manner incidental to the primary business activity.

(b) The Agency and Department of Agriculture shall 6 7 cooperatively develop a program for groundwater protection designated facilities or sites consistent with the 8 for 9 activities specified in subsection (a) of this Section. Τn developing such a program, the Agency and the Department of 10 Agriculture shall consult with affected interests and take 11 into account relevant information. Based on such agreed 12 Agriculture 13 program, the Department of shall adopt appropriate regulatory requirements by-January-1,-1994, for 14 15 the designated facilities or sites and administer a program. 16 At a minimum, the following considerations must be adequately addressed as part of such program: 17

(1) a facility review process, using available
information when appropriate, to determine those sites
where groundwater monitoring will be implemented;

(2) requirements for groundwater quality monitoring
for sites identified under item (1);

23 (3) reporting, response, and operating practices
24 for the types of designated facilities; and

25 (4) requirements for closure or discontinuance of26 operations.

The Agency may enter into a written agreement with 27 (C) any State agency to operate a cooperative program for 28 29 groundwater protection for designated facilities or sites 30 consistent with the activities specified in subparagraph (4) of subsection (a) of this Section. Such State agency shall 31 32 adopt appropriate regulatory requirements for the designated facilities or sites and necessary procedures and practices to 33 34 administer the program.

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1 (d) The Agency shall ensure that any facility that is 2 subject to this Section is in compliance with applicable provisions as specified in subsection (b) or (c) of this 3 4 Section. To fulfill this responsibility, the Agency may rely on information provided by another State agency or other 5 information that is obtained on a direct basis. If a facility 6 7 is not in compliance with the applicable provisions, or a 8 deficiency in the execution of a program affects such a 9 facility, the Agency may so notify the facility of this condition and shall provide 30 days for a written response to 10 11 be filed. The response may describe any actions taken by the owner which relate to the condition of noncompliance. 12 If the response is deficient or untimely, the Agency shall serve 13 notice upon the owner that the facility is subject to the 14 15 applicable provisions of Section 14.4 of this Act and 16 regulations adopted thereunder.

(e) (Blank.) After-January-17-19937-and-before--January 17 1,--1994,--an-owner-or-operator-of-a-facility-that-is-subject 18 19 to-the-provisions-of-this-Section--may--withdraw--the--notice 20 given--under--subsection--(a)--of--this--Section--by-filing-a 21 written--withdrawal--statement---with---the---Department---of 22 Agriculture---Within--45--days--after--such-filing-and-after 23 consultation-with-the-Agency,-the-Department--of--Agriculture shall--provide--written-confirmation-to-the-owner-or-operator 24 25 that-the-facility-is-no-longer-subject-to-the--provisions--of 26 this--Section--and-must-comply-with-the-applicable-provisions 27 of--Section--14.4--within--90--days--after--receipt--of---the confirmation.--The--Department--of--Agriculture-shall-provide 28 29 copies-of-the-written-confirmations-to-the-Agency-

30 (f) After January 1, 1994, and before one year after the 31 date on which a maximum setback zone is established or a 32 regulated recharge area regulation is adopted that affects a 33 facility subject to the provisions of this Section, an owner 34 or operator of such a facility may withdraw the notice given

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1 under subsection (a) of this Section by filing a written 2 withdrawal statement with the Department of Agriculture. Within 45 days after such filing and after consultation with 3 4 the Agency, the Department of Agriculture shall provide 5 written confirmation to the owner or operator that the 6 facility is no longer subject to the provisions of this 7 Section and must comply with the applicable provisions of 8 Section 14.4 within 90 days after receipt of the 9 confirmation. The Department of Agriculture shall provide copies of the written confirmations to the Agency. 10

11 (g) On or after August 11, the-effective-date-of-this amendatory--Act--of 1994, an owner or operator 12 of an agrichemical facility that is subject to the provisions of 13 Section 14.4 and regulations adopted thereunder 14 solely because of the presence of an on-site potable water supply 15 16 well that is not a non-community water supply may file a written notice with the Department of Agriculture by January 17 1995 declaring the facility to be subject 18 1. to the 19 provisions of this Section. When that action is taken, the regulatory requirements of subsection (b) of this Section 20 21 shall be applicable beginning January 1, 1995. During-the 22 period-from-January-1,-1993-through-December--31,--1994,--any 23 facility-described-in-this-subsection-shall-not-be-subject-to regulation--under--Section--14.4--of--this-Act. Beginning on 24 25 January 1, 1995, such facilities shall be subject to either Section 14.4 or this Section depending on the action taken 26 under this subsection. 27 An owner or operator of an agrichemical facility that is subject to this Section because 28 a written notice was filed under this subsection shall do all 29 30 of the following:

31 (1) File a facility review report with the
32 Department of Agriculture on or before February 28, 1995
33 consistent with the regulatory requirements of subsection
34 (b) of this Section.

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1 (2) Implement an approved monitoring program within 2 120 days of receipt of the Department of Agriculture's determination or a notice to proceed from the Department 3 4 Agriculture. The monitoring program shall of be consistent with the requirements of subsection (b) 5 of this Section. 6

7 (3) Implement applicable operational and management 8 practice requirements and submit a permit application or 9 modification to meet applicable structural provisions 10 consistent with those in subsection (b) of this Section 11 on or before July 1, 1995 and complete construction of 12 applicable structural requirements on or before January 13 1, 1996.

Notwithstanding the provisions of this subsection, an owner 14 operator of an agrichemical facility that is subject to 15 or 16 the provisions of Section 14.4 and regulations adopted thereunder solely because of the presence of an on-site 17 private potable water supply well may file a written notice 18 19 with the Department of Agriculture before January 1, 1995 requesting a release from the provisions of Section 14.4 and 20 21 this Section. Upon receipt of a request for release, the Department of Agriculture shall conduct a site visit to 22 23 confirm the private potable use of the on-site well. If private potable use is confirmed, the Department shall 24 25 provide written notice to the owner or operator of the agrichemical facility that the facility is released from 26 the provisions of Section 14.4 and this 27 compliance with Section. If private potable use is not confirmed, 28 the 29 Department of Agriculture shall provide written notice to the 30 owner or operator that a release cannot be given. No action in this subsection shall be precluded by the 31 on-site 32 non-potable use of water from an on-site private potable 33 water supply well.

34 (Source: P.A. 92-113, eff. 7-20-01.)

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1 2 (415 ILCS 5/17) (from Ch. 111 1/2, par. 1017)

Sec. 17. Rules; chlorination requirements.

3 (a) The Board may adopt regulations governing the 4 location, design, construction, and continuous operation and 5 maintenance of public water supply installations, changes or 6 additions which may affect the continuous sanitary quality, 7 mineral quality, or adequacy of the public water supply, 8 pursuant to Title VII of this Act.

9 (b) The Agency shall exempt from any mandatory 10 chlorination requirement of the Board any community water 11 supply which meets all of the following conditions:

12 (1) The population of the community served is not more 13 than 5,000;

14 (2) Has as its only source of raw water one or more 15 properly constructed wells into confined geologic formations 16 not subject to contamination;

17 (3) Has no history of persistent or recurring 18 contamination, as indicated by sampling results which show 19 violations of finished water quality requirements, for the 20 most recent five-year period;

21 (4) Does not provide any raw water treatment other than 22 fluoridation;

(5) Has an active program approved by the Agency to
educate water supply consumers on preventing the entry of
contaminants into the water system;

26 (6) Has a certified operator of the proper class, or if 27 it is an exempt community public water supply, has a 28 registered person responsible in charge of operation of the 29 public water supply;

30 (7) Submits samples for microbiological analysis at
 31 twice the frequency specified in the Board regulations; and

32 (8) A unit of local government seeking to exempt its
33 public water supply from the chlorination requirement under
34 this subsection (b) on or after <u>September 9</u>, the--effective

1 date--of--this--amendatory--Act--of 1983 shall be required to 2 receive the approval of the voters of such local government. The proposition to exempt the community water supply from the 3 4 mandatory chlorination requirement shall be placed on the ballot if the governing body of the local government adopts 5 6 an ordinance or resolution directing the clerk of the local 7 government to place such question on the ballot. The clerk 8 shall cause the election officials to place the proposition 9 on the ballot at the next election at which such proposition may be voted upon if a certified copy of the adopted 10 11 ordinance or resolution is filed in his office at least 90 days before such election. The proposition shall also be 12 placed on the ballot if a petition containing the signatures 13 of at least 10% of the eligible voters residing in the local 14 15 government is filed with the clerk at least 90 days before 16 the next election at which the proposition may be voted upon. The proposition shall be in substantially the following form: 17 _____ 18

19 Shall the community
20 water supply of (specify YES
21 the unit of local government)
22 be exempt from the mandatory -----23 chlorination requirement NO
24 of the State of Illinois?

25

If the majority of the voters of the local government 26 27 voting therein vote in favor of the proposition, the community water supply of that local government shall be 28 29 exempt from the mandatory chlorination requirement, provided 30 that the other requirements under this subsection (b) are 31 met. If the majority of the vote is against such proposition, the community water supply may not be exempt 32 33 from the mandatory chlorination requirement.

34 Agency decisions regarding exemptions under this

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subsection may be appealed to the Board pursuant to the

2 provisions of Section 40(a) of this Act.

(c) Any supply showing contamination in its distribution 3 4 system (including finished water storage) may be required to chlorinate until the Agency has determined that the source of 5 6 contamination has been removed and all traces of 7 contamination in the distribution system have been 8 eliminated. Standby chlorination equipment may be required by the Agency if a supply otherwise exempt from chlorination 9 shows frequent or gross episodes of contamination. 10

11 (Source: P.A. 83-273.)

12 (415 ILCS 5/19.10)

13 Sec. 19.10. Re-enactment of Title IV-A; findings; 14 purpose; validation.

15

1

(a) The General Assembly finds and declares that:

(1) Title IV-A (consisting of Sections 19.1 through 16 17 19.9) was first added to the Environmental Protection Act 18 by Article III of Public Act 85-1135, effective September 1, 1988. In its original form, Title IV-A created the 19 20 Water Pollution Control Revolving Fund and authorized the 21 Illinois Environmental Protection Agency to establish a 22 program for providing units of local government with loans to be used to construct wastewater 23 low-cost 24 treatment works. The loans are paid from the Revolving Fund, which consists primarily of a combination of 25 federal grant money, State matching money, and money that 26 has been repaid on past loans. 27

(2) In 1995, Title IV-A was amended by Public Act
89-27, effective January 1, 1997, which created the Loan
Support Program and made other changes. The Loan Support
Program provides financing for certain administrative
costs of the Agency. It specifically includes the costs
of developing a loan program for public water supply

1 projects.

(3) Title IV-A was amended by Public Act 90-121,
effective July 17, 1997, which changed the name of the
Water Pollution Control Revolving Fund to the Water
Revolving Fund and created the Public Water Supply Loan
Program. Under this program, the Agency is authorized to
make low-interest loans to units of local government for
the construction of public water supply facilities.

9 (4) Title IV-A has also been amended by Public Act 10 86-671, effective September 1, 1989; P.A. 86-820, 11 effective September 7, 1989; and P.A. 90-372, effective 12 July 1, 1998.

13 (5) Article III, Section 6, of Public Act 85-1135
14 amended the Build Illinois Bond Act. Among other changes
15 to that Act, P.A. 85-1135 authorized the deposit of up to
16 \$70,000,000 into the Water Pollution Control Revolving
17 Fund to be used for the Title IV-A loan program.

(6) Article III of Public Act 85-1135 also added 18 19 Section 5.237 to the State Finance Act. This Section added the Water Pollution Control Revolving Fund to the 20 21 list of special funds in the State Treasury. The Section was renumbered as Section 5.238 by a revisory bill, 22 23 Public Act 85-1440, effective February 1, 1989. Although the name of the Fund was changed by Public Act 90-121, 24 25 that Act did not make the corresponding change in Section 5.238. 26

(7) Over the 10 years that it has administered 27 Title IV-A programs, the Agency has entered into loan 28 agreements with hundreds of units of local government and 29 provided hundreds of millions of dollars of financial 30 assistance for water pollution control projects. There 31 are currently many active Title IV-A loans in the 32 33 disbursement phase and many more that are in the process 34 of being repaid. The Agency continues to receive many

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1

new applications each year.

2 (8) Public Act 85-1135, which created Title IV-A,
3 also contained provisions relating to tax reform and
4 State bonds.

(9) On August 26, 1998, the Cook County Circuit 5 Court entered an order in the case of Oak Park Arms 6 Associates v. Whitley (No. 92 L 51045), in which it found 7 that Public Act 85-1135 violates the single subject 8 9 clause of the Illinois Constitution (Article IV, Section 8(d)). As of the time this amendatory Act of 1999 was 10 11 prepared, the order declaring P.A. 85-1135 invalid has been vacated but the case is subject to appeal. 12

13 (10) The projects funded under Title IV-A affect 14 the vital areas of wastewater and sewage disposal and 15 drinking water supply and are important for the continued 16 health, safety, and welfare of the people of this State.

17 (b) It is the purpose of this amendatory Act of 1999 18 (Public Act 91-52) to prevent or minimize any disruption to 19 the programs administered under Title IV-A that may result 20 from challenges to the constitutional validity of Public Act 21 85-1135.

This amendatory Act of 1999 (P.A. 91-52) re-enacts 22 (C) 23 Title IV-A of the Environmental Protection Act as it has been This re-enactment is intended to ensure the 24 amended. 25 continuation of the programs administered under that Title and, if necessary, to recreate them. The material in 26 Sections 19.1 through 19.9 is shown as existing text (i.e., 27 without underscoring) because, as of the time this amendatory 28 29 Act of 1999 was prepared, the order declaring P.A. 85-1135 30 invalid has been vacated. Section 19.7 has been omitted because it was repealed by Public Act 90-372, effective July 31 32 1, 1998.

33 Section 4.1 is added to the Build Illinois Bond Act to 34 re-authorize the deposit of funds into the Water Pollution 1 Control Revolving Fund.

Section 5.238 of the State Finance Act is both re-enacted and amended to reflect the current name of the Water Revolving Fund.

5 (d) The re-enactment of Title IV-A of the Environmental 6 Protection Act by this amendatory Act of 1999 (P.A. 91-52) is 7 intended to remove any question as to the validity or content 8 of Title IV-A; it is not intended to supersede any other Public Act that amends the text of a Section as set forth in 9 this amendatory Act. This re-enactment is not intended, and 10 11 shall not be construed, to imply that Public Act 85-1135 is 12 invalid or to limit or impair any legal argument concerning 13 (1) whether the Agency has express or implied authority to administer loan programs in the absence of Title IV-A, or (2) 14 15 whether the provisions of Title IV-A were substantially 16 re-enacted by P.A. 89-27 or 90-121.

(e) All otherwise lawful actions taken before <u>June 30</u>,
<u>1999</u> (the effective date of <u>P.A. 91-52</u>) this-amendatory-Act
off-1999 by any employee, officer, agency, or unit of State or
local government or by any other person or entity, acting in
reliance on or pursuant to Title IV-A of the Environmental
Protection Act, as set forth in Public Act 85-1135 or as
subsequently amended, are hereby validated.

(f) All otherwise lawful obligations arising out of loan 24 25 agreements entered into before June 30, 1999 (the effective date of P.A. 91-52) this-amendatory-Act-of-1999 by the State 26 27 or by any employee, officer, agency, or unit of State or local government, acting in reliance on or pursuant to Title 28 29 IV-A of the Environmental Protection Act, as set forth in 30 Public Act 85-1135 or as subsequently amended, are hereby validated and affirmed. 31

32 (g) All otherwise lawful deposits into the Water
33 Pollution Control Revolving Fund made before <u>June 30, 1999</u>
34 (the effective date of <u>P.A. 91-52</u>) this-amendatory-Act-of

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1 1999 in accordance with Section 4 of the Build Illinois Bond 2 Act, as set forth in Public Act 85-1135 or as subsequently amended, and the use of those deposits for the purposes of 3 4 Title IV-A of the Environmental Protection Act, are hereby 5 validated.

(h) This amendatory Act of 1999 (P.A. 91-52) applies, 6 7 without limitation, to actions pending on or after the effective date of this amendatory Act. 8

9 (Source: P.A. 91-52, eff. 6-30-99.)

10 (415 ILCS 5/21) (from Ch. 111 1/2, par. 1021)

11 Sec. 21. Prohibited acts. No person shall:

12

(a) Cause or allow the open dumping of any waste.

Abandon, dump, or deposit any waste upon the public 13 (b) 14 highways or other public property, except in a sanitary 15 landfill approved by the Agency pursuant to regulations 16 adopted by the Board.

17 Abandon any vehicle in violation of the "Abandoned (C) Vehicles Amendment to the Illinois Vehicle Code", as enacted 18 by the 76th General Assembly. 19

20 (d) Conduct any waste-storage, waste-treatment, or 21 waste-disposal operation:

22 (1) without a permit granted by the Agency or in violation of any conditions imposed by such permit, 23 24 including periodic reports and full access to adequate records and the inspection of facilities, as may be 25 necessary to assure compliance with this Act and with 26 regulations and standards adopted thereunder; provided, 27 28 however, that, except for municipal solid waste landfill 29 units that receive waste on or after October 9, 1993, no permit shall be required for (i) any person conducting a 30 waste-storage, waste-treatment, or waste-disposal 31 operation for wastes generated by such person's own 32 33 activities which are stored, treated, or disposed within

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the site where such wastes are generated, or (ii) a facility located in a county with a population over 700,000, operated and located in accordance with Section 22.38 of this Act, and used exclusively for the transfer, storage, or treatment of general construction or demolition debris;

7 (2) in violation of any regulations or standards
8 adopted by the Board under this Act; or

9 (3) which receives waste after August 31, 1988, does not have a permit issued by the Agency, and is (i) a 10 11 landfill used exclusively for the disposal of waste 12 generated at the site, (ii) a surface impoundment receiving special waste not listed in an NPDES permit, 13 (iii) a waste pile in which the total volume of waste is 14 15 greater than 100 cubic yards or the waste is stored for 16 over one year, or (iv) a land treatment facility receiving special waste generated at the site; without 17 giving notice of the operation to the Agency by January 18 19 1, 1989, or 30 days after the date on which the operation commences, whichever is later, and every 20 3 vears 21 thereafter. The form for such notification shall be 22 specified by the Agency, and shall be limited to 23 information regarding: the name and address of the location of the operation; the type of operation; the 24 25 types and amounts of waste stored, treated or disposed of on an annual basis; the remaining capacity of the 26 operation; and the remaining expected life of 27 the operation. 28

Item (3) of this subsection (d) shall not apply to any person engaged in agricultural activity who is disposing of a substance that constitutes solid waste, if the substance was acquired for use by that person on his own property, and the substance is disposed of on his own property in accordance with regulations or standards adopted by the Board.

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1 This subsection (d) shall not apply to hazardous waste. 2 (e) Dispose, treat, store or abandon any waste, or 3 transport any waste into this State for disposal, treatment, 4 storage or abandonment, except at a site or facility which 5 meets the requirements of this Act and of regulations and 6 standards thereunder.

7 (f) Conduct any hazardous waste-storage, hazardous 8 waste-treatment or hazardous waste-disposal operation:

9 (1) without a RCRA permit for the site issued by 10 the Agency under subsection (d) of Section 39 of this 11 Act, or in violation of any condition imposed by such 12 permit, including periodic reports and full access to 13 adequate records and the inspection of facilities, as may 14 be necessary to assure compliance with this Act and with 15 regulations and standards adopted thereunder; or

16 (2) in violation of any regulations or standards
17 adopted by the Board under this Act; or

18 (3) in violation of any RCRA permit filing
19 requirement established under standards adopted by the
20 Board under this Act; or

21 (4) in violation of any order adopted by the Board22 under this Act.

23 Notwithstanding the above, no RCRA permit shall be required under this subsection or subsection (d) of Section 24 25 39 of this Act for any person engaged in agricultural activity who is disposing of a substance which has been 26 identified as a hazardous waste, and which 27 has been designated by Board regulations as being subject to this 28 exception, if the substance was acquired for use by that 29 30 person on his own property and the substance is disposed of on his own property in accordance with regulations or 31 32 standards adopted by the Board.

33 (g) Conduct any hazardous waste-transportation 34 operation:

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1

2 3 (1) without registering with and obtaining a permit from the Agency in accordance with the Uniform Program implemented under subsection (1-5) of Section 22.2; or

4 (2) in violation of any regulations or standards
5 adopted by the Board under this Act.

6 (h) Conduct any hazardous waste-recycling or hazardous 7 waste-reclamation or hazardous waste-reuse operation in 8 violation of any regulations, standards or permit 9 requirements adopted by the Board under this Act.

10 (i) Conduct any process or engage in any act which 11 produces hazardous waste in violation of any regulations or 12 standards adopted by the Board under subsections (a) and (c) 13 of Section 22.4 of this Act.

(j) Conduct any special waste transportation operation 14 15 violation of any regulations, standards or permit in 16 requirements adopted by the Board under this Act. However, sludge from a water or sewage treatment plant owned and 17 operated by a unit of local government which (1) is subject 18 19 to a sludge management plan approved by the Agency or a permit granted by the Agency, and (2) has been tested and 20 21 determined not to be a hazardous waste as required by applicable State and federal laws and regulations, 22 may be 23 transported in this State without a special waste hauling permit, and the preparation and carrying of a manifest shall 24 25 not be required for such sludge under the rules of the Pollution Control Board. The unit of local government which 26 operates the treatment plant producing such sludge shall file 27 a semiannual report with the Agency identifying the volume of 28 29 such sludge transported during the reporting period, the 30 hauler of the sludge, and the disposal sites to which it was transported. This subsection (j) shall not apply to hazardous 31 32 waste.

33 (k) Fail or refuse to pay any fee imposed under this34 Act.

1 (1) Locate a hazardous waste disposal site above an 2 active or inactive shaft or tunneled mine or within 2 miles of an active fault in the earth's crust. In counties of 3 population less than 225,000 no hazardous waste disposal site 4 5 shall be located (1) within 1 1/2 miles of the corporate 6 limits as defined on June 30, 1978, of any municipality 7 without the approval of the governing body of the municipality in an official action; or (2) within 1000 feet 8 9 of an existing private well or the existing source of a public water supply measured from the boundary of the actual 10 11 active permitted site and excluding existing private wells on the property of the permit applicant. The provisions of this 12 subsection do not apply to publicly-owned sewage works or the 13 disposal or utilization of sludge from publicly-owned sewage 14 15 works.

16 (m) Transfer interest in any land which has been used as 17 a hazardous waste disposal site without written notification 18 to the Agency of the transfer and to the transferee of the 19 conditions imposed by the Agency upon its use under 20 subsection (g) of Section 39.

(n) Use any land which has been used as a hazardous
waste disposal site except in compliance with conditions
imposed by the Agency under subsection (g) of Section 39.

(o) Conduct a sanitary landfill operation which is required to have a permit under subsection (d) of this Section, in a manner which results in any of the following conditions:

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(2)

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refuse in standing or flowing waters;

leachate flows entering waters of the State;

30 (3) leachate flows exiting the landfill confines
31 (as determined by the boundaries established for the
32 landfill by a permit issued by the Agency);

33 (4) open burning of refuse in violation of Section
34 9 of this Act;

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1 (5) uncovered refuse remaining from any previous 2 operating day or at the conclusion of any operating day, unless authorized by permit; 3 4 (6) failure to provide final cover within time limits established by Board regulations; 5 (7) acceptance of wastes without necessary permits; 6 7 (8) scavenging as defined by Board regulations; (9) deposition of refuse in any unpermitted portion 8 9 of the landfill; (10) acceptance of a special waste without 10 а 11 required manifest; (11) failure to submit reports required by permits 12 or Board regulations; 13 (12) failure to collect and contain litter from the 14 15 site by the end of each operating day; 16 (13) failure to submit any cost estimate for the site or any performance bond or other security for the 17 site as required by this Act or Board rules. 18 19 The prohibitions specified in this subsection (o) shall enforceable by the Agency either by administrative 20 be citation under Section 31.1 of this Act or as otherwise 21 22 provided by this Act. The specific prohibitions in this 23 subsection do not limit the power of the Board to establish regulations or standards applicable to sanitary landfills. 24 25 In violation of subdivision (a) of this Section, (q) cause or allow the open dumping of any waste in a manner 26 which results in any of the following occurrences at the dump 27 site: 28 (1) litter; 29 30 (2) scavenging; 31 (3) open burning; 32 deposition of waste in standing or flowing (4) 33 waters; (5) proliferation of disease vectors; 34

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1 (6) standing or flowing liquid discharge from the 2 dump site; (7) deposition of: 3 4 (i) general construction or demolition debris as defined in Section 3.160(a) 3.78 of this Act; or 5 (ii) clean construction or demolition debris 6 7 as defined in Section 3.160(b) 3-78a of this Act. 8 The prohibitions specified in this subsection (p) shall 9 enforceable by the Agency either by administrative be citation under Section 31.1 of this Act or as otherwise 10 11 provided by this Act. The specific prohibitions in this subsection do not limit the power of the Board to establish 12 13 regulations or standards applicable to open dumping. Conduct a landscape waste composting operation 14 (q) without an Agency permit, provided, however, that no permit 15 16 shall be required for any person: 17 (1) conducting a landscape waste composting operation for landscape wastes generated by such person's 18 19 own activities which are stored, treated or disposed of 20 within the site where such wastes are generated; or 21 (2) applying landscape waste or composted landscape 22 waste at agronomic rates; or 23 (3) operating a landscape waste composting facility a farm, if the facility meets all of the following 24 on 25 criteria: (A) the composting facility is operated by the 26 27 farmer on property on which the composting material is utilized, and the composting facility constitutes 28 no more than 2% of the property's total acreage, 29 30 except that the Agency may allow a higher percentage for individual sites where the owner or operator has 31 demonstrated to the Agency that the site's soil 32 33 characteristics or crop needs require a higher rate; 34 (B) the property on which the composting -96-

1 facility is located, and any associated property on 2 which the compost is used, is principally and diligently devoted to the production of agricultural 3 4 is not owned, leased or otherwise crops and 5 controlled by any waste hauler or generator of nonagricultural compost materials, and the operator 6 7 of the composting facility is not an employee, 8 partner, shareholder, or in any way connected with 9 or controlled by any such waste hauler or generator;

(C) all compost generated by the composting 10 11 facility is applied at agronomic rates and used as mulch, fertilizer or soil conditioner on 12 land 13 actually farmed by the person operating the composting facility, and the finished compost is not 14 15 stored at the composting site for a period longer 16 than 18 months prior to its application as mulch, fertilizer, or soil conditioner; 17

(D) the owner or operator, by January 1, 1990 18 (or January 1 following commencement of 19 the operation, whichever is later) and January 1 of each 20 21 year thereafter, (i) registers the site with the 22 Agency, (ii) reports to the Agency on the volume of 23 composting material received and used at the site, (iii) certifies to the Agency that the site complies 24 25 with the requirements set forth in subparagraphs (A), (B) and (C) of this paragraph (q)(3), and (iv)26 certifies to the Agency that all composting material 27 was placed more than 200 feet from the nearest 28 29 potable water supply well, was placed outside the 30 boundary of the 10-year floodplain or on a part of the site that is floodproofed, was placed at least 31 1/4 mile from the nearest residence (other than a 32 residence located on the same property as the 33 34 facility) and there are not more than 10 occupied -97-

non-farm residences within 1/2 mile of the
 boundaries of the site on the date of application,
 and was placed more than 5 feet above the water
 table.

For the purposes of this subsection (q), "agronomic 5 6 rates" means the application of not more than 20 tons per 7 acre per year, except that the Agency may allow a higher rate 8 for individual sites where the owner or operator has 9 demonstrated to the Agency that the site's soil characteristics or crop needs require a higher rate. 10

11 (r) Cause or allow the storage or disposal of coal 12 combustion waste unless:

13 (1) such waste is stored or disposed of at a site 14 or facility for which a permit has been obtained or is 15 not otherwise required under subsection (d) of this 16 Section; or

17 (2) such waste is stored or disposed of as a part 18 of the design and reclamation of a site or facility which 19 is an abandoned mine site in accordance with the 20 Abandoned Mined Lands and Water Reclamation Act; or

21 (3) such waste is stored or disposed of at a site 22 or facility which is operating under NPDES and Subtitle D 23 permits issued by the Agency pursuant to regulations adopted by the Board for mine-related water pollution and 24 25 permits issued pursuant to the Federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) or the 26 rules and regulations thereunder or any law or rule or 27 regulation adopted by the State of Illinois pursuant 28 thereto, and the owner or operator of the facility agrees 29 30 to accept the waste; and either

31 (i) such waste is stored or disposed of in
32 accordance with requirements applicable to refuse
33 disposal under regulations adopted by the Board for
34 mine-related water pollution and pursuant to NPDES

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and Subtitle D permits issued by the Agency under such regulations; or

(ii) the owner or operator of the facility 3 4 demonstrates all of the following to the Agency, and the facility is operated in accordance with the 5 demonstration as approved by the Agency: (1) the 6 7 disposal area will be covered in a manner that will 8 support continuous vegetation, (2) the facility will 9 be adequately protected from wind and water erosion, (3) the pH will be maintained so as to prevent 10 11 excessive leaching of metal ions, and (4) adequate 12 containment or other measures will be provided to 13 protect surface water and groundwater from contamination at levels prohibited by this Act, the 14 15 Illinois Groundwater Protection Act, or regulations 16 adopted pursuant thereto.

Notwithstanding any other provision of this Title, the 17 disposal of coal combustion waste pursuant to item (2) or (3) 18 of this subdivision (r) shall be exempt from the other 19 Title V, and notwithstanding the 20 provisions of this 21 provisions of Title X of this Act, the Agency is authorized 22 to grant experimental permits which include provision for the 23 disposal of wastes from the combustion of coal and other materials pursuant to items (2) and (3) of this subdivision 24 25 (r).

(s) After April 1, 1989, offer for transportation, transport, deliver, receive or accept special waste for which a manifest is required, unless the manifest indicates that the fee required under Section 22.8 of this Act has been paid.

31 (t) Cause or allow a lateral expansion of a municipal 32 solid waste landfill unit on or after October 9, 1993, 33 without a permit modification, granted by the Agency, that 34 authorizes the lateral expansion.

1 (u) Conduct any vegetable by-product treatment, storage, 2 disposal or transportation operation in violation of any regulation, standards or permit requirements adopted by the 3 4 Board under this Act. However, no permit shall be required 5 under this Title V for the land application of vegetable by-products conducted pursuant to Agency permit issued under 6 7 Title III of this Act to the generator of the vegetable 8 by-products. In addition, vegetable by-products may be 9 transported in this State without a special waste hauling 10 permit, and without the preparation and carrying of a 11 manifest.

12 (v)

(v) (Blank).

Conduct any generation, transportation, or recycling 13 (w) of construction or demolition debris, clean or general, 14 or 15 uncontaminated soil generated during construction, 16 remodeling, repair, and demolition of utilities, structures, and roads that is not commingled with any waste, without the 17 18 maintenance of documentation identifying the hauler, 19 generator, place of origin of the debris or soil, the weight 20 or volume of the debris or soil, and the location, owner, and 21 operator of the facility where the debris or soil was 22 transferred, disposed, recycled, or treated. This 23 documentation must be maintained by the generator, transporter, or recycler for 3 years. This subsection (w) 24 25 shall not apply to (1) a permitted pollution control facility 26 that transfers or accepts construction or demolition debris, clean or general, or uncontaminated soil for final disposal, 27 recycling, or treatment, (2) a public utility (as that term 28 29 is defined in the Public Utilities Act) or a municipal 30 utility, or (3) the Illinois Department of Transportation; but it shall apply to an entity that contracts with a public 31 32 utility, a municipal utility, or the Illinois Department of The terms "generation" and "recycling" as 33 Transportation. 34 used in this subsection do not apply to clean construction or

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1 demolition debris when (i) used as fill material below grade 2 outside of a setback zone if covered by sufficient uncontaminated soil to support vegetation within 30 days of 3 4 the completion of filling or if covered by a road or structure, (ii) solely broken concrete without protruding 5 6 metal bars is used for erosion control, or (iii) milled 7 asphalt or crushed concrete is used as aggregate in 8 construction of the shoulder of a roadway. The terms 9 "generation" and "recycling", as used in this subsection, do not apply to uncontaminated soil that is not commingled with 10 11 any waste when (i) used as fill material below grade or contoured to grade, or (ii) used at the site of generation. 12 (Source: P.A. 90-219, eff. 7-25-97; 90-344, eff. 1-1-98; 13 90-475, eff. 8-17-97; 90-655, eff. 7-30-98; 90-761, eff. 14 8-14-98; 91-72, eff. 7-9-99.) 15

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(415 ILCS 5/21.3) (from Ch. 111 1/2, par. 1021.3)

17 Sec. 21.3. <u>Environmental reclamation lien.</u>

18 (a) All costs and damages for which a person is liable 19 to the State of Illinois under Section 22.2 and Section 22.18 20 shall constitute an environmental reclamation lien in favor 21 of the State of Illinois upon all real property and rights to 22 such property which:

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- (1) belong to such person; and

(2) are subject to or affected by a removal or
remedial action under Section 22.2 or preventive action,
corrective action or enforcement action under Section
22.18.

(b) An environmental reclamation lien shall continue until the liability for the costs and damages, or a judgment against the person arising out of such liability, is satisfied.

32 (c) An environmental reclamation lien shall be effective33 upon the filing by the Agency of a Notice of Environmental

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1 Reclamation Lien with the recorder or the registrar of titles of the county in which the real property lies. The Agency 2 shall not file an environmental reclamation lien, and no such 3 4 lien shall be valid, unless the Agency has sent notice pursuant to subsection (q) $\Theta r - (v)$ of Section 4 of this Act to 5 owners of the real property. Nothing in this Section shall 6 7 be construed to give the Agency's lien a preference over the 8 rights of any bona fide purchaser or mortgagee or other 9 lienholder (not including the United States when holding an unfiled lien) arising prior to the filing of a notice of 10 11 environmental reclamation lien in the office of the recorder or registrar of titles of the county in which the property 12 subject to the lien is located. 13 For purposes of this Section, the term "bona fide" shall not include any mortgage 14 15 of real or personal property or any other credit transaction 16 that results in the mortgagee or the holder of the security acting as trustee for unsecured creditors of the liable 17 person mentioned in the notice of lien who executed such 18 19 chattel or real property mortgage or the document evidencing such credit transaction. Such lien shall be inferior to the 20 21 lien of general taxes, special assessments and special taxes 22 heretofore or hereafter levied by any political subdivision 23 of this State.

The environmental reclamation lien shall not exceed 24 (d) 25 the amount of expenditures as itemized on the Affidavit of Expenditures attached to and filed with the Notice of 26 Environmental of 27 Reclamation Lien. The Affidavit Expenditures may be amended if additional costs or damages 28 29 are incurred.

30 (e) Upon filing of the Notice of Environmental 31 Reclamation Lien a copy with attachments shall be served upon 32 the owners of the real property. Notice of such service 33 shall be served on all lienholders of record as of the date 34 of filing.

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(f) Within 120--days--after--the-effective-date-of-this Section-or--within 60 days after initiating response or remedial action at the site under Section 22.2 or 22.18, the Agency shall file a Notice of Response Action in Progress. The Notice shall be filed with the recorder or registrar of titles of the county in which the real property lies.

7 (g) In addition to any other remedy provided by the laws 8 of this State, the Agency may foreclose in the circuit court an environmental reclamation lien on real property for any 9 costs or damages imposed under Section 22.2 or Section 22.18 10 11 to the same extent and in the same manner as in the enforcement of other liens. The process, practice and 12 procedure for such foreclosure shall be the same as provided 13 in Article XV of the Code of Civil Procedure. Nothing in 14 15 this Section shall affect the right of the State of Illinois 16 to bring an action against any person to recover all costs and damages for which such person is liable under Section 17 22.2 or Section 22.18. 18

(h) Any liability to the State under Section 22.2 or
Section 22.18 shall constitute a debt to the State. Interest
on such debt shall begin to accrue at a rate of 12% per annum
from the date of the filing of the Notice of Environmental
Reclamation Lien under paragraph (c). Accrued interest shall
be included as a cost incurred by the State of Illinois under
Section 22.2 or Section 22.18.

26 (i) "Environmental reclamation lien" means a lien 27 established under this Section.

28 (Source: P.A. 90-655, eff. 7-30-98.)

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(415 ILCS 5/21.5) (from Ch. 111 1/2, par. 1021.5)
 Sec. 21.5. Toxic packaging reduction.

31 (a) For the purposes of this Section, the following 32 terms have the meanings ascribed to them in this subsection: 33 "Distributor" means any person, firm, or corporation -103-

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that takes title to goods purchased for resale.

2 "Package" means a container providing a direct means of marketing, protecting, or handling a product, and 3 4 includes a product unit package, an intermediate package, or a shipping container as defined by ASTM 5 D996. "Package" shall also include such unsealed consumer 6 7 product receptacles as carrying cases, crates, cups, 8 pails, rigid foil and other trays, wrappers and wrapping 9 films, bags, and tubs.

10 "Packaging component" means any individual assembled 11 part of a package including, but not limited to, any 12 interior or exterior blocking, bracing, cushioning, 13 weatherproofing, coatings, closure, ink, and labeling; 14 except that coatings shall not include a thin tin layer 15 applied to base steel or sheet steel during manufacturing 16 of the steel or package.

(b) Beginning July 1, 1994, no package or packaging 17 component may be offered for sale or promotional purposes in 18 this State, by its manufacturer or distributor, if the 19 20 package itself or any packaging component includes any ink, 21 dye, pigment, adhesive, stabilizer, or other additive that 22 contains lead, cadmium, mercury or hexavalent chromium that 23 has been intentionally introduced during manufacturing or distribution. 24

(c) Beginning July 1, 1994, no product may be offered 25 for sale or for promotional purposes in this State by its 26 manufacturer or distributor in Illinois in a package that 27 includes, in the package itself or in any of its packaging 28 29 components, any ink, dye, pigment, adhesive, stabilizer, or 30 other additive that contains lead, cadmium, mercury or hexavalent chromium that has been intentionally introduced 31 during manufacturing or distribution. 32

33 (d) No package or packaging component, and no product in34 a package, may be offered for sale or promotional purposes in

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1 this State if the sum of the concentration levels of lead, 2 cadmium, mercury, or hexavalent chromium present in the package or packaging component, but not intentionally 3 4 introduced by the manufacturer or distributor, exceeds the following limits: 5 (1) 600 parts per million by weight (0.06%) 6 7 beginning July 1, 1994. 8 (2) 250 parts per million by weight (0.025%) 9 beginning July 1, 1995. (3) 100 parts per million by weight 10 (0.01%) 11 beginning July 1, 1996. 12 The following packages and packaging components are (e) 13 not subject to this Section: (1) Those packages or packaging components with a 14 15 code indicating a date of manufacture before July 1, 16 1994. 17 (2) Those packages or packaging components for which an exemption has been granted by the Agency under 18 19 subsection (f). (3) Until July 1, 1998, packages and packaging 20 21 components that would not exceed the maximum contaminant 22 levels set forth in subsection (d) of this Section but 23 for the addition of post consumer materials. (4) Those packages or packaging components used to 24 25 contain wine or distilled spirits that have been bottled before July 1, 1994. 26 (5) Packaging components, including but not limited 27 seals, fasteners, and other industrial 28 to strapping, 29 packaging components intended to protect, secure, close, 30 unitize or provide pilferage protection for any product destined for commercial use. 31 (6) Those in transporting, 32 packages used 33 protecting, safe handling or functioning of radiographic

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film.

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1 (f) The Agency may grant an exemption from the 2 requirements of this Section for a package or packaging component to which lead, cadmium, mercury, or hexavalent 3 4 chromium has been added in the manufacturing, forming, 5 printing, or distribution process in order to comply with 6 health or safety requirements of federal law or because there 7 is not a feasible alternative. These exemptions shall be 8 granted, upon application of the manufacturer of the package 9 or packaging component, for a period of 2 years and are renewable for periods of 2 years. If the Agency denies a 10 11 request for exemption, or fails to take final action on a request within 180 days, the applicant may seek review from 12 the Board in the same manner as in the case of a permit 13 denial. Any other party to the Agency proceeding may seek 14 15 review in the manner provided in subsection (c) of Section 16 40.

For the purposes of this subsection, a use for which there is no feasible alternative is one in which the regulated substance is essential to the protection, safe handling, or function of the package's contents.

The Agency may enter into reciprocal agreements with other states that have adopted similar restrictions on toxic packaging and may accept exemptions to those restrictions granted by such states. Prior to taking such action, the Agency shall provide for public notice in the Environmental Register and for a 30-day comment period.

Beginning July 1, 1994, a certificate of compliance 27 (g) stating that a package or packaging component 28 is in compliance with the requirements of this Section shall be 29 30 furnished by its manufacturer or supplier to its distributor, or shall be maintained by the manufacturer in Illinois if the 31 32 manufacturer is also the distributor. If compliance is achieved only under the exemption provided in subdivision 33 34 (e)(2) or (e)(3), the certificate shall state the specific

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1 basis upon which the exemption is claimed. The certificate of 2 compliance shall be signed by an authorized official of the manufacturer or supplier. The certificate can be for the 3 4 entire class, type, or category of packaging or a particular product regulated under this Act, and a certificate need not 5 6 be provided or maintained for each individual package, 7 packaging component, or packaging for a product. The 8 manufacturer or distributor in Illinois shall retain the 9 certificate of compliance for as long as the package or packaging component is in use. A copy of the certificate of 10 11 compliance shall be kept on file by the manufacturer or 12 supplier of the package or packaging component. Certificates of compliance, or copies thereof, shall be furnished to the 13 Agency upon its request and to members of the public in 14 accordance with subsection (i). 15

16 If the manufacturer or supplier of the package or 17 packaging component reformulates or creates a new package or 18 packaging component, the manufacturer or supplier shall 19 provide an amended or new certificate of compliance for the 20 reformulated or new package or packaging component.

21 (h) (Blank.) The-Agency-shall-review--the--effectiveness 22 of--this--Section--no--later--than-January-1,-1996,-and-shall 23 provide-a-report-based-upon-that-review-to-the--Governor--and the---General---Assembly-----The---report---shall--contain--a 24 25 recommendation-whether-to-continue--the--recycling--exemption provided---in--subdivision--(e)(3)--of--this--Section--and--a 26 27 description-of-the-nature-of-the-substitutes-used-in-lieu--of lead_-mercury_-cadmium_-and-hexavalent-chromium. 28

(i) Any request from a member of the public for any certificate of compliance from the manufacturer or supplier of a package or packaging component shall be:

32 (1) made in writing and transmitted by registered
33 mail with a copy provided to the Agency;

34 (2) specific as to the package or packaging

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component information requested; and

(3) responded to by the manufacturer or supplier within 60 days. 3

4 The provisions of this Section shall not apply to (j) any glass or ceramic product used as packaging that is 5 6 intended to be reusable or refillable, and where the lead and 7 cadmium from the product do not exceed Toxicity the 8 Characteristic Leachability Procedures of leachability of lead and cadmium as set forth by the U.S. Environmental 9 Protection Agency. 10

(Source: P.A. 89-79, eff. 6-30-95.) 11

(415 ILCS 5/22.2) (from Ch. 111 1/2, par. 1022.2) 12

Sec. 22.2. Hazardous waste; fees; liability. 13

14 There are hereby created within the State Treasury 2 (a) 15 special funds to be known respectively as the "Hazardous Waste Fund" and the "Hazardous Waste Research Fund", 16 17 constituted from the fees collected pursuant to this Section. 18 In addition to the fees collected under this Section, the Hazardous Waste Fund shall include other moneys made 19 20 available from any source for deposit into the Fund.

21 (b) (1) On and after January 1, 1989, the Agency shall 22 collect from the owner or operator of each of the following sites a fee in the amount of: 23

24 (A) 6--cents--per--gallon--or-\$12.12-per-cubic 25 yard-of-hazardous-waste-disposed-for-1989,-7.5-cents per-gallon-or-\$15.15-per-cubic-yard-for-1990--and 9 26 or \$18.18 per cubic yard 27 cents per gallon 28 thereafter, if the hazardous waste disposal site is 29 located off the site where such waste was produced. The maximum amount payable under this subdivision 30 (A) with respect to the hazardous waste generated by 31 a single generator and deposited in monofills is 32 \$20,000 per \$20,000 for 1989, \$25,000 for 1990, and \$30,000 per 33

1 year thereafter. If, as a result of the use of 2 multiple monofills, waste fees in excess of the 3 maximum are assessed with respect to a single waste 4 generator, the generator may apply to the Agency for 5 a credit.

(B) 6-cents-per-gallon-or--\$12.12-per-cubic 6 7 yard-of-hazardous-waste-disposed-for-1989,-7.5-cents 8 per--gallon--or-\$15.15-per-cubic-yard-for-1990-and 9 9 cents or \$18.18 per cubic yard thereafter, if the hazardous waste disposal site is located on the site 10 11 where such waste was produced, provided however the maximum amount of fees payable under this paragraph 12 (B) is \$20,000--for--1989,--\$25,000--for--1990-and 13 \$30,000 per year thereafter for each such hazardous 14 15 waste disposal site.

16 (C) If the hazardous waste disposal site is an 17 underground injection well, \$6,000 per year if not 18 more than 10,000,000 gallons per year are injected, 19 \$15,000 per year if more than 10,000,000 gallons but 20 not more than 50,000,000 gallons per year are 21 injected, and \$27,000 per year if more than 22 50,000,000 gallons per year are injected.

23 (D) 2-cents-per-gallon-or-\$4.04-per-cubic-yard 24 for-1989,-2.5-cents-per-gallon-or--\$5.05--per--cubic 25 yard--for--1990,-and 3 cents per gallon or \$6.06 per cubic yard thereafter of hazardous waste received 26 27 for treatment at a hazardous waste treatment site, if the hazardous waste treatment site is located off 28 29 the site where such waste was produced and if such 30 hazardous waste treatment site is owned, controlled 31 and operated by a person other than the generator of such waste. After treatment at such hazardous waste 32 treatment site, the waste shall not be subject to 33 any other fee imposed by this subsection (b). For 34

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purposes of this subsection (b), the term "treatment" is defined as in Section <u>3.505</u> 3.49 but shall not include recycling, reclamation or reuse.

4 (2) The General Assembly shall annually appropriate
5 to the Fund such amounts as it deems necessary to fulfill
6 the purposes of this Act.

7 (3) The Agency shall have the authority to accept,
8 receive, and administer on behalf of the State any moneys
9 made available to the State from any source for the
10 purposes of the Hazardous Waste Fund set forth in
11 subsection (d) of this Section.

(4) Of the amount collected as fees provided for in 12 13 this Section, the Agency shall manage the use of such funds to assure that sufficient funds are available for 14 match towards federal expenditures for response action at 15 16 sites which are listed on the National Priorities List; however, that this shall not apply to 17 provided, additional monies appropriated to the Fund by the General 18 Assembly, nor shall it apply in the event that the 19 Director finds that revenues in the Hazardous Waste Fund 20 21 must be used to address conditions which create or may 22 create an immediate danger to the environment or public 23 health or to the welfare of the people of the State of Illinois. 24

25 (5) Notwithstanding the other provisions of this subsection (b), sludge from a publicly-owned sewage works 26 generated in Illinois, coal mining wastes and refuse 27 generated in Illinois, bottom boiler ash, flyash and flue 28 gas desulphurization sludge from public utility electric 29 generating facilities located in Illinois, and bottom 30 boiler ash and flyash from all incinerators which process 31 solely municipal waste shall not be subject to the fee. 32

33 (6) For the purposes of this subsection (b),
34 "monofill" means a facility, or a unit at a facility,

that accepts only wastes bearing the same USEPA hazardous
 waste identification number, or compatible wastes as
 determined by the Agency.

4 The Agency shall establish procedures, not (C) later than January 1, 1984, relating to the collection of the fees 5 authorized by this Section. Such procedures shall include, 6 7 but not be limited to: (1) necessary records identifying the 8 quantities of hazardous waste received or disposed; (2) the 9 form and submission of reports to accompany the payment of fees to the Agency; and (3) the time and manner of payment of 10 11 fees to the Agency, which payments shall be not more often 12 than quarterly.

(d) Beginning July 1, 1996, the Agency shall deposit all such receipts in the State Treasury to the credit of the Hazardous Waste Fund, except as provided in subsection (e) of this Section. All monies in the Hazardous Waste Fund shall be used by the Agency for the following purposes:

(1) Taking whatever preventive or corrective action 18 is necessary or appropriate, in circumstances certified 19 by the Director, including but not limited to removal or 20 21 remedial action whenever there is а release or 22 substantial threat of a release of a hazardous substance 23 or pesticide; provided, the Agency shall expend no more \$1,000,000 24 than on any single incident without appropriation by the General Assembly. 25

26 (2) To meet any requirements which must be met by
27 the State in order to obtain federal funds pursuant to
28 the Comprehensive Environmental Response, Compensation
29 and Liability Act of 1980, (P.L. 96-510).

30 (3) In an amount up to 30% of the amount collected
31 as fees provided for in this Section, for use by the
32 Agency to conduct groundwater protection activities,
33 including providing grants to appropriate units of local
34 government which are addressing protection of underground

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waters pursuant to the provisions of this Act.

2 (4) To fund the development and implementation of
3 the model pesticide collection program under Section 19.1
4 of the Illinois Pesticide Act.

5 (5) To the extent the Agency has received and 6 deposited monies in the Fund other than fees collected 7 under subsection (b) of this Section, to pay for the cost 8 of Agency employees for services provided in reviewing 9 the performance of response actions pursuant to Title 10 XVII of this Act.

11 (6) In an amount up to 15% of the fees collected 12 annually under subsection (b) of this Section, for use by 13 the Agency for administration of the provisions of this 14 Section.

Agency shall deposit 10% of all receipts 15 (e) The 16 collected under subsection (b) of this Section, but not to exceed \$200,000 per year, in the State Treasury to the credit 17 of the Hazardous Waste Research Fund established by this Act. 18 19 Pursuant to appropriation, all monies in such Fund shall be used by the Department of Natural Resources for the purposes 20 21 set forth in this subsection.

The Department of Natural Resources may enter 22 into 23 contracts with business, industrial, university, governmental or other qualified individuals or organizations to assist in 24 25 the research and development intended to recycle, reduce the of, separate, detoxify or reduce the hazardous 26 volume properties of hazardous wastes in Illinois. Monies 27 in the Fund may also be used by the Department of Natural Resources 28 29 for technical studies, monitoring activities, and educational 30 and research activities which are related to the protection underground waters. Monies in the Hazardous Waste 31 of 32 Research Fund may be used to administer the Illinois Health 33 Hazardous Substances Registry Act. Monies in the and 34 Hazardous Waste Research Fund shall not be used for any

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1 sanitary landfill or the acquisition or construction of any 2 facility. This does not preclude the purchase of equipment 3 for the purpose of public demonstration projects. The 4 Department of Natural Resources shall adopt guidelines for 5 cost sharing, selecting, and administering projects under 6 this subsection.

7 (f) Notwithstanding any other provision or rule of law, 8 and subject only to the defenses set forth in subsection (j) 9 of this Section, the following persons shall be liable for 10 all costs of removal or remedial action incurred by the State 11 of Illinois or any unit of local government as a result of a 12 release or substantial threat of a release of a hazardous 13 substance or pesticide:

14 (1) the owner and operator of a facility or vessel 15 from which there is a release or substantial threat of 16 release of a hazardous substance or pesticide;

(2) any person who at the time of disposal, transport, storage or treatment of a hazardous substance or pesticide owned or operated the facility or vessel used for such disposal, transport, treatment or storage from which there was a release or substantial threat of a release of any such hazardous substance or pesticide;

23 (3) any person who by contract, agreement, or otherwise has arranged with another party or entity for 24 25 transport, storage, disposal or treatment of hazardous substances or pesticides owned, controlled or possessed 26 by such person at a facility owned or operated by another 27 party or entity from which facility there is a release or 28 29 substantial threat of a release of such hazardous 30 substances or pesticides; and

31 (4) any person who accepts or accepted any 32 hazardous substances or pesticides for transport to 33 disposal, storage or treatment facilities or sites from 34 which there is a release or a substantial threat of a

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release of a hazardous substance or pesticide.

2 Any monies received by the State of Illinois pursuant to this subsection (f) shall be deposited in the State Treasury 3 4 to the credit of the Hazardous Waste Fund.

In accordance with the other provisions of this Section, 5 6 costs of removal or remedial action incurred by a unit of 7 local government may be recovered in an action before the Board brought by the unit of local government under 8 9 subsection (i) of this Section. Any monies so recovered shall be paid to the unit of local government. 10

11 (g)(1) No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer 12 from the owner or operator of any vessel or facility or 13 from any person who may be liable for a release or 14 substantial threat of a release under this Section, to 15 16 any other person the liability imposed under this Section. Nothing in this Section shall bar any agreement 17 to insure, hold harmless or indemnify a party to such 18 agreements for any liability under this Section. 19

20 (2) Nothing in this Section, including the 21 provisions of paragraph (g)(1) of this Section, shall bar 22 a cause of action that an owner or operator or any other 23 person subject to liability under this Section, or a guarantor, has or would have, by reason of subrogation or 24 25 otherwise against any person.

26

(h) For purposes of this Section:

27

(1) The term "facility" means:

(A) any building, structure, 28 installation, 29 equipment, pipe or pipeline including but not 30 limited to any pipe into a sewer or publicly owned works, well, pit, pond, lagoon, 31 treatment impoundment, ditch, landfill, storage container, 32 33 motor vehicle, rolling stock, or aircraft; or 34

(B) any site or area where a hazardous

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substance has been deposited, stored, disposed of,
 placed, or otherwise come to be located.
 (2) The term "owner or operator" means:

4 (A) any person owning or operating a vessel or
5 facility;

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(B) in the case of an abandoned facility, any person owning or operating the abandoned facility or any person who owned, operated, or otherwise controlled activities at the abandoned facility immediately prior to such abandonment;

11 (C) in the case of a land trust as defined in 12 Section 2 of the Land Trustee as Creditor Act, the 13 person owning the beneficial interest in the land 14 trust;

in the case of a fiduciary (other than a 15 (D) 16 land trustee), the estate, trust estate, or other interest in property held in a fiduciary capacity, 17 and not the fiduciary. For the purposes of this 18 Section, "fiduciary" means a trustee, executor, 19 administrator, guardian, receiver, conservator or 20 other person holding a facility or vessel in a 21 22 fiduciary capacity;

23 in the case of a "financial institution", (E) meaning the Illinois Housing Development Authority 24 25 and that term as defined in Section 2 of the Illinois Banking Act, that has acquired ownership, 26 27 operation, management, or control of a vessel or facility through foreclosure or under the terms of a 28 29 security interest held by the financial institution 30 or under the terms of an extension of credit made by the financial institution, the financial institution 31 only if the financial institution takes possession 32 33 of the vessel or facility and the financial 34 institution exercises actual, direct, and continual

1 or recurrent managerial control in the operation of 2 the vessel or facility that causes a release or 3 substantial threat of a release of a hazardous 4 substance or pesticide resulting in removal or 5 remedial action;

(F) In the case of an owner of residential 6 7 property, the owner if the owner is a person other 8 than an individual, or if the owner is an individual 9 who owns more than 10 dwelling units in Illinois, or 10 if the owner, or an agent, representative, 11 contractor, or employee of the owner, has caused, 12 contributed to, or allowed the release or threatened 13 release of a hazardous substance or pesticide. The term "residential property" means single family 14 15 residences of one to 4 dwelling units, including 16 accessory land, buildings, or improvements incidental to those dwellings that are exclusively 17 used for the residential use. For purposes of this 18 subparagraph (F), the term "individual" means a 19 20 natural person, and shall not include corporations, 21 partnerships, trusts, or other non-natural persons.

(G) In the case of any facility, title or
control of which was conveyed due to bankruptcy,
foreclosure, tax delinquency, abandonment, or
similar means to a unit of State or local
government, any person who owned, operated, or
otherwise controlled activities at the facility
immediately beforehand.

(H) The term "owner or operator" does not
include a unit of State or local government which
acquired ownership or control through bankruptcy,
tax delinquency, abandonment, or other circumstances
in which the government acquires title by virtue of
its function as sovereign. The exclusion provided

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1 under this paragraph shall not apply to any State or 2 local government which has caused or contributed to the release or threatened release of a hazardous 3 4 substance from the facility, and such a State or local government shall be subject to the provisions 5 of this Act in the same manner and to the same 6 7 extent, both procedurally and substantively, as any 8 nongovernmental entity, including liability under 9 Section 22.2(f).

The costs and damages provided for in this Section 10 (i) 11 may be imposed by the Board in an action brought before the Board in accordance with Title VIII of this Act, except that 12 13 Section 33(c) of this Act shall not apply to any such action. (j) (1) There shall be no liability under this Section 14 15 for a person otherwise liable who can establish by a 16 preponderance of the evidence that the release or substantial threat of release of a hazardous substance and the damages 17 resulting therefrom were caused solely by: 18

19

(A) an act of God;

20

(B) an act of war;

21 (C) an act or omission of a third party other than 22 an employee or agent of the defendant, or other than one 23 whose act or omission occurs in connection with a relationship, existing 24 contractual directly or indirectly, with the defendant (except where the sole 25 contractual arrangement arises from a published tariff 26 and acceptance for carriage by a common carrier by rail), 27 if the defendant establishes by a preponderance of the 28 29 evidence that (i) he exercised due care with respect to 30 hazardous substance concerned, taking the into 31 consideration the characteristics of such hazardous substance, in light of all relevant facts 32 and circumstances, and (ii) he took precautions against 33 foreseeable acts or omissions of any such third party and 34

1 2 the consequences that could foreseeably result from such acts or omissions; or

3

(D) any combination of the foregoing paragraphs.

4 There shall be no liability under this Section for (2) any release permitted by State or federal law. 5

(3) There shall be no liability under this Section for 6 7 damages as a result of actions taken or omitted in the course of rendering care, assistance, or advice in accordance with 8 9 this Section or the National Contingency Plan pursuant to the 10 Comprehensive Environmental Response, Compensation and 11 Liability Act of 1980 (P.L. 96-510) or at the direction of an on-scene coordinator appointed under such plan, with respect 12 13 to an incident creating a danger to public health or welfare or the environment as a result of any release of a hazardous 14 substance or a substantial threat thereof. 15 This subsection 16 shall not preclude liability for damages as the result of gross negligence or intentional misconduct on the part of 17 such person. For the purposes of the preceding sentence, 18 19 reckless, willful, or wanton misconduct shall constitute 20 gross negligence.

21 (4) There shall be no liability under this Section for 22 any person (including, but not limited to, an owner of 23 residential property who applies a pesticide to the residential property or who has another person apply a 24 25 pesticide to the residential property) for response costs or damages as the result of the storage, handling and use, or 26 recommendation for storage, handling and use, of a pesticide 27 consistent with: 28

29

(A) its directions for storage, handling and use as 30 stated in its label or labeling;

31 (B) its warnings and cautions as stated in its label or labeling; and 32

(C) the uses for which it is registered under 33 the 34 Federal Insecticide, Fungicide and Rodenticide Act and 1

the Illinois Pesticide Act.

2 (4.5) There shall be no liability under subdivision (f)(1) of this Section for response costs or damages as the 3 4 result of a release of a pesticide from an agrichemical 5 facility site if the Agency has received notice from the 6 Department of Agriculture pursuant to Section 19.3 of the 7 Illinois Pesticide Act, the owner or operator of the 8 agrichemical facility is proceeding with a corrective action 9 plan under the Agrichemical Facility Response Action Program implemented under that Section, and the Agency has provided a 10 11 written endorsement of a corrective action plan.

(4.6) There shall be no liability under subdivision 12 (f)(1) of this Section for response costs or damages as the 13 result of a substantial threat of a release of a pesticide 14 15 from an agrichemical facility site if the Agency has received 16 notice from the Department of Agriculture pursuant to Section 19.3 of the Illinois Pesticide Act and the owner or operator 17 of the agrichemical facility is proceeding with a corrective 18 action plan under the Agrichemical Facility Response Action 19 Program implemented under that Section. 20

(5) Nothing in this subsection (j) shall affect or 21 modify in any way the obligations or liability of any person 22 23 under any other provision of this Act or State or federal law, including common law, for damages, injury, or loss 24 25 resulting from a release or substantial threat of a release of any hazardous substance or for removal or remedial action 26 or the costs of removal or remedial action of such hazardous 27 substance. 28

29 (6)(A) The term "contractual relationship", for the 30 purpose of this subsection includes, but is not limited to, 31 land contracts, deeds or other instruments transferring title 32 or possession, unless the real property on which the facility 33 concerned is located was acquired by the defendant after the 34 disposal or placement of the hazardous substance on, in, or -119-

1 at the facility, and one or more of the circumstances 2 described in clause (i), (ii), or (iii) of this paragraph is 3 also established by the defendant by a preponderance of the 4 evidence:

5 (i) At the time the defendant acquired the facility 6 the defendant did not know and had no reason to know that 7 any hazardous substance which is the subject of the 8 release or threatened release was disposed of on, in or 9 at the facility.

10 (ii) The defendant is a government entity which 11 acquired the facility by escheat, or through any other 12 involuntary transfer or acquisition, or through the 13 exercise of eminent domain authority by purchase or 14 condemnation.

15 (iii) The defendant acquired the facility by16 inheritance or bequest.

17 In addition to establishing the foregoing, the defendant 18 must establish that he has satisfied the requirements of 19 subparagraph (C) of paragraph (l) of this subsection (j).

(B) To establish the defendant had no reason to know, as 20 21 provided in clause (i) of subparagraph (A) of this paragraph, 22 the defendant must have undertaken, at the time of 23 acquisition, all appropriate inquiry into the previous ownership and uses of the property consistent with good 24 25 commercial or customary practice in an effort to minimize 26 liability. For purposes of the preceding sentence, the court 27 shall take into account any specialized knowledge or experience on the part of the defendant, the relationship of 28 29 the purchase price to the value of the property if 30 uncontaminated, commonly known or reasonably ascertainable 31 information about the property, the obviousness of the 32 presence or likely presence of contamination at the property, 33 and the ability to detect such contamination by appropriate 34 inspection.

1 (C) Nothing in this paragraph (6) or in subparagraph (C) 2 of paragraph (1) of this subsection shall diminish the liability of any previous owner or operator of such facility 3 4 who would otherwise be liable under this Act. Notwithstanding this paragraph (6), if the defendant 5 obtained actual б knowledge of the release or threatened release of a hazardous 7 substance at such facility when the defendant owned the real 8 property and then subsequently transferred ownership of the 9 property to another person without disclosing such knowledge, such defendant shall be treated as liable under subsection 10 11 (f) of this Section and no defense under subparagraph (C) of 12 paragraph (1) of this subsection shall be available to such defendant. 13

(D) Nothing in this paragraph (6) shall affect the liability under this Act of a defendant who, by any act or omission, caused or contributed to the release or threatened release of a hazardous substance which is the subject of the action relating to the facility.

19 (E) (i) Except as provided in clause (ii) of this subparagraph (E), a defendant who has acquired real property 20 21 shall have established a rebuttable presumption against all 22 State claims and a conclusive presumption against all private 23 party claims that the defendant has made all appropriate inquiry within the meaning of subdivision (6)(B) of this 24 25 subsection (j) if the defendant proves that immediately prior to or at the time of the acquisition: 26

(I) the defendant obtained a Phase I Environmental
Audit of the real property that meets or exceeds the
requirements of this subparagraph (E), and the Phase I
Environmental Audit did not disclose the presence or
likely presence of a release or a substantial threat of a
release of a hazardous substance or pesticide at, on, to,
or from the real property; or

34 (II) the defendant obtained a Phase II

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Environmental Audit of the real property that meets or exceeds the requirements of this subparagraph (E), and the Phase II Environmental Audit did not disclose the presence or likely presence of a release or a substantial threat of a release of a hazardous substance or pesticide at, on, to, or from the real property.

7 (ii) No presumption shall be created under clause (i) of 8 this subparagraph (E), and a defendant shall be precluded 9 from demonstrating that the defendant has made all 10 appropriate inquiry within the meaning of subdivision (6)(B) 11 of this subsection (j), if:

(I) the defendant fails to obtain all Environmental
Audits required under this subparagraph (E) or any such
Environmental Audit fails to meet or exceed the
requirements of this subparagraph (E);

(II) a Phase I Environmental Audit discloses the presence or likely presence of a release or a substantial threat of a release of a hazardous substance or pesticide at, on, to, or from real property, and the defendant fails to obtain a Phase II Environmental Audit;

(III) a Phase II Environmental Audit discloses the presence or likely presence of a release or a substantial threat of a release of a hazardous substance or pesticide at, on, to, or from the real property;

(IV) the defendant fails to maintain a written compilation and explanatory summary report of the information reviewed in the course of each Environmental Audit under this subparagraph (E); or

29 (V) there is any evidence of fraud, material 30 concealment, or material misrepresentation by the 31 defendant of environmental conditions or of related 32 information discovered during the course of an 33 Environmental Audit.

34 (iii) For purposes of this subparagraph (E), the term

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1 "environmental professional" means an individual (other than 2 a practicing attorney) who, through academic training, 3 occupational experience, and reputation (such as engineers, 4 industrial hygienists, or geologists) can objectively conduct 5 one or more aspects of an Environmental Audit and who either:

6 (I) maintains at the time of the Environmental 7 Audit and for at least one year thereafter at least 8 \$500,000 of environmental consultants' professional 9 liability insurance coverage issued by an insurance 10 company licensed to do business in Illinois; or

(II) is an Illinois licensed professional engineer
 or an Illinois licensed industrial hygienist.

13 An environmental professional may employ persons who are 14 not environmental professionals to assist in the preparation 15 of an Environmental Audit if such persons are under the 16 direct supervision and control of the environmental 17 professional.

18 (iv) For purposes of this subparagraph (E), the term 19 "real property" means any interest in any parcel of land, and 20 shall--not--be--limited--to--the-definition-of-the-term-"real 21 property"-contained-in-the-Responsible-Property-Transfer--Act 22 of--1988----For--purposes--of-this-subparagraph-(E),-the-term 23 "real-property" includes, but is not limited to, buildings, 24 fixtures, and improvements.

25 (v) For purposes of this subparagraph (E), the term "Phase I Environmental Audit" means an investigation of real 26 27 conducted by environmental professionals, property, to discover the presence or likely presence of a release or a 28 29 substantial threat of a release of a hazardous substance or 30 pesticide at, on, to, or from real property, and whether a release or a substantial threat of a release of a hazardous 31 substance or pesticide has occurred or may occur at, on, to, 32 or from the real property. The investigation shall include a 33 34 review of at least each of the following sources of

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1 information concerning the current and previous ownership and 2 use of the real property:

3 (I) Recorded chain of title documents regarding the
4 real property, including all deeds, easements, leases,
5 restrictions, and covenants for a period of 50 years.

6 (II) Aerial photographs that may reflect prior uses 7 of the real property and that are reasonably obtainable 8 through State, federal, or local government agencies or 9 bodies.

(III) Recorded environmental cleanup liens, if any,
against the real property that have arisen pursuant to
this Act or federal statutes.

(IV) Reasonably obtainable State, federal, 13 and local government records of sites or facilities at, on, 14 15 or near the real property to discover the presence or 16 likely presence of a hazardous substance or pesticide, and whether a release or a substantial threat of a 17 release of a hazardous substance or pesticide has 18 occurred or may occur at, on, to, or from the real 19 property. Such government records shall include, but not 20 21 be limited to: reasonably obtainable State, federal, and 22 local government investigation reports for those sites or 23 facilities; reasonably obtainable State, federal, and local government records of activities likely to cause or 24 25 contribute to a release or a threatened release of a hazardous substance or pesticide at, on, to, or from the 26 real property, including landfill and other treatment, 27 and disposal location records, underground 28 storage, 29 storage tank records, hazardous waste transporter and generator records, and spill reporting records; and other 30 31 reasonably obtainable State, federal, and local government environmental records that report incidents or 32 33 activities that are likely to cause or contribute to a release or a threatened release of a hazardous substance 34

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1 or pesticide at, on, to, or from the real property. In 2 order to be deemed "reasonably obtainable" as required herein, a copy or reasonable facsimile of the record must 3 4 be obtainable from the government agency by request and 5 upon payment of a processing fee, if any, established by the government agency. The Agency is authorized to 6 7 establish a reasonable fee for processing requests 8 received under this subparagraph (E) for records. All 9 fees collected by the Agency under this clause (V)(IV)10 shall be deposited into the Environmental Protection 11 Permit and Inspection Fund in accordance with Section 22.8. 12

13 Notwithstanding any other law, if-the-fee-is-paid, commencing-on-the-effective-date-of-this--amendatory--Act 14 15 of--1993--and--until-one-year-after-the-effective-date-of 16 this-amendatory-Act-of-1993,-the--Agency--shall--use--its 17 best--efforts--to--process--a-request-received-under-this subparagraph---(E)---as---expeditiously---as---possible. 18 Notwithstanding--any-other-law,-commencing-one-year-after 19 20 the-effective-date-of-this-amendatory-Act-of-1993, if the 21 fee is paid, the Agency shall process a request received 22 under this subparagraph (E) for records within 30 days of the receipt of such request. 23

(V) A visual site inspection of the real property 24 25 and all facilities and improvements on the real property a visual inspection of properties immediately 26 and adjacent to the real property, including an investigation 27 of any use, storage, treatment, spills from use, 28 or 29 disposal of hazardous substances, hazardous wastes, solid wastes, or pesticides. If the person conducting the 30 investigation is denied access to any property adjacent 31 to the real property, the person shall conduct a visual 32 inspection of that adjacent property from the property to 33 which the person does have access and from public 34

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rights-of-way.

2 (VI) A review of business records for activities at
3 or on the real property for a period of 50 years.

4 (vi) For purposes of subparagraph (E), the term "Phase II Environmental Audit" means an investigation of real 5 conducted by environmental professionals, 6 property, subsequent to a Phase I Environmental Audit. If the Phase I 7 8 Environmental Audit discloses the presence or likely presence 9 of a hazardous substance or a pesticide or a release or a substantial threat of a release of a hazardous substance or 10 11 pesticide:

(I) In or to soil, the defendant, as part of the Phase II Environmental Audit, shall perform a series of soil borings sufficient to determine whether there is a presence or likely presence of a hazardous substance or pesticide and whether there is or has been a release or a substantial threat of a release of a hazardous substance or pesticide at, on, to, or from the real property.

19 (II) In or to groundwater, the defendant, as part of the Phase II Environmental Audit, shall: review 20 21 information regarding local geology, water well locations, and locations of waters of the State as may be 22 23 obtained from State, federal, and local government records, including but not limited to the United States 24 25 Geological Service, the State Geological Survey Division of the Department of Natural Resources, and the State 26 Water Survey Division of the Department of Natural 27 Resources; and perform groundwater monitoring sufficient 28 29 to determine whether there is a presence or likely presence of a hazardous substance or pesticide, and 30 whether there is or has been a release or a substantial 31 threat of a release of a hazardous substance or pesticide 32 at, on, to, or from the real property. 33

34 (III) On or to media other than soil or

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1 groundwater, the defendant, as part of the Phase II 2 Environmental Audit, shall perform an investigation 3 sufficient to determine whether there is a presence or 4 likely presence of a hazardous substance or pesticide, 5 and whether there is or has been a release or a 6 substantial threat of a release of a hazardous substance 7 or pesticide at, on, to, or from the real property.

8 (vii) The findings of each Environmental Audit prepared 9 under this subparagraph (E) shall be set forth in a written audit report. Each audit report shall contain an affirmation 10 11 by the defendant and by each environmental professional who prepared the Environmental Audit that the facts stated in the 12 report are true and are made under a penalty of perjury as 13 defined in Section 32-2 of the Criminal Code of 1961. 14 Tt is 15 perjury for any person to sign an audit report that contains 16 a false material statement that the person does not believe 17 to be true.

18 (viii) The Agency is not required to review, approve, or 19 certify the results of any Environmental Audit. The 20 performance of an Environmental Audit shall in no way entitle 21 a defendant to a presumption of Agency approval or 22 certification of the results of the Environmental Audit.

The presence or absence of a disclosure document prepared under the Responsible Property Transfer Act of 1988 shall not be a defense under this Act and shall not satisfy the requirements of subdivision (6)(A) of this subsection (j).

27 No person shall be liable under this Section for (7)response costs or damages as the result of a pesticide 28 29 release if the Agency has found that a pesticide release 30 occurred based on a Health Advisory issued by the U.S. Environmental Protection Agency or an action level developed 31 32 by the Agency, unless the Agency notified the manufacturer of the pesticide and provided an opportunity of not less than 30 33 34 days for the manufacturer to comment on the technical and

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scientific justification supporting the Health Advisory or
 action level.

3 (8) No person shall be liable under this Section for 4 response costs or damages as the result of a pesticide 5 release that occurs in the course of a farm pesticide 6 collection program operated under Section 19.1 of the 7 Illinois Pesticide Act, unless the release results from gross 8 negligence or intentional misconduct.

9 If any person who is liable for a release or (k) substantial threat of release of a hazardous substance or 10 11 pesticide fails without sufficient cause to provide removal or remedial action upon or in accordance with a notice and 12 request by the Agency or upon or in accordance with any order 13 of the Board or any court, such person may be liable to the 14 15 State for punitive damages in an amount at least equal to, 16 and not more than 3 times, the amount of any costs incurred by the State of Illinois as a result of such failure to take 17 18 such removal or remedial action. The punitive damages 19 imposed by the Board shall be in addition to any costs recovered from such person pursuant to this Section and in 20 21 addition to any other penalty or relief provided by this Act 22 or any other law.

Any monies received by the State pursuant to this subsection (k) shall be deposited in the Hazardous Waste Fund.

(1) Beginning January 1, 1988, the Agency shall annually 26 collect a \$250 fee for each Special Waste Hauling Permit 27 Application and, in addition, shall collect a fee of \$20 for 28 each waste hauling vehicle identified in the annual permit 29 30 application and for each vehicle which is added to the permit during the annual period. The Agency shall deposit 85% of 31 32 such fees collected under this subsection in the State Treasury to the credit of the Hazardous Waste Research Fund; 33 and shall deposit the remaining 15% of such fees collected in 34

1 the State Treasury to the credit of the Environmental 2 Protection Permit and Inspection Fund. The majority of such receipts which are deposited in the Hazardous Waste Research 3 4 Fund pursuant to this subsection shall be used by the Department of Natural Resources for activities which relate 5 to the protection of underground waters. Persons engaged in 6 7 the offsite transportation of hazardous waste by highway and 8 participating in the Uniform Program under subsection (1-5) 9 are not required to file a Special Waste Hauling Permit Application. 10

11

(1-5) (1) As used in this subsection:

12 "Base state" means the state selected by a 13 transporter according to the procedures established under 14 the Uniform Program.

"Base state agreement" means an agreement between
participating states electing to register or permit
transporters.

18 "Participating state" means a state electing to
19 participate in the Uniform Program by entering into a
20 base state agreement.

21 "Transporter" means a person engaged in the offsite22 transportation of hazardous waste by highway.

"Uniform application" means the uniform registration
and permit application form prescribed under the Uniform
Program.

26 "Uniform Program" means the Uniform State Hazardous
27 Materials Transportation Registration and Permit Program
28 established in the report submitted and amended pursuant
29 to 49 U.S.C. Section 5119(b), as implemented by the
30 Agency under this subsection.

31 "Vehicle" means any self-propelled motor vehicle, 32 except a truck tractor without a trailer, designed or 33 used for the transportation of hazardous waste subject to 34 the hazardous waste manifesting requirements of 40 U.S.C.

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1 Section 6923(a)(3).

(2) Beginning July 1, 1998, the Agency shall 2 implement the Uniform State Hazardous 3 Materials 4 Transportation Registration and Permit Program. On and after that date, no person shall engage in the offsite 5 transportation of hazardous waste by highway without 6 registering and obtaining a permit under the Uniform 7 Program. A transporter with 8 its principal place of 9 business in Illinois shall register with and obtain a permit from the Agency. A transporter that designates 10 11 another participating state in the Uniform Program as its base state shall likewise register with and obtain a 12 permit from that state before transporting hazardous 13 waste in Illinois. 14

July 1, 1998, the Agency shall 15 (3) Beginning 16 annually collect no more than a \$250 processing and audit fee from each transporter of hazardous waste who has 17 filed a uniform application and, in addition, the Agency 18 19 shall annually collect an apportioned vehicle registration fee of \$20. The amount of the apportioned 20 vehicle registration fee shall be calculated consistent 21 22 with the procedures established under the Uniform 23 Program.

All moneys received by the 24 Agency from the 25 collection of fees pursuant to the Uniform Program shall be deposited into the Hazardous Waste Transporter account 26 hereby created within the Environmental Protection Permit 27 and Inspection Fund. Moneys remaining in the account at 28 29 the close of the fiscal year shall not lapse to the 30 General Revenue Fund. The State Treasurer may receive money or other assets from any source for deposit into 31 the account. The Agency may expend moneys from the 32 33 account, upon appropriation, for the implementation of the Uniform Program, including the costs to the Agency of 34

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1 fee collection and administration. In addition, funds 2 not expended for the implementation of the Uniform 3 Program may be utilized for emergency response and 4 cleanup activities related to hazardous waste 5 transportation that are initiated by the Agency.

Whenever the amount of the Hazardous 6 Waste 7 Transporter account exceeds by 115% the amount annually 8 appropriated by the General Assembly, the Agency shall credit 9 participating transporters an amount, proportionately based on the amount of the vehicle fee paid, equal to the excess in 10 11 the account, and shall determine the need to reduce the 12 amount of the fee charged transporters in the subsequent 13 fiscal year by the amount of the credit.

14 (4) (A) The Agency may propose and the Board shall
15 adopt rules as necessary to implement and enforce the
16 Uniform Program. The Agency is authorized to enter into
17 agreements with other agencies of this State as necessary
18 to carry out administrative functions or enforcement of
19 the Uniform Program.

(B) The Agency shall recognize a Uniform Program
registration as valid for one year from the date a notice
of registration form is issued and a permit as valid for
3 years from the date issued or until a transporter fails
to renew its registration, whichever occurs first.

25 (C) The Agency may inspect or examine any motor 26 vehicle or facility operated by a transporter, including papers, books, records, documents, or other materials 27 to determine if a transporter is complying with the Uniform 28 29 Program. The Agency may also conduct investigations and 30 audits as necessary to determine if a transporter is entitled to a permit or to make suspension or revocation 31 determinations consistent with the standards of the 32 33 Uniform Program.

34

(5) The Agency may enter into agreements with

1 federal agencies, national repositories, or other 2 participating states as necessary to allow for the reciprocal registration and permitting of transporters 3 4 pursuant to the Uniform Program. The agreements may include procedures for determining a base state, the 5 collection and distribution of registration fees, dispute 6 7 resolution, the exchange of information for reporting and 8 enforcement purposes, and other provisions necessary to 9 fully implement, administer, and enforce the Uniform Program. 10

11 (m) (Blank).

12 (n) (Blank).

13 (Source: P.A. 90-14, eff. 7-1-97; 90-219, eff. 7-25-97;
14 90-773, eff. 8-14-98; 91-36, eff. 6-15-99.)

15 (415 ILCS 5/22.2b)

Sec. 22.2b. Limit of liability for prospective purchasers of real property.

18 (a) The State of Illinois may grant a release of 19 liability that provides that a person is not potentially 20 liable under subsection (f) of Section 22.2 of this Act as a 21 result of a release or a threatened release of a hazardous 22 substance or pesticide if:

(1) the person performs the response actions to
remove or remedy all releases or threatened releases of a
hazardous substance or pesticide at an identified area or
at identified areas of the property in accordance with a
response action plan approved by the Agency under this
Section;

(2) the person did not cause, allow, or contribute
to the release or threatened release of a hazardous
substance or pesticide through any act or omission;

32 (3) the person requests, in writing, that the33 Agency provide review and evaluation services under

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1 subsection-(m)-of-Section-22-2-of-this-Act and the Agency 2 agrees to provide the review and evaluation services; and (4) the person is not otherwise liable under 3 4 subsection (f) of Section 22.2 under, and complies with, regulations adopted by the Agency under subsection (e). 5 The Agency may approve a response action plan under 6 (b) 7 this Section, including but not limited to a response action 8 plan that does not require the removal or remedy of all releases or threatened releases of hazardous substances or 9

10 pesticides, if the person described under subsection (a)
11 proves:

12 (1) the response action will prevent or mitigate 13 immediate and significant risk of harm to human life and 14 health and the environment;

15 (2) activities at the property will not cause,
16 allow, contribute to, or aggravate the release or
17 threatened release of a hazardous substance or pesticide;
18 (3) due consideration has been given to the effect

19 that activities at the property will have on the health 20 of those persons likely to be present at the property;

(4) irrevocable access to the property is given to
the State of Illinois and its authorized representatives;
(5) the person is financially capable of performing

24 the proposed response action; and

(6) the person complies with regulations adopted bythe Agency under subsection (e).

27 (c) The limit of liability granted by the State of28 Illinois under this Section does not apply to any person:

(1) Who is potentially liable under subsection (f) of Section 22.2 of this Act for any costs of removal or remedial action incurred by the State of Illinois or any unit of local government as a result of the release or substantial threat of a release of a hazardous substance or pesticide that was the subject of the response action -133-

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plan approved by the Agency under this Section.

2 (2) Who agrees to perform the response action 3 contained in a response action plan approved by the 4 Agency under this Section and fails to perform in 5 accordance with the approved response action plan.

6 (3) Whose willful and wanton conduct contributes to 7 a release or threatened release of a hazardous substance 8 or pesticide.

9 (4) Whose negligent conduct contributes to a 10 release or threatened release of a hazardous substance or 11 pesticide.

12 (5) Who is seeking a construction or development
13 permit for a new municipal waste incinerator or other new
14 waste-to-energy facility.

If a release or threatened release of a hazardous 15 (d) 16 substance or pesticide occurs within the area identified in the response action plan approved by the Agency under this 17 18 Section and such release or threatened release is not 19 specifically identified in the response action plan, for any person to whom this Section applies, the numeric cleanup 20 21 level established by the Agency in the response action plan 22 shall also apply to the release or threatened release not 23 specifically identified in the response action plan if the response action plan has a numeric cleanup level for 24 the 25 hazardous substance or pesticide released or threatened to be released. Nothing in this subsection (d) shall limit the 26 authority of the Agency to require, for any person to whom 27 this Section does not apply, a numeric cleanup level that 28 differs from the numeric cleanup level established in the 29 30 response action plan approved by the Agency under this Section. 31

32 (e) The Agency may adopt regulations relating to this
33 Section. The regulations may include, but are not limited to,
34 both of the following:

1 (1) Requirements and procedures for a response 2 action plan. (2) Additional requirements that a person must meet 3 4 in order not to be liable under subsection (f) of Section 5 22.2. б (Source: P.A. 89-101, eff. 7-7-95; 90-655, eff. 7-30-98.) (415 ILCS 5/22.9) (from Ch. 111 1/2, par. 1022.9) 7 8 Sec. 22.9. Special waste determinations. 9 (Blank.) The--Department--shall-complete-a-study-of (a) 10 the-benefits-and-feasibility--of--establishing--a--system--of 11 elassifying--and-regulating-special-wastes-according-to-their 12 degree-of-hazard---Such-study-shall-include-at-a-minimum-an assessment-of-the-degree--of--hazard--of--the--special--waste 13 14 streams--produced--in--the--State;--alternative--systems--for 15 classifying--these-wastes-according-to-their-degree-of-hazard and-an-evaluation-of--the--benefits--of--assessing--hazardous 16 17 waste--fees--and--developing--storage,-treatment-and-disposal 18 standards-based-on-such-elasses-of--wastes----The--Department 19 shall--report--to--the-Governor,-the-General-Assembly-and-the 20 Pollution-Control-Board-with-the-results--of--such--study--no 21 later-than-July-17-1985-22 Following--the-completion-of-the-Department's-study, (b)

but Not later than December 1, 1990, the Pollution Control Board shall, pursuant to Title VII of the Act, adopt regulations that establish standards and criteria for classifying special wastes according to the degree of hazard or an alternative method.

(c) The Board shall adopt regulations by December 1,
1990, establishing the standards and criteria by which the
Agency may determine upon written request by any person that
a waste or class of waste is not special waste.

32 (d) (Blank.) Until-such-time-as-the-regulations-required
 33 in-subsection-(e)-of-this-Section-are-effective,--any-person

1 may--request--the--Agency--to-determine-that-a-waste-is-not-a 2 special-waste---Within--60--days--of--receipt--of--a--written 3 request,--the--Agency-shall-make-a-final-determination,-which 4 shall-be-based-on-whether-the-waste-would-pose-a--present--or 5 potential--threat-to-human-health-or-to-the-environment-or-if 6 such-waste-has-inherent-properties--which--make--disposal--of such-waste-in-a-landfill-difficult-to-manage-by-normal-means. 7 8 (e) <u>(Blank.)</u> If--the--Agency--denies--a--request--made 9 pursuant-to-subsection-(c)-or-(d)-of-this-Section-or--if--the 10 Agency--fails--to--act--within--60-days-after-receipt-of-such 11 request,-the-requestor--may--seek--review--before--the--Board 12 pursuant--to--Section--40--as--if--the--Agency--had-denied-an 13 application-for-a-permit-

14 (f) The determinations to be made under <u>subsection (c)</u> 15 subsections--(e),-(d)-and-(e) of this Section shall not apply 16 to hazardous waste.

17 (Source: P.A. 89-445, eff. 2-7-96.)

18 (415 ILCS 5/22.15) (from Ch. 111 1/2, par. 1022.15)

19

Sec. 22.15. Solid Waste Management Fund; fees.

20 (a) There is hereby created within the State Treasury a 21 special fund to be known as the "Solid Waste Management Fund" 22 constituted from the fees collected by the State pursuant to this Section and from repayments of loans made from the Fund 23 24 for solid waste projects. Moneys received by the Department of Commerce and Community Affairs in repayment of loans made 25 26 pursuant to the Illinois Solid Waste Management Act shall be 27 deposited into the Solid Waste Management Revolving Loan 28 Fund.

(b) On and after January 1, 1987, the Agency shall assess and collect a fee in the amount set forth herein from the owner or operator of each sanitary landfill permitted or required to be permitted by the Agency to dispose of solid waste if the sanitary landfill is located off the site where 1 such waste was produced and if such sanitary landfill is 2 owned, controlled, and operated by a person other than the generator of such waste. The Agency shall deposit all fees 3 4 collected into the Solid Waste Management Fund. If a site is 5 contiguous to one or more landfills owned or operated by the same person, the volumes permanently disposed of by each 6 7 landfill shall be combined for purposes of determining the 8 fee under this subsection.

9 (1) If more than 150,000 cubic yards of 10 non-hazardous solid waste is permanently disposed of at a site in a calendar year, the owner or operator shall 11 either pay a fee of 45 cents per cubic yard (60e-per)12 eubie--yard--from--January--1,--1989-through-December-31, 13 1993), or, alternatively, the owner or operator may weigh 14 15 the quantity of the solid waste permanently disposed of 16 with a device for which certification has been obtained 17 under the Weights and Measures Act and pay a fee of 95 cents per ton (\$1.27-per-ton-from-January-1.-1989-through 18 December--31,--1993) of solid waste permanently disposed 19 20 An-owner-or-operator-that-is--subject--to--any--fee7 of. 21 tax,---or---surcharge--imposed--under--the--authority--of 22 subsection-(j)-of-this-Section--on--September--26,--1991, with--respect--to--fees--due--to--the--Agency--under-this 23 24 paragraph-after-December-31,-1991-and-before--January--1, 1994,-shall-deduct-from-the-amount-paid-to-the-Agency-the 25 amount-by-which-the-fee-paid-under-subsection-(j)-exceeds 26 27 45--cents-per-cubic-yard-or-95-cents-per-ton. In no case shall the fee collected or paid by the owner or operator 28 29 under this paragraph exceed \$1.05 per cubic yard or \$2.22 30 per ton.

31 (2) If more than 100,000 cubic yards, but not more
32 than 150,000 cubic yards of non-hazardous waste is
33 permanently disposed of at a site in a calendar year, the
34 owner or operator shall pay a fee of \$25,000 (\$33,350--in

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1 19897-1990-and-1991). 2 (3) If more than 50,000 cubic yards, but not more than 100,000 cubic yards of non-hazardous solid waste is 3 4 permanently disposed of at a site in a calendar year, the owner or operator shall pay a fee of \$11,300 (\$15,500-in5 19897-1990-and-1991). 6 7 (4) If more than 10,000 cubic yards, but not more 8 than 50,000 cubic yards of non-hazardous solid waste is permanently disposed of at a site in a calendar year, the 9 owner or operator shall pay a fee of \$3,450 (\$4,650--in 10 11 19897-1990-and-1991). (5) If not more than 10,000 cubic yards of 12 13 non-hazardous solid waste is permanently disposed of at a 14 site in a calendar year, the owner or operator shall pay 15 a fee of \$500 (\$650-in-1989,-1990-and-1991). 16 (c) (Blank.) From--January-1,-1987-through-December-31, 17 1988,-the-fee-set-forth-in-this-Section-shall-not-apply-to: (1)--Solid-waste-which-is-hazardous-waste; 18 19 (2)--Any-landfill-which-is-permitted-by--the--Agency 20 to--receive--only--demolition--or--construction-debris-or 21 landscape-waste;-or 22 (3)--The-following-wastes: 23 (A)--Foundry-sand; 24 (B)--Coal--combustion---by-product,---including 25 serubber--waste-and-fluidized-bed-boiler-waste-which does-not-contain-metal-cleaning-waste; 26 27 (C)--Slag-from--the--manufacture--of--iron--and 28 steel; 29 (D)--Pollution-Control-Waste; (E)--Wastes---from--recycling,--reclamation--or 30 31 reuse-processes-designed-to-remove--any--contaminant from--wastes--so--as-to-render-such-wastes-reusable, 32 33 provided-that-the-process-renders-at--least--50%--of 34 the-waste-reusable;

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1 (F)--Non-hazardous-solid-waste-that-is-received 2 at--a--sanitary--landfill--after-January-1,-1987-and 3 recycled-through-a-process-permitted-by-the-Agency-4 (d) The Agency shall establish rules relating to the collection of the fees authorized by this Section. 5 Such б rules shall include, but not be limited to: 7 (1) necessary records identifying the quantities of

8 solid waste received or disposed;

9 (2) the form and submission of reports to accompany10 the payment of fees to the Agency;

11 (3) the time and manner of payment of fees to the 12 Agency, which payments shall not be more often than 13 quarterly; and

14 (4) procedures setting forth criteria establishing
15 when an owner or operator may measure by weight or volume
16 during any given quarter or other fee payment period.

(e) Pursuant to appropriation, all monies in the Solid 17 18 Waste Management Fund shall be used by the Agency and the 19 Department of Commerce and Community Affairs for the purposes set forth in this Section and in the Illinois Solid Waste 20 21 Management Act, including for the costs of fee collection and 22 administration,-and-through-June-30,-1989,-by-the--University 23 of--Illinois--for-research-consistent-with-the-Illinois-Solid 24 Waste-Management-Act.

25 (f) The Agency is authorized to enter into such 26 agreements and to promulgate such rules as are necessary to 27 carry out its duties under this Section and the Illinois 28 Solid Waste Management Act.

(g) On the first day of January, April, July, and October of each year, beginning on July 1, 1996, the State Comptroller and Treasurer shall transfer \$500,000 from the Solid Waste Management Fund to the Hazardous Waste Fund. Moneys transferred under this subsection (g) shall be used only for the purposes set forth in item (1) of subsection (d)

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1 of Section 22.2.

2 (h) The Agency is authorized to provide financial 3 assistance to units of local government for the performance 4 of inspecting, investigating and enforcement activities 5 pursuant to Section 4(r) at nonhazardous solid waste disposal 6 sites.

7 (i) The Agency is authorized to support the operations
8 of an industrial materials exchange service, and to conduct
9 household waste collection and disposal programs.

(j) A unit of local government, as defined in the Local 10 11 Solid Waste Disposal Act, in which a solid waste disposal facility is located may establish a fee, tax, or surcharge 12 with regard to the permanent disposal of solid waste. 13 All fees, taxes, and surcharges collected under this subsection 14 15 shall be utilized for solid waste management purposes, 16 including long-term monitoring and maintenance of landfills, implementation, inspection, enforcement and other 17 planning, activities consistent with the Solid Waste Management Act and 18 19 the Local Solid Waste Disposal Act, or for any other environment-related purpose, including but not limited to an 20 21 environment-related public works project, but not for the 22 construction of a new pollution control facility other than a 23 household hazardous waste facility. However, the total fee, tax or surcharge imposed by all units of local government 24 25 under this subsection (j) upon the solid waste disposal facility shall not exceed: 26

45¢---per---eubie--yard--(60¢ per cubic yard 27 (1)beginning-January-1,-1992) if more than 150,000 cubic 28 29 yards of non-hazardous solid waste is permanently 30 disposed of at the site in a calendar year, unless the owner or operator weighs the quantity of the solid waste 31 received with a device for which certification has been 32 obtained under the Weights and Measures Act, in which 33 case the fee shall not exceed 95¢-per-ton-(\$1.27 per ton 34

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beginning--January--1,--1992) of solid waste permanently disposed of.

3 (2) \$25,000-(\$33,350 beginning--in--1992) if more
4 than 100,000 cubic yards, but not more than 150,000 cubic
5 yards, of non-hazardous waste is permanently disposed of
6 at the site in a calendar year.

7 (3) \$11,300-(\$15,500 beginning--in--1992) if more
8 than 50,000 cubic yards, but not more than 100,000 cubic
9 yards, of non-hazardous solid waste is permanently
10 disposed of at the site in a calendar year.

11 (4) \$3,450--(\$4,650 beginning-in-1992) if more than 12 10,000 cubic yards, but not more than 50,000 cubic yards, 13 of non-hazardous solid waste is permanently disposed of 14 at the site in a calendar year.

15 (5) \$500--(\$650 beginning-in-1992) if not more than
 10,000 cubic yards of non-hazardous solid waste is
 17 permanently disposed of at the site in a calendar year.

The corporate authorities of the unit of local government 18 19 may use proceeds from the fee, tax, or surcharge to reimburse a highway commissioner whose road district lies wholly or 20 21 partially within the corporate limits of the unit of local 22 government for expenses incurred in the removal of 23 nonhazardous, nonfluid municipal waste that has been dumped on public property in violation of a State law or local 24 25 ordinance.

A county or Municipal Joint Action Agency that imposes a fee, tax, or surcharge under this subsection may use the proceeds thereof to reimburse a municipality that lies wholly or partially within its boundaries for expenses incurred in the removal of nonhazardous, nonfluid municipal waste that has been dumped on public property in violation of a State law or local ordinance.

33 If the fees are to be used to conduct a local sanitary 34 landfill inspection or enforcement program, the unit of local

1 government must enter into a written delegation agreement 2 with the Agency pursuant to subsection (r) of Section 4. The unit of local government and the Agency shall enter into such 3 4 a written delegation agreement within 60 days after the 5 establishment of such fees. or-August-237-19887-whichever-is 6 later --- For-the-year-commencing--January--1,--1989,-- and At 7 least annually thereafter, the Agency shall conduct an audit of the expenditures made by units of local government 8 from 9 the funds granted by the Agency to the units of local government for purposes of local sanitary landfill inspection 10 11 and enforcement programs, to ensure that the funds have been expended for the prescribed purposes under the grant. 12

13 The fees, taxes or surcharges collected under this 14 subsection (j) shall be placed by the unit of local 15 government in a separate fund, and the interest received on 16 the moneys in the fund shall be credited to the fund. The 17 monies in the fund may be accumulated over a period of years 18 to be expended in accordance with this subsection.

19 A unit of local government, as defined in the Local Solid Waste Disposal Act, shall prepare and distribute to the 20 21 Agency, in April of each year, a report that details spending 22 plans for monies collected in accordance with this 23 subsection. The report will at a minimum include the following: 24

25 (1) The total monies collected pursuant to this26 subsection.

27 (2) The most current balance of monies collected28 pursuant to this subsection.

29 (3) An itemized accounting of all monies expended
30 for the previous year pursuant to this subsection.

31 (4) An estimation of monies to be collected for the32 following 3 years pursuant to this subsection.

33 (5) A narrative detailing the general direction and
34 scope of future expenditures for one, 2 and 3 years.

1 The exemptions granted under Sections 22.16 and 22.16a, 2 and under subsections (c) and (k) of this Section, shall be applicable to any fee, tax or surcharge imposed under this 3 4 subsection (j); except that the fee, tax or surcharge 5 authorized to be imposed under this subsection (j) may be 6 made applicable by a unit of local government to the 7 permanent disposal of solid waste after December 31, 1986, 8 under any contract lawfully executed before June 1, 1986 9 under which more than 150,000 cubic yards (or 50,000 tons) of solid waste is to be permanently disposed of, even though the 10 11 waste is exempt from the fee imposed by the State under subsection (b) of this Section pursuant to an exemption 12 granted under Section 22.16. 13

14 (k) In accordance with the findings and purposes of the 15 Illinois Solid Waste Management Act, beginning January 1, 16 1989 the fee under subsection (b) and the fee, tax or 17 surcharge under subsection (j) shall not apply to:

18

19

(1) Waste which is hazardous waste; or

(2) Waste which is pollution control waste; or

20 (3) Waste from recycling, reclamation or reuse 21 processes which have been approved by the Agency as being 22 designed to remove any contaminant from wastes so as to 23 render such wastes reusable, provided that the process 24 renders at least 50% of the waste reusable; or

25 (4) Non-hazardous solid waste that is received at a
26 sanitary landfill and composted or recycled through a
27 process permitted by the Agency; or

(5) Any landfill which is permitted by the Agency
to receive only demolition or construction debris or
landscape waste.

31 (Source: P.A. 89-93, eff. 7-6-95; 89-443, eff. 7-1-96; 32 89-445, eff. 2-7-96; 90-14, eff. 7-1-97; 90-475, eff. 33 8-17-97.) -143-

 1
 (415 ILCS 5/22.16) (from Ch. 111 1/2, par. 1022.16)

 2
 Sec. 22.16. Fee exemptions.

3 (a) The Agency shall grant exemptions from the fee 4 requirements of Section 22.15 of this Act for permanent 5 disposal or transport of solid waste meeting all of the 6 following criteria:

7 (1) permanent disposal of the solid waste is
8 pursuant to a written contract between the owner or
9 operator of the sanitary landfill and some other person,
10 or transport of the solid waste is pursuant to a written
11 contract between the transporter and some other person;

12 (2) the contract for permanent disposal or 13 transport of solid waste was lawfully executed on or 14 before December 31, 1986, and by its express terms 15 continues beyond January 1, 1987, or was lawfully 16 executed during 1987 or 1988 and by its express terms 17 continues beyond January 1, 1989;

18 (3) the contract for permanent disposal or 19 transport of solid waste establishes a fixed fee or 20 compensation, does not allow the operator or transporter 21 to pass the fee through to another party, and does not 22 allow voluntary cancellation or re-negotiation of the 23 compensation or fee during the term of the contract; and

(4) the contract was lawfully executed on or before
December 31, 1986 and has not been amended at any time
after that date, or was lawfully executed during 1987 or
1988 and has not been amended on or after January 1,
1989.

(b) Exemptions granted under this Section shall cause the solid waste received by an owner or operator of a sanitary landfill pursuant to a contract exempted under this Section to be disregarded in calculating the volume or weight of solid waste permanently disposed of during a calendar year under Section 22.15 of this Act. 1 (C) (Blank.) Applications--for--exemptions--under--this 2 Section--may--be--granted--retroactively----Applications-for 3 retroactive-or-prospective-exemptions-must-be-submitted--with 4 proof--of--satisfaction--of--all--criteria--for--granting-the 5 exemption,-and-must-be-received-by-the-Agency-before-March-1, 6 1989-

7 It shall be the duty of an owner or operator of (d) а 8 sanitary landfill to keep accurate records and to prove to 9 the satisfaction of the Agency the volume or weight of solid waste received under an exemption during a calendar year. 10

11 (e) Exemptions under this Section shall expire upon the expiration, renewal or amendment of the exempted contract, 12 whichever occurs first. 13

(Source: P.A. 85-1195.) 14

15

(415 ILCS 5/22.16a) (from Ch. 111 1/2, par. 1022.16a) Sec. 22.16a. Additional fee exemptions. 16

17 In accordance with the findings and purposes of the (a) 18 Illinois Solid Waste Management Act, the Agency shall grant exemptions from the fee requirements of Section 22.15 of this 19 20 Act for solid waste meeting all of the following criteria:

21 (1) the waste is non-putrescible and homogeneous 22 and does not contain free liquids;

(2) combustion of the waste would not provide 23 24 practical energy recovery or practical reduction in 25 volume; and

(3) the applicant for exemption demonstrates that 26 is not technologically and economically reasonable to 27 it. 28 recycle or reuse the waste.

29 Exemptions granted under this Section shall cause (b) the solid waste exempted under subsection (a) which is 30 31 permanently disposed of by an owner or operator of a sanitary landfill to be disregarded in calculating the volume or 32 33 weight of solid waste permanently disposed of during a 1

calendar year under Section 22.15 of this Act.

2 (c) Applications for exemptions under this Section must be submitted on forms provided by the Agency for such 3 4 purpose, together with proof of satisfaction of all criteria 5 for granting the exemption. For-applications-received-before 6 March--17--19897-exemptions-issued-under-subsection-(a)-shall 7 be--effective--as--of--January--17--1989. For applications 8 received on or after March 1, 1989, exemptions issued under 9 subsection (a) shall be effective beginning with the next calendar quarter following issuance of the exemption. 10

(d) If the Agency denies a request made pursuant to subsection (a), the applicant may seek review before the Board pursuant to Section 40 as if the Agency had denied an application for a permit. If the Agency fails to act within 90 days after receipt of an application, the request shall be deemed granted until such time as the Agency has taken final action.

18 (e) It shall be the duty of an owner or operator of a 19 sanitary landfill to keep accurate records and to prove to 20 the satisfaction of the Agency the volume or weight of solid 21 waste received under an exemption during a calendar year. 22 (Source: P.A. 85-1195.)

23 (415 ILCS 5/22.22) (from Ch. 111 1/2, par. 1022.22)

24 Sec. 22.22. Landscape waste.

(a) Beginning July 1, 1990, no person may knowingly mix
landscape waste that is intended for collection or for
disposal at a landfill with any other municipal waste.

(b) Beginning July 1, 1990, no person may knowingly put
landscape waste into a container intended for collection or
disposal at a landfill, unless such container is
biodegradable.

32 (c) Beginning July 1, 1990, no owner or operator of a
 33 sanitary landfill shall accept landscape waste for final

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1 disposal, except that landscape waste separated from 2 municipal waste may be accepted by a sanitary landfill if (1) the landfill provides and maintains for that purpose separate 3 4 landscape waste composting facilities and composts all landscape waste, and (2) the composted waste is utilized, by 5 6 the operators of the landfill or by any other person, as part 7 of the final vegetative cover for the landfill or for such 8 other uses as soil conditioning material, or the landfill has 9 received an Agency permit to use source separated and processed landscape waste as an alternative daily cover and 10 11 the landscape waste is processed at a site, other than the 12 sanitary landfill, that has received an Agency permit before July 30, the-effective-date-of-this-amendatory-Act-of 1997 to 13 process landscape waste. For purposes of this Section, 14 (i) 15 "source separated" means divided into its component parts at 16 the point of generation and collected separately from other solid waste and (ii) "processed" means shredded by mechanical 17 18 means to reduce the landscape waste to a uniform consistency. 19

19 (d) The requirements of this Section shall not apply (i) 20 to landscape waste collected as part of a municipal street 21 sweeping operation where the intent is to provide street 22 sweeping service rather than leaf collection, nor (ii) to 23 landscape waste collected by bar screens or grates in a 24 sewage treatment system.

25 (Source: P.A. 90-266, eff. 7-30-97.)

26 (415 ILCS 5/22.23) (from Ch. 111 1/2, par. 1022.23)

27 Sec. 22.23. Batteries.

(a) Beginning September 1, 1990, any person selling
lead-acid batteries at retail or offering lead-acid batteries
for retail sale in this State shall:

31 (1) accept for recycling used lead-acid batteries
32 from customers, at the point of transfer, in a quantity
33 equal to the number of new batteries purchased; and

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1 (2) post in a conspicuous place a written notice at 2 least 8.5 by 11 inches in size that includes the 3 universal recycling symbol and the following statements: 4 "DO NOT put motor vehicle batteries in the trash."; 5 "Recycle your used batteries."; and "State law requires 6 us to accept motor vehicle batteries for recycling, in 7 exchange for new batteries purchased.".

8 (b) Any person selling lead-acid batteries at retail in 9 this State may either charge a recycling fee on each new 10 lead-acid battery sold for which the customer does not return 11 a used battery to the retailer, or provide a recycling credit 12 to each customer who returns a used battery for recycling at 13 the time of purchasing a new one.

14 (c) Beginning September 1, 1990, no lead-acid battery 15 retailer may dispose of a used lead-acid battery except by 16 delivering it (1) to a battery wholesaler or its agent, (2) 17 to a battery manufacturer, (3) to a collection or recycling 18 facility, or (4) to a secondary lead smelter permitted by 19 either a state or federal environmental agency.

20 (d) Any person selling lead-acid batteries at wholesale 21 or offering lead-acid batteries for sale at wholesale shall 22 accept for recycling used lead-acid batteries from customers, 23 at the point of transfer, in a quantity equal to the number 24 of new batteries purchased. Such used batteries shall be 25 disposed of as provided in subsection (c).

(e) A person who accepts used lead-acid batteries for
recycling pursuant to subsection (a) or (d) shall not allow
such batteries to accumulate for periods of more than 90
days.

30 (f) Beginning September 1, 1990, no person may knowingly 31 cause or allow:

32 (1) the placing of a lead-acid battery into any 33 container intended for collection and disposal at a 34 municipal waste sanitary landfill; or

-148-LRB9210800EGfq 1 (2) the disposal of any lead-acid battery in any 2 municipal waste sanitary landfill or incinerator. The Department of Commerce and Community Affairs 3 (q) 4 shall identify and assist in developing alternative processing and recycling options for used batteries. 5 (h) For the purpose of this Section: 6 7 "Lead-acid battery" means a battery containing lead and sulfuric acid that has a nominal voltage of at least 6 volts 8 9 and is intended for use in motor vehicles. "Motor vehicle" includes automobiles, vans, trucks, 10 11 tractors, motorcycles and motorboats. 12 (i) (Blank.) The--Department--shall--study-the-problems 13 associated-with-household-batteries--that--are--processed--or disposed--of--as-part-of-mixed-solid-waste,-and-shall-develop 14 15 and-implement-a-pilot-project-to--collect--and--recycle--used 16 household---batteries----The--Department--shall--report--its findings-to-the-Governor-and-the-General--Assembly,--together 17 with--any--recommendations--for--legislation,--by-November-1, 18 19 1991-Knowing violation of this Section shall be a petty 20 (j)

21 offense punishable by a fine of \$100.
22 (Source: P.A. 89-445, eff. 2-7-96.)

23 (415 ILCS 5/22.23a)

24 Sec. 22.23a. Fluorescent and high intensity discharge 25 lamps.

As used in this Section, 26 (a) "fluorescent or high intensity discharge lamp" means a 27 lighting device that 28 contains mercury and generates light through the discharge of 29 electricity either directly or indirectly through а fluorescent coating, including a mercury vapor, high pressure 30 31 sodium, or metal halide lamp containing mercury, lead, or 32 cadmium.

33 (b) No person may knowingly cause or allow the disposal

of any fluorescent or high intensity discharge lamp in any
 municipal waste incinerator beginning July 1, 1997. This
 Section does not apply to lamps generated by households.

4 (c) (1) Hazardous fluorescent and hiqh intensity 5 discharge lamps are hereby designated as a category of universal waste subject to the streamlined hazardous 6 7 waste rules set forth in Title 35 of the Illinois 8 Administrative Code, Subtitle G, Chapter I, Subchapter c, 9 Part 733 ("Part 733"). Within 60 days of August 19, 1997 (the effective date of Public Act 90-502) this-amendatory 10 11 Act-of-1997 the Agency shall propose, and within 180 days of receipt of the Agency's proposal the Board shall 12 13 adopt, rules that reflect this designation and that prescribe procedures and standards for the management of 14 15 hazardous fluorescent and high intensity discharge lamps 16 as universal waste.

(2) If the United States Environmental Protection 17 Agency adopts streamlined hazardous waste regulations 18 pertaining to the management of fluorescent and high 19 20 intensity discharge lamps, or otherwise exempts those 21 lamps from regulation as hazardous waste, the Board shall 22 adopt an equivalent rule in accordance with Section 7.2 23 of this Act within 180 days of adoption of the federal regulation. The equivalent Board rule may serve as an 24 alternative to the rules adopted under subdivision (1) of 25 this subsection. 26

(d) <u>(Blank.)</u> Until--the--Board-adopts-rules-pursuant-to subsection-(c),--fluorescent--and--high--intensity--discharge lamps--shall--be-managed-in-accordance-with-existing-laws-and regulations-or-under-the-following-conditions;

31 (1)--after-being-removed-from-service,-the-generator 32 stores-the-lamps-in-a--safe--manner--that--minimizes--the 33 chance-of-breakage;

34

(2)--no--lamps--are-stored-longer-than-6-months-from

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1 the-time-they-are-removed-from-service; 2 (3)--the-generator-delivers-the-lamps-to-a--licensed 3 hauler-that-will-deliver-the-lamps-to-a-recycler;-and 4 (4)--the-lamps-are-transported-in-a-safe-manner-that 5 minimizes-the-chance-of-breakage. The---Agency---shall--study--the--problem 6 (e) <u>(Blank.)</u> 7 associated-with-used-fluorescent-and-high-intensity-discharge 8 lamps-that-are-processed-or-disposed--of--as--part--of--mixed solid--waste,--and--shall--identify--possible--collection-and 9 10 recycling-systems-for-used--fluorescent--and--high--intensity 11 discharge-lamps---The-Agency-shall-report-its-findings-to-the 12 General-Assembly-and-the-Governor-by-January-1,-1998. (Source: P.A. 89-619, eff. 1-1-97; 90-502, eff. 8-19-97.) 13 14 (415 ILCS 5/22.27) (from Ch. 111 1/2, par. 1022.27) 15 Sec. 22.27. Alternative Daily Cover for Sanitary Landfills. 16 17 (a) The-Agency-shall-investigate--alternative--materials to--soil--as--daily--cover--at--sanitary-landfills,-including 18 chemical-foam,-grit-and-nonputrescible-residuals--from--solid 19 20 waste---recycling---facilities,---shredded---tire---material, 21 hydromulch--produced--from-newsprint-or-other-wastepaper,-and 22 finished--compost----The--investigation---shall---include---a 23 comparative--cost--analysis--of--each-alternative-material-to 24 soil,-environmental-suitability-of--each--material,--and--any 25 potential-savings-in-landfill-capacity-resulting-from-the-use 26 of-an-alternative-cover-material.--The-Agency-shall-report-to 27 the-General-Assembly-by-September-1,-1992,-on-the-feasibility 28 of---alternative---materials--for--daily--cover--at--sanitary landfills. If the Agency determines that any or all chemical 29 30 foams provides a cover material that is as good as, or better than, the traditional soil cover commonly used in this State, 31 the Agency shall certify that material as meeting the 32 33 requirements of this Section. If the Agency determines that

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any alternative materials other than chemical foams adequately satisfies daily cover requirements at sanitary landfills, it shall permit use of such materials at such facilities. The-Department-shall-cooperate-with--the--Agency in--the--conduct--of-the-investigation-and-report-required-by this-subsection-(a)-of-this-Section.

7 (b) In complying with the daily cover requirements 8 imposed on sanitary landfills by Board regulation, the 9 operator of a sanitary landfill may use any foam that has 10 been certified by the Agency under this Section in place of a 11 soil cover.

12 (Source: P.A. 87-727.)

13 (415 ILCS 5/22.33)

14

Sec. 22.33. Compost quality standards.

15 (a) By January 1, 1994, the Agency shall develop and 16 make recommendations to the Board concerning (i) performance 17 standards for landscape waste compost facilities and (ii) 18 testing procedures and standards for the end-product compost 19 produced by landscape waste compost facilities.

20 The--Agency,--in--cooperation--with-the-Department,-shall 21 appoint-a-Technical-Advisory-Committee--for--the--purpose--of 22 developing--these--recommendations----Among-other-things,-the Committee---shall---evaluate---environmental----and----safety 23 24 considerations,--compliance-costs,-and-regulations-adopted-in other--states--and--countries----The--Committee--shall---have 25 26 balanced----representation----and---shall---include---members 27 representing---academia,---the---composting---industry,---the 28 Department--of---Agriculture,---the---landscaping---industry, 29 environmental-organizations,-municipalities,-and-counties.

30 Performance standards for landscape waste compost 31 facilities shall at a minimum include:

32 (1) the management of odor;

33 (2) the management of surface water;

1 (3) contingency planning for handling end-product 2 compost material that does not meet requirements of 3 subsection (b); 4 (4) plans for intended purposes of end-use product;

6 (5) a financial assurance plan necessary to restore 7 the site as specified in Agency permit.

(b) By December 1, 1997, the Board shall adopt:

9 (1) performance standards for landscape waste 10 compost facilities; and

11 (2) testing procedures and standards for the 12 end-product compost produced by landscape waste compost 13 facilities.

14 The Board shall evaluate the merits of different 15 standards for end-product compost applications.

16 (c) On-site composting that is used solely for the purpose of composting landscape waste generated on-site and 17 that will not be offered for off-site sale or use is exempt 18 19 from any standards promulgated under subsections (a) and (b). Subsection (b)(2) shall not apply to end-product compost used 20 21 as daily cover or vegetative amendment in the final layer. Subsection (b) applies to any end-product compost offered for 22 23 sale or use in Illinois.

24 (Source: P.A. 87-1227; 88-690, eff. 1-24-95.)

25 (415 ILCS 5/22.40)

26

5

8

and

Sec. 22.40. Municipal solid waste landfill rules.

(a) In accordance with Sec. 7.2, the Board shall adopt
rules that are identical in substance to federal regulations
or amendments thereto promulgated by the Administrator of the
United States Environmental Protection Agency to implement
Sections 4004 and 4010 of the Resource Conservation and
Recovery Act of 1976 (P.L. 94-580) insofar as those
regulations relate to a municipal solid waste landfill unit

1 program. The Board may consolidate into a single rulemaking 2 under this Section all such federal regulations adopted within a period of time not to exceed 6 months. 3 Where the 4 federal regulations authorize the State to adopt alternative standards, schedules, or procedures to standards, 5 the schedules, or procedures contained in the federal 6 7 regulations, the Board may adopt alternative standards, 8 schedules, or procedures under subsection (b) or retain 9 existing Board rules that establish alternative standards, schedules, or procedures that are not inconsistent with the 10 11 federal regulations. The Board may consolidate into a single rulemaking under this Section all such federal regulations 12 adopted within a period of time not to exceed 6 months. 13

The provisions and requirements of Title VII of this Act shall not apply to rules adopted under this subsection (a). Section 5-35 of the Illinois Administrative Procedure Act relating to the procedures for rulemaking shall not apply to regulations adopted under this subsection (a).

19 (b) The Board may adopt regulations relating to a State 20 municipal solid waste landfill program that are not 21 inconsistent with the Resource Conservation and Recovery Act 22 of 1976 (P.L. 94-580), or regulations adopted thereunder. 23 Rules adopted under this subsection shall be adopted in accordance with the provisions and requirements of Title VII 24 25 of this Act and the procedures for rulemaking in Section 5-35 of the Illinois Administrative Procedure Act. 26

27 (Blank.) Notwithstanding-action-by-the-Board,-and (C) effective-October-97-19937-only-for-those-facilities--meeting 28 29 the---conditions--of--40--C-F-R---258-1(e)(2)--or--40--C-F-R-30 258.1(e)(3), -the-deadlines-established-in-subsections--(d)(1) and--(t),--as--added--by-Publie-Act-88-496,-of-Section-21-and 31 32 subsections-(a.5),-(a.10),-and-(b)-of-Section-22.17--of--this 33 Act---are---extended---to--those--new--dates--established--in 34 regulations-promulgated-by-the--United--States--Environmental

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Protection--Agency--at--58-Federal-Register-51536-(October-1, 1993);-provided,-however,-no-deadline-for--receipt--of--solid waste-is-extended-past-October-9,-1994.

With--respect--to--those--facilities--that-qualify-for-an extension-in-accordance-with--the--provisions--of--40--C.F.R. 258.1(e)(3),--the--Agency-shall-determine-that-the-facilities are-needed-to-receive-flood-related-waste--from--a--federally designated--area-within-a-major-disaster-area-declared-by-the President-during-the-summer-of-1993--pursuant--to--42--U.S.C. 10 5121-et-seq.

11 (Source: P.A. 88-496; 88-512; 88-540.)

12 (415 ILCS 5/22.43)

Sec. 22.43. Permit modifications for lateral expansions. 13 14 The Agency may issue a permit modification for a lateral 15 expansion, as defined in Section 3.275 See--3-88 of this Act, for an existing MSWLF unit under Section See. 39 of this Act 16 17 on-or-after-the-effective-date-of-this-amendatory-Act-of-1993 to a person required to obtain such a permit modification 18 under subsection (t) of Section 21 of this Act. 19 (Source: P.A. 88-496.) 20

21

(415 ILCS 5/22.44)

22 Sec. 22.44. Subtitle D management fees.

(a) There is created within the State treasury a special
fund to be known as the "Subtitle D Management Fund"
constituted from the fees collected by the State under this
Section.

(b) On and after January 1, 1994, the Agency shall assess and collect a fee in the amount set forth in this subsection from the owner or operator of each sanitary landfill permitted or required to be permitted by the Agency to dispose of solid waste if the sanitary landfill is located off the site where the waste was produced and if the sanitary 1 landfill is owned, controlled, and operated by a person other 2 than the generator of the waste. The Agency shall deposit 3 all fees collected under this subsection into the Subtitle D 4 Management Fund. If a site is contiguous to one or more 5 landfills owned or operated by the same person, the volumes 6 permanently disposed of by each landfill shall be combined 7 for purposes of determining the fee under this subsection.

150,000 8 (1)Ιf more than cubic yards of 9 non-hazardous solid waste is permanently disposed of at a site in a calendar year, the owner or operator shall 10 11 either pay a fee of 5.5 cents per cubic yard or, alternatively, the owner or operator may weigh the 12 quantity of the solid waste permanently disposed of with 13 a device for which certification has been obtained under 14 15 the Weights and Measures Act and pay a fee of 12 cents 16 per ton of waste permanently disposed of.

17 (2) If more than 100,000 cubic yards, but not more
18 than 150,000 cubic yards, of non-hazardous waste is
19 permanently disposed of at a site in a calendar year, the
20 owner or operator shall pay a fee of \$3,825.

(3) If more than 50,000 cubic yards, but not more than 100,000 cubic yards, of non-hazardous solid waste is permanently disposed of at a site in a calendar year, the owner or operator shall pay a fee of \$1,700.

(4) If more than 10,000 cubic yards, but not more
than 50,000 cubic yards, of non-hazardous solid waste is
permanently disposed of at a site in a calendar year, the
owner or operator shall pay a fee of \$530.

(5) If not more than 10,000 cubic yards of
non-hazardous solid waste is permanently disposed of at a
site in a calendar year, the owner or operator shall pay
a fee of \$110.

33 (c) The fee under subsection (b) shall not apply to any 34 of the following: 1 2 (1) Hazardous waste.

(2) Pollution control waste.

3 (3) Waste from recycling, reclamation, or reuse
4 processes that have been approved by the Agency as being
5 designed to remove any contaminant from wastes so as to
6 render the wastes reusable, provided that the process
7 renders at least 50% of the waste reusable.

8 (4) Non-hazardous solid waste that is received at a 9 sanitary landfill and composted or recycled through a 10 process permitted by the Agency.

11 (5) Any landfill that is permitted by the Agency to 12 receive only demolition or construction debris or 13 landscape waste.

14 (d) The Agency shall establish rules relating to the
15 collection of the fees authorized by this Section. These
16 rules shall include, but not be limited to the following:

17 (1) Necessary records identifying the quantities of18 solid waste received or disposed.

19 (2) The form and submission of reports to accompany20 the payment of fees to the Agency.

(3) The time and manner of payment of fees to the
Agency, which payments shall not be more often than
quarterly.

24 (4) Procedures setting forth criteria establishing
25 when an owner or operator may measure by weight or volume
26 during any given quarter or other fee payment period.

(e) Fees collected under this Section shall be inaddition to any other fees collected under any other Section.

(f) The Agency shall not refund any fee paid to it underthis Section.

31 (g) Pursuant to appropriation, all moneys in the 32 Subtitle D Management Fund shall be used by the Agency to 33 administer the United States Environmental Protection 34 Agency's Subtitle D Program provided in Sections 4004 and

1 4010 of the Resource Conservation and Recovery Act of 1976 2 (P.L. 94-580) as it relates to a municipal solid waste landfill program in Illinois and to fund a delegation of 3 4 inspecting, investigating, and enforcement functions, within 5 the municipality only, pursuant to subsection (r) of Section 4 of this Act to a municipality having a population of more 6 7 than 1,000,000 inhabitants. The Agency shall execute a delegation agreement pursuant to subsection (r) of Section 4 8 9 of this Act with a municipality having a population of more than 1,000,000 inhabitants within 90 days of September 13, 10 11 the--effective--date-of-this-amendatory-Act-of 1993 and shall on an annual basis distribute from the Subtitle D Management 12 Fund to that municipality no less than \$150,000. 13

14 (Source: P.A. 90-655, eff. 7-30-98.)

15 (415 ILCS 5/22.45)

16 Sec. 22.45. Subtitle D management fee exemptions; 17 pre-existing contracts.

18 (a) The Agency shall grant exemptions from the fee 19 requirements of Section 22.44 of this Act for permanent 20 disposal or transport of solid waste meeting all of the 21 following criteria:

(1) Permanent disposal of the solid waste is
pursuant to a written contract between the owner or
operator of the sanitary landfill and some other person,
or transport of the solid waste is pursuant to a written
contract between the transporter and some other person.

(2) The contract for permanent disposal or
transport of solid waste was lawfully executed on or
before <u>September 13</u>, the--effective--date--of--this
amendatory-Act-of 1993 and by its express terms continues
beyond January 1, 1994.

32 (3) The contract for permanent disposal or
 33 transport of solid waste establishes a fixed fee or

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compensation, does not allow the operator or transporter to pass the fee through to another party, and does not allow voluntary cancellation or renegotiation of the compensation or fee during the term of the contract.

5 (4) The contract was lawfully executed on or before 6 <u>September 13</u>, the-effective-date-of-this-amendatory-Act 7 of 1993 and has not been amended at any time after that 8 date.

9 (b) Exemptions granted under this Section shall cause 10 the solid waste received by an owner or operator of a 11 sanitary landfill pursuant to a contract exempted under this 12 Section to be disregarded in calculating the volume or weight 13 of solid waste permanently disposed of during a calendar year 14 under Section 22.44 of this Act.

15 (c) An owner or operator of a sanitary landfill shall 16 keep accurate records and prove, to the satisfaction of the 17 Agency, the volume or weight of solid waste received under an 18 exemption during a calendar year.

19 (d) Exemptions under this Section shall expire upon the 20 expiration, renewal, or amendment of the exempted contract, 21 whichever occurs first.

(e) For the purposes of this Section, the term "some other person" shall only include persons that are independent operating entities. For purposes of this Section, a person is not an independent operating entity if:

26 (1) the person has any officers or directors that
27 are also officers or directors of the sanitary landfill
28 or transporter;

(2) the person is a parent corporation, subsidiary,
or affiliate of the owner or operator of the sanitary
landfill or transporter; or

32 (3) the person and the owner or operator of the
33 sanitary landfill or transporter are owned by the same
34 entity.

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1 (Source: P.A. 88-496.)

2 (415 ILCS 5/22.47)

3 Sec. 22.47. School district hazardous educational waste4 collection.

5 (a) The Agency shall develop, implement, and fund б (through appropriations for that purpose from the General Revenue Fund) a program to collect school district hazardous 7 educational waste from school districts and schools in the 8 State. The program shall provide for the availability for 9 10 collection, transportation, and appropriate management of hazardous educational wastes for each school district or 11 school by private contractors at least every 3 years. 12

13 (b) A school district or school may participate in a14 hazardous educational waste collection program by:

15 (1) Notifying the Agency of the hazardous
16 educational wastes used by the school district or school
17 and including the following information:

18 (A) Waste types.

19 (B) Waste volumes.

20 (C) Number of containers.

21 (D) Condition of containers.

(E) Location of containers.

23 (2) Maintaining wastes in the original containers,24 if practical.

25

22

(3) Labeling each container if contents are known.

26 (4) Following Agency instructions on waste
 27 segregation, preparation, or delivery for subsequent
 28 handling.

(c) The Agency shall accept applications from school districts or schools throughout the year. The Agency shall designate waste haulers throughout the State qualified to remove school district hazardous waste at the request of a school district or school. By March 1 and September 1 of

1 each year the Agency shall prepare a schedule of school 2 districts or schools that have been selected for collections over the next 6 months. The selections shall be based on the 3 4 waste types and volumes, geographic distribution, order of and expected costs balanced by available 5 application, resources. The Agency shall notify each selected school or 6 7 school district of the date of collection and instruction on 8 waste preparation.

9 For purposes of this Section "hazardous educational (d) waste" means a waste product that could pose a hazard during 10 11 normal storage, transportation, or disposal generated from an 12 instructional curriculum including laboratory wastes, expired 13 chemicals, unstable compounds, and toxic or flammable "Hazardous educational waste" does not include 14 materials. 15 wastes generated as a result of building, grounds, or vehicle 16 maintenance, asbestos abatement, lead paint abatement, or 17 other non-curriculum activities.

18 (e) <u>(Blank.)</u> By-January-1,-1997,-the-agency-shall-submit 19 a--report-to-the-General-Assembly-on-the-status-of-the-school 20 district--hazardous--educational--waste--collection---program 21 detailing---the--amounts,--types,--and--locations--of--wastes 22 collected,-costs-of-the-program,-evaluation-of--the--program, 23 and-recommendations-for-future-legislative-actions.

(f) The Agency is authorized to use funds from the Solid
Waste Management Fund to implement this Section.
(Source: P.A. 89-300, eff. 1-1-96.)

27 (415 ILCS 5/22.48)

28 Sec. 22.48. Non-special waste certification; effect on 29 permit.

30 (a) An industrial process waste or pollution control
31 waste not within the exception set forth in subdivision (2)
32 of subsection (c) of Section <u>3.475</u> 3.45 of this Act must be
33 managed as special waste unless the generator first certifies

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in a signed, dated, written statement that the waste is
outside the scope of the categories listed in subdivision (1)
of subsection (c) of Section <u>3.475</u> 3.45 of this Act.

4 (b) All information used to determine that the waste is
5 not a special waste shall be attached to the certification.
6 The information shall include but not be limited to:

7 (1) the means by which the generator has determined
8 that the waste is not a hazardous waste;

9 (2) the means by which the generator has determined 10 that the waste is not a liquid;

(3) if the waste undergoes testing, the analytic results obtained from testing, signed and dated by the person responsible for completing the analysis;

14 (4) if the waste does not undergo testing, an15 explanation as to why no testing is needed;

16 (5) a description of the process generating the 17 waste; and

18

(6) relevant Material Data Safety Sheets.

19 (c) Certification made pursuant to this Section shall be 20 effective from the date signed until there is a change in the 21 generator, in the raw materials used, or in the process 22 generating the waste.

23 Certification made pursuant to this Section, with (d) the requisite attachments, shall be maintained by 24 the 25 certifying generator while effective and for at least 3 years following a change in the generator, a change in the raw 26 materials used, or a change in or termination of the process 27 generating the waste. The generator shall provide a copy of 28 29 the certification, upon request by the Agency, the waste 30 hauler, or the operator of the facility receiving the waste for storage, treatment, or disposal, to the party requesting 31 32 the copy. If the Agency believes that the waste that is the subject of the certification has been inaccurately certified 33 34 to, the Agency may require the generator to analytically test

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the waste for the constituent believed to be present and
 provide the Agency with a copy of the analytic results.

3 (e) A person who knowingly and falsely certifies that a 4 waste is not special waste is subject to the penalties set 5 forth in subdivision (6) of subsection (h) of Section 44 of 6 this Act.

7 (f) To the extent that a term or condition of an 8 existing permit requires the permittee to manage as special waste a material that is made a non-special waste under 9 10 Public Act 90-502 this-amendatory-Act-of-1997, that term or 11 condition is hereby superseded, and the permittee may manage 12 that material as a non-special waste, even if the material is 13 identified in the permit as part of a particular waste stream rather than identified specifically as a special waste. 14 (Source: P.A. 90-502, eff. 8-19-97.) 15

(415 ILCS 5/25b-5) (from Ch. 111 1/2, par. 1025b-5)

16

17 Sec. 25b-5. Review of toxic chemical status. The Agency shall periodically review the status of toxic chemicals and 18 types of facilities covered under the reporting requirements 19 20 of Section 313 of the federal Emergency Planning and 21 Community Right-to-Know Act of 1986. On-or-before-January-17 22 1989,-and-after-providing-an-opportunity-for-public--comment, the--Agency--shall--submit--to--the--Governor-a-list-of-toxic 23 24 chemicals-and-facilities-not-currently-covered-under-that-Act 25 which-it-believes-may-pose-a-threat-to-public-health-and--the 26 environment--in--Illinois.----Within--60-days-thereafter,-the Governor-shall--either--petition--the--Administrator--of--the 27 28 United--States--Environmental-Protection-Agency-to-modify-the lists-of-chemicals-and-facilities-currently-covered--pursuant 29 30 to--Section-313-according-to-the-Agency's-recommendations,-or refer-the-matter-back-to-the-Agency-for-further-consideration 31 32 in-accordance-with-his-written-recommendations-for-change. (Source: P.A. 85-927.) 33

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(415 ILCS 5/30) (from Ch. 111 1/2, par. 1030)

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2 Sec. 30. <u>Investigations.</u> The Agency shall cause investigations to be made upon the request of the Board or 3 4 upon receipt of information concerning an alleged violation of this Act or of any rule or regulation promulgated 5 thereunder, or of any permit granted by the Agency or any 6 7 term or condition of any such permit, and may cause to be made such other investigations as it shall deem advisable. 8 9 (Source: P.A. 78-862.)

10 (415 ILCS 5/31) (from Ch. 111 1/2, par. 1031)

11 Sec. 31. Notice; complaint; hearing.

(a) (1) Within 180 days of becoming aware of an alleged 12 violation of the Act or any rule adopted under the Act or 13 14 of a permit granted by the Agency or condition of the 15 permit, the Agency shall issue and serve, by certified mail, upon the person complained against a written notice 16 17 informing that person that the Agency has evidence of the alleged violation. At a minimum, the written notice 18 shall contain: 19

20 (A) notification to the person complained 21 against of the requirement to submit a written 22 response addressing the violations alleged and the 23 option to meet with appropriate agency personnel to 24 resolve any alleged violations that could lead to 25 the filing of a formal complaint;

26 (B) a detailed explanation by the Agency of27 the violations alleged;

28 (C) an explanation by the Agency of the 29 actions that the Agency believes may resolve the 30 alleged violations, including an estimate of a 31 reasonable time period for the person complained 32 against to complete the suggested resolution; and 33 (D) an explanation of any alleged violation 1 that the Agency believes cannot be resolved without 2 the involvement of the Office of the Illinois 3 Attorney General or the State's Attorney of the 4 county in which the alleged violation occurred and 5 the basis for the Agency's belief.

6 (2) A written response to the violations alleged 7 shall be submitted to the Agency, by certified mail, 8 within 45 days of receipt of notice by the person 9 complained against, unless the Agency agrees to an 10 extension. The written response shall include:

11 (A) information in rebuttal, explanation or
12 justification of each alleged violation;

(B) a proposed Compliance Commitment Agreement that includes specified times for achieving each commitment and which may consist of a statement indicating that the person complained against believes that compliance has been achieved; and

18 (C) a request for a meeting with appropriate
19 Agency personnel if a meeting is desired by the
20 person complained against.

(3) If the person complained against fails to 21 22 respond in accordance with the requirements of 23 subdivision (2) of this subsection (a), the failure to respond shall be considered a waiver of the requirements 24 25 of this subsection (a) and nothing in this Section shall preclude the Agency from proceeding pursuant to 26 subsection (b) of this Section. 27

(4) A meeting requested pursuant to subdivision (2) 28 of this subsection (a) shall be 29 held without а 30 representative of the Office of the Illinois Attorney General or the State's Attorney of the county in which 31 the alleged violation occurred, within 60 days of receipt 32 33 of notice by the person complained against, unless the 34 Agency agrees to a postponement. At the meeting, the 1 Agency shall provide an opportunity for the person 2 complained against to respond to each alleged violation, 3 suggested resolution, and suggested implementation time 4 frame, and to suggest alternate resolutions.

5 (5) If a meeting requested pursuant to subdivision 6 (2) of this subsection (a) is held, the person complained 7 against shall, within 21 days following the meeting or 8 within an extended time period as agreed to by the 9 Agency, submit by certified mail to the Agency a written 10 response to the alleged violations. The written response 11 shall include:

12 (A) additional information in rebuttal,
13 explanation or justification of each alleged
14 violation;

(B) a proposed Compliance Commitment Agreement that includes specified times for achieving each commitment and which may consist of a statement indicating that the person complained against believes that compliance has been achieved; and

20 (C) a statement indicating that, should the 21 person complained against so wish, the person 22 complained against chooses to rely upon the initial 23 written response submitted pursuant to subdivision 24 (2) of this subsection (a).

25 (6) If the person complained against fails to respond in accordance with the requirements 26 of subdivision (5) of this subsection (a), the failure to 27 respond shall be considered a waiver of the requirements 28 of this subsection (a) and nothing in this Section shall 29 30 preclude the Agency from proceeding pursuant to subsection (b) of this Section. 31

32 (7) Within 30 days of the Agency's receipt of a
33 written response submitted by the person complained
34 against pursuant to subdivision (2) of this subsection

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1 (a), if a meeting is not requested, or subdivision (5) of 2 this subsection (a), if a meeting is held, or within a later time period as agreed to by the Agency and the 3 4 person complained against, the Agency shall issue and serve, by certified mail, upon the person complained 5 against a written notice informing the person of its 6 7 acceptance, rejection, or proposed modification to the 8 proposed Compliance Commitment Agreement as contained 9 within the written response.

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(8) Nothing in this subsection (a) is intended to 10 11 require the Agency to enter into Compliance Commitment Agreements for any alleged violation that the Agency 12 believes cannot be resolved without the involvement of 13 the Office of the Attorney General or the State's 14 15 Attorney of the county in which the alleged violation 16 occurred, for, among other purposes, the imposition of 17 statutory penalties.

(9) The Agency's failure to respond to a written 18 19 response submitted pursuant to subdivision (2) of this subsection (a), if a meeting is not requested, or 20 21 subdivision (5) of this subsection (a), if a meeting is 22 held, within 30 days, or within the time period otherwise 23 agreed to in writing by the Agency and the person complained against, shall be deemed an acceptance by the 24 25 Agency of the proposed Compliance Commitment Agreement for the violations alleged in the written notice issued 26 under subdivision (1) of this subsection (a) as contained 27 within the written response. 28

(10) If the person complained against complies with the terms of a Compliance Commitment Agreement accepted pursuant to this subsection (a), the Agency shall not refer the alleged violations which are the subject of the Compliance Commitment Agreement to the Office of the Illinois Attorney General or the State's Attorney of the 1 county in which the alleged violation occurred. However, 2 nothing in this subsection is intended to preclude the Agency from continuing negotiations with the person 3 4 complained against or from proceeding pursuant to the provisions of subsection (b) of this Section for alleged 5 violations which remain the subject of disagreement 6 7 between the Agency and the person complained against 8 following fulfillment of the requirements of this 9 subsection (a).

10 (11) Nothing in this subsection (a) is intended to 11 preclude the person complained against from submitting to 12 the Agency, by certified mail, at any time, notification 13 that the person complained against consents to waiver of 14 the requirements of subsections (a) and (b) of this 15 Section.

16 (b) For alleged violations that remain the subject of 17 disagreement between the Agency and the person complained against following fulfillment of the requirements 18 of 19 subsection (a) of this Section, and as a precondition to the Agency's referral or request to the Office of the Illinois 20 21 Attorney General or the State's Attorney of the county in which the alleged violation occurred for legal representation 22 23 regarding an alleged violation that may be addressed pursuant to subsection (c) or (d) of this Section or pursuant to 24 25 Section 42 of this Act, the Agency shall issue and serve, by certified mail, upon the person complained against a written 26 27 notice informing that person that the Agency intends to pursue legal action. Such notice shall notify the person 28 29 complained against of the violations to be alleged and offer 30 the person an opportunity to meet with appropriate Agency personnel in an effort to resolve any alleged violations that 31 32 could lead to the filing of a formal complaint. The meeting with Agency personnel shall be held within 30 days of receipt 33 34 of notice served pursuant to this subsection upon the person

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1 complained against, unless the Agency agrees to a 2 postponement or the person notifies the Agency that he or she will not appear at a meeting within the 30 day time period. 3 4 Nothing in this subsection is intended to preclude the Agency 5 from following the provisions of subsection (c) or (d) of 6 this Section or from requesting the legal representation of 7 the Office of the Illinois Attorney General or the State's 8 Attorney of the county in which the alleged violations 9 for alleged violations which remain the subject of occurred disagreement between the Agency and the person complained 10 11 aqainst after the provisions of this subsection are fulfilled. 12

(1) For alleged violations which remain the subject 13 (C) disagreement between the Agency and the person 14 of 15 complained against following waiver, pursuant to 16 subdivision (10) of subsection (a) of this Section, or fulfillment of the requirements of subsections 17 (a) and of this Section, the Office of the Illinois Attorney 18 (b) General or the State's Attorney of the county in which 19 the alleged violation occurred shall issue and serve upon 20 21 the person complained against a written notice, together 22 with a formal complaint, which shall specify the 23 provision of the Act or the rule or regulation or permit or term or condition thereof under which such person is 24 25 said to be in violation, and a statement of the manner in, and the extent to which such person is said to 26 27 violate the Act or such rule or regulation or permit or term or condition thereof and shall require the person so 28 29 complained against to answer the charges of such formal 30 complaint at a hearing before the Board at a time not less than 21 days after the date of notice by the Board, 31 except as provided in Section 34 of this Act. Such 32 complaint shall be accompanied by a notification to the 33 defendant that financing may be available, through the 34

1 Illinois Environmental Facilities Financing Act, to 2 correct such violation. A copy of such notice of such hearings shall also be sent to any person that has 3 4 complained to the Agency respecting the respondent within the six months preceding the date of the complaint, and 5 to any person in the county in which the offending 6 7 activity occurred that has requested notice of 8 enforcement proceedings; 21 days notice of such hearings 9 shall also be published in a newspaper of general 10 circulation in such county. The respondent may file a 11 written answer, and at such hearing the rules prescribed in Sections 32 and 33 of this Act shall apply. In the 12 case of actual or threatened acts outside Illinois 13 contributing to environmental damage in Illinois, the 14 15 extraterritorial service-of-process provisions of 16 Sections 2-208 and 2-209 of the Code of Civil Procedure 17 shall apply.

With respect to notices served pursuant to this 18 subsection (c)(1) which involve hazardous material or 19 20 wastes in any manner, the Agency shall annually publish a list of all such notices served. The list shall include 21 22 the date the investigation commenced, the date notice was 23 sent, the date the matter was referred to the Attorney General, if applicable, and the current status of the 24 25 matter.

(2) Notwithstanding the provisions of subdivision 26 27 (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the 28 29 State of Illinois, the parties may file with the Board a 30 stipulation and proposal for settlement accompanied by a request for relief from the requirement of a hearing 31 pursuant to subdivision (1). Unless the Board, in its 32 discretion, concludes that a hearing will be held, the 33 Board shall cause notice of the stipulation, proposal and 34

1 request for relief to be published and sent in the same 2 manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a 3 4 statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any 5 person files a timely written demand for hearing, 6 the 7 Board shall deny the request for relief from a hearing 8 and shall hold a hearing in accordance with the 9 provisions of subdivision (1).

10 (3) Notwithstanding the provisions of subdivision 11 (1) of this subsection (c), if the Agency becomes aware 12 of a violation of this Act arising from, or as a result 13 of, voluntary pollution prevention activities, the Agency 14 shall not proceed with the written notice required by 15 subsection (a) of this Section unless:

16 (A) the person fails to take corrective action
17 or eliminate the reported violation within a
18 reasonable time; or

(B) the Agency believes that the violation poses a substantial and imminent danger to the public health or welfare or the environment. For the purposes of this item (B), "substantial and imminent danger" means a danger with a likelihood of serious or irreversible harm.

25 Any person may file with the Board a complaint, (d) meeting the requirements of subsection (c) of this Section, 26 against any person allegedly violating this Act or any rule 27 or regulation thereunder or any permit or term or condition 28 29 thereof. The complainant shall immediately serve a copy of 30 such complaint upon the person or persons named therein. Unless the Board determines 31 that such complaint is 32 duplicative duplicitous or frivolous, it shall schedule a hearing and serve written notice thereof upon the person or 33 34 persons named therein, in accord with subsection (c) of this

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1 Section.

2 (e) In hearings before the Board under this Title the burden shall be on the Agency or other complainant to show 3 4 either that the respondent has caused or threatened to cause 5 air or water pollution or that the respondent has violated or 6 threatens to violate any provision of this Act or any rule or 7 regulation of the Board or permit or term or condition thereof. If such proof has been made, the burden shall be on 8 9 the respondent to show that compliance with the Board's regulations would impose an arbitrary or unreasonable 10 11 hardship.

12 (f) The provisions of this Section shall not apply to 13 administrative citation actions commenced under Section 31.1 14 of this Act.

15 (Source: P.A. 88-145; 89-596, eff. 8-1-96.)

16

(415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

17 Sec. 39. Issuance of permits; procedures.

When the Board has by regulation required a permit 18 (a) for the construction, installation, or operation of any type 19 of facility, equipment, vehicle, vessel, or aircraft, the 20 21 applicant shall apply to the Agency for such permit and it 22 shall be the duty of the Agency to issue such a permit upon proof by the applicant that the facility, equipment, vehicle, 23 24 vessel, or aircraft will not cause a violation of this Act or of regulations hereunder. The Agency shall adopt such 25 procedures as are necessary to carry out its duties under 26 27 this Section. In granting permits the Agency may impose such 28 conditions as may be necessary to accomplish the purposes of 29 this Act, and as are not inconsistent with the regulations promulgated by the Board hereunder. Except as otherwise 30 31 provided in this Act, a bond or other security shall not be required as a condition for the issuance of a permit. If the 32 33 Agency denies any permit under this Section, the Agency shall 1 transmit to the applicant within the time limitations of this
2 Section specific, detailed statements as to the reasons the
3 permit application was denied. Such statements shall
4 include, but not be limited to the following:

5 (i) the Sections of this Act which may be violated
6 if the permit were granted;

7 (ii) the provision of the regulations, promulgated 8 under this Act, which may be violated if the permit were 9 granted;

10 (iii) the specific type of information, if any, 11 which the Agency deems the applicant did not provide the 12 Agency; and

13 (iv) a statement of specific reasons why the Act 14 and the regulations might not be met if the permit were 15 granted.

16 If there is no final action by the Agency within 90 days after the filing of the application for permit, the applicant 17 may deem the permit issued; except that this time period 18 19 shall be extended to 180 days when (1) notice and opportunity for public hearing are required by State or federal law or 20 21 regulation, (2) the application which was filed is for any 22 permit to develop a landfill subject to issuance pursuant to 23 this subsection, or (3) the application that was filed is for a MSWLF unit required to issue public notice under subsection 24 25 (p) of Section 39. The 90-day and 180-day time periods for the Agency to take final action do not apply to NPDES permit 26 applications under subsection (b) of this Section, to RCRA 27 permit applications under subsection (d) of this Section, or 28 to UIC permit applications under subsection (e) of this 29 30 Section.

31 The Agency shall publish notice of all final permit 32 determinations for development permits for MSWLF units and 33 for significant permit modifications for lateral expansions 34 for existing MSWLF units one time in a newspaper of general

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circulation in the county in which the unit is or is proposed
 to be located.

After January 1, 1994 and until July 1, 1998, operating 3 4 permits issued under this Section by the Agency for sources of air pollution permitted to emit less than 25 tons per year 5 б of any combination of regulated air pollutants, as defined in 7 Section 39.5 of this Act, shall be required to be renewed 8 only upon written request by the Agency consistent with 9 applicable provisions of this Act and regulations promulgated hereunder. Such operating permits shall expire 180 days 10 11 after the date of such a request. The Board shall revise its 12 regulations for the existing State air pollution operating permit program consistent with this provision by January 1, 13 1994. 14

After June 30, 1998, operating permits issued under this 15 16 Section by the Agency for sources of air pollution that are not subject to Section 39.5 of this Act and are not required 17 to have a federally enforceable State operating permit shall 18 19 be required to be renewed only upon written request by the Agency consistent with applicable provisions of this Act and 20 21 its rules. Such operating permits shall expire 180 days 22 after the date of such a request. Before July 1, 1998, the 23 Board shall revise its rules for the existing State air 24 pollution operating permit program consistent with this 25 paragraph and shall adopt rules that require a source to demonstrate that it qualifies for a permit under this 26 27 paragraph.

(b) The Agency may issue NPDES permits exclusively under
this subsection for the discharge of contaminants from point
sources into navigable waters, all as defined in the Federal
Water Pollution Control Act, as now or hereafter amended,
within the jurisdiction of the State, or into any well.

All NPDES permits shall contain those terms andconditions, including but not limited to schedules of

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compliance, which may be required to accomplish the purposes
 and provisions of this Act.

3 The Agency may issue general NPDES permits for discharges 4 from categories of point sources which are subject to the 5 same permit limitations and conditions. Such general permits 6 may be issued without individual applications and shall 7 conform to regulations promulgated under Section 402 of the 8 Federal Water Pollution Control Act, as now or hereafter 9 amended.

10 The Agency may include, among such conditions, effluent 11 limitations and other requirements established under this 12 Act, Board regulations, the Federal Water Pollution Control 13 Act, as now or hereafter amended, and regulations pursuant 14 thereto, and schedules for achieving compliance therewith at 15 the earliest reasonable date.

16 The Agency shall adopt filing requirements and procedures 17 which are necessary and appropriate for the issuance of NPDES 18 permits, and which are consistent with the Act or regulations 19 adopted by the Board, and with the Federal Water Pollution 20 Control Act, as now or hereafter amended, and regulations 21 pursuant thereto.

The Agency, subject to any conditions which may be prescribed by Board regulations, may issue NPDES permits to allow discharges beyond deadlines established by this Act or by regulations of the Board without the requirement of a variance, subject to the Federal Water Pollution Control Act, as now or hereafter amended, and regulations pursuant thereto.

(c) Except for those facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act, no permit for the development or construction of a new pollution control facility may be granted by the Agency unless the applicant submits proof to the Agency that the location of the facility has been

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1 approved by the County Board of the county if in an 2 unincorporated area, or the governing body of the 3 municipality when in an incorporated area, in which the 4 facility is to be located in accordance with Section 39.2 of 5 this Act.

6 In the event that siting approval granted pursuant to 7 Section 39.2 has been transferred to a subsequent owner or 8 operator, that subsequent owner or operator may apply to the 9 Agency for, and the Agency may grant, a development or construction permit for the facility for which local siting 10 11 approval was granted. Upon application to the Agency for a development or construction permit by that subsequent owner 12 or operator, the permit applicant shall cause written notice 13 the permit application to be served upon the appropriate 14 of 15 county board or governing body of the municipality that 16 granted siting approval for that facility and upon any party to the siting proceeding pursuant to which siting approval 17 was granted. In that event, the Agency shall conduct an 18 19 evaluation of the subsequent owner or operator's prior experience in waste management operations in the manner 20 conducted under subsection (i) of Section 39 of this Act. 21

22 Beginning August 20, 1993, if the pollution control 23 facility consists of a hazardous or solid waste disposal facility for which the proposed site is located in an 24 25 unincorporated area of a county with a population of less 100,000 and includes all or a portion of a parcel of 26 than land that was, on April 1, 1993, adjacent to a municipality 27 having a population of less than 5,000, then the local siting 28 review required under this subsection (c) in conjunction with 29 30 any permit applied for after that date shall be performed by the governing body of that adjacent municipality rather than 31 32 the county board of the county in which the proposed site is located; and for the purposes of that local siting review, 33 any references in this Act to the county board shall be 34

1 deemed to mean the governing body of that adjacent 2 municipality; provided, however, that the provisions of this 3 paragraph shall not apply to any proposed site which was, on 4 April 1, 1993, owned in whole or in part by another 5 municipality.

In the case of a pollution control facility for which a б 7 development permit was issued before November 12, 1981, if an operating permit has not been issued by the Agency prior to 8 9 August 31, 1989 for any portion of the facility, then the Agency may not issue or renew any development permit nor 10 11 issue an original operating permit for any portion of such facility unless the applicant has submitted proof to the 12 Agency that the location of the facility has been approved by 13 the appropriate county board or municipal governing body 14 pursuant to Section 39.2 of this Act. 15

16 After January 1, 1994, if a solid waste disposal facility, any portion for which an operating permit has been 17 issued by the Agency, has not accepted waste disposal for 18 5 19 or more consecutive calendars years, before that facility may accept any new or additional waste for disposal, the owner 20 21 and operator must obtain a new operating permit under this 22 Act for that facility unless the owner and operator have 23 applied to the Agency for a permit authorizing the temporary suspension of waste acceptance. The Agency may not issue a 24 25 new operation permit under this Act for the facility unless the applicant has submitted proof to the Agency that the 26 location of the facility has been approved or re-approved by 27 the appropriate county board or municipal governing body 28 under Section 39.2 of this Act after the facility ceased 29 30 accepting waste.

Except for those facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act, and except for new pollution control facilities governed by Section 39.2, and except for fossil fuel mining 1 facilities, the granting of a permit under this Act shall not 2 relieve the applicant from meeting and securing all necessary 3 zoning approvals from the unit of government having zoning 4 jurisdiction over the proposed facility.

5 Before beginning construction on any new sewage treatment б plant or sludge drying site to be owned or operated by a 7 sanitary district organized under the Metropolitan Water 8 Reclamation District Act for which a new permit (rather than 9 the renewal or amendment of an existing permit) is required, such sanitary district shall hold a public hearing within the 10 11 municipality within which the proposed facility is to be located, or within the nearest community if the proposed 12 facility is to be located within an unincorporated area, at 13 which information concerning the proposed facility shall be 14 15 made available to the public, and members of the public shall 16 be given the opportunity to express their views concerning 17 the proposed facility.

18 The Agency may issue a permit for a municipal waste 19 transfer station without requiring approval pursuant to 20 Section 39.2 provided that the following demonstration is 21 made:

(1) the municipal waste transfer station was in existence on or before January 1, 1979 and was in continuous operation from January 1, 1979 to January 1, 1993;

(2) the operator submitted a permit application to
the Agency to develop and operate the municipal waste
transfer station during April of 1994;

(3) the operator can demonstrate that the county board of the county, if the municipal waste transfer station is in an unincorporated area, or the governing body of the municipality, if the station is in an incorporated area, does not object to resumption of the operation of the station; and

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(4) the site has local zoning approval.

2 (d) The Agency may issue RCRA permits exclusively under 3 this subsection to persons owning or operating a facility for 4 the treatment, storage, or disposal of hazardous waste as 5 defined under this Act.

contain All RCRA permits shall those terms 6 and 7 conditions, including but not limited to schedules of 8 compliance, which may be required to accomplish the purposes 9 and provisions of this Act. The Agency may include among such conditions standards and other requirements established 10 11 under this Act, Board regulations, the Resource Conservation and Recovery Act of 1976 (P.L. 94-580), as amended, and 12 regulations pursuant thereto, and may include schedules for 13 achieving compliance therewith as soon as possible. 14 The 15 Agency shall require that a performance bond or other 16 security be provided as a condition for the issuance of a 17 RCRA permit.

In the case of a permit to operate a hazardous waste or PCB incinerator as defined in subsection (k) of Section 44, the Agency shall require, as a condition of the permit, that the operator of the facility perform such analyses of the waste to be incinerated as may be necessary and appropriate to ensure the safe operation of the incinerator.

The Agency shall adopt filing requirements and procedures which are necessary and appropriate for the issuance of RCRA permits, and which are consistent with the Act or regulations adopted by the Board, and with the Resource Conservation and Recovery Act of 1976 (P.L. 94-580), as amended, and regulations pursuant thereto.

30 The applicant shall make available to the public for 31 inspection all documents submitted by the applicant to the 32 Agency in furtherance of an application, with the exception 33 of trade secrets, at the office of the county board or 34 governing body of the municipality. Such documents may be

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copied upon payment of the actual cost of reproduction during
 regular business hours of the local office. The Agency shall
 issue a written statement concurrent with its grant or denial
 of the permit explaining the basis for its decision.

5 (e) The Agency may issue UIC permits exclusively under 6 this subsection to persons owning or operating a facility for 7 the underground injection of contaminants as defined under 8 this Act.

9 All UIC permits shall contain those terms and conditions, including but not limited to schedules of compliance, which 10 11 may be required to accomplish the purposes and provisions of 12 this Act. The Agency may include among such conditions standards and other requirements established under this Act, 13 Board regulations, the Safe Drinking Water Act (P.L. 93-523), 14 15 as amended, and regulations pursuant thereto, and may include 16 schedules for achieving compliance therewith. The Agency shall require that a performance bond or other security be 17 provided as a condition for the issuance of a UIC permit. 18

The Agency shall adopt filing requirements and procedures which are necessary and appropriate for the issuance of UIC permits, and which are consistent with the Act or regulations adopted by the Board, and with the Safe Drinking Water Act (P.L. 93-523), as amended, and regulations pursuant thereto.

The applicant shall make available to the public for 24 25 inspection, all documents submitted by the applicant to the Agency in furtherance of an application, with the exception 26 of trade secrets, at the office of the county board or 27 governing body of the municipality. Such documents may be 28 29 copied upon payment of the actual cost of reproduction during 30 regular business hours of the local office. The Agency shall issue a written statement concurrent with its grant or denial 31 32 of the permit explaining the basis for its decision.

33 (f) In making any determination pursuant to Section 9.134 of this Act:

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1 (1) The Agency shall have authority to make the 2 determination of any question required to be determined by the Clean Air Act, as now or hereafter amended, this 3 4 Act, or the regulations of the Board, including the determination of the Lowest Achievable Emission Rate, 5 Maximum Achievable Control Technology, or Best Available 6 7 Control Technology, consistent with the Board's 8 regulations, if any.

9 (2) The Agency shall, after conferring with the 10 applicant, give written notice to the applicant of its 11 proposed decision on the application including the terms 12 and conditions of the permit to be issued and the facts, 13 conduct or other basis upon which the Agency will rely to 14 support its proposed action.

15 (3) Following such notice, the Agency shall give
16 the applicant an opportunity for a hearing in accordance
17 with the provisions of Sections 10-25 through 10-60 of
18 the Illinois Administrative Procedure Act.

The Agency shall include as conditions upon all 19 (g) permits issued for hazardous waste disposal sites such 20 restrictions upon the future use of such sites as are 21 22 reasonably necessary to protect public health and the 23 environment, including permanent prohibition of the use of such sites for purposes which may create an unreasonable risk 24 25 of injury to human health or to the environment. After administrative and judicial challenges to such restrictions 26 have been exhausted, the Agency shall file such restrictions 27 of record in the Office of the Recorder of the county in 28 which the hazardous waste disposal site is located. 29

30 (h) A hazardous waste stream may not be deposited in a
31 permitted hazardous waste site unless specific authorization
32 is obtained from the Agency by the generator and disposal
33 site owner and operator for the deposit of that specific
34 hazardous waste stream. The Agency may grant specific

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1 authorization for disposal of hazardous waste streams only 2 generator has reasonably demonstrated that, after the considering technological feasibility 3 and economic 4 reasonableness, the hazardous waste cannot be reasonably recycled for reuse, nor incinerated or chemically, physically 5 or biologically treated so as to neutralize the hazardous 6 7 waste and render it nonhazardous. In granting authorization 8 under this Section, the Agency may impose such conditions as 9 may be necessary to accomplish the purposes of the Act and are consistent with this Act and regulations promulgated by 10 11 the Board hereunder. If the Agency refuses to grant authorization under this Section, the applicant may appeal as 12 if the Agency refused to grant a permit, pursuant to 13 the provisions of subsection (a) of Section 40 of this Act. 14 For purposes of this subsection (h), the term "generator" has the 15 16 meaning given in Section 3.205 3-12 of this Act, unless: (1)the hazardous waste is treated, incinerated, or partially 17 recycled for reuse prior to disposal, in which case the 18 last 19 person who treats, incinerates, or partially recycles the hazardous waste prior to disposal is the generator; or 20 (2) 21 the hazardous waste is from a response action, in which case 22 the person performing the response action is the generator. 23 This subsection (h) does not apply to any hazardous waste that is restricted from land disposal under 35 Ill. Adm. Code 24 25 728.

(i) Before issuing any RCRA permit or any permit for a 26 27 waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, waste 28 29 incinerator, or any waste-transportation operation, the 30 Agency shall conduct an evaluation of the prospective owner's 31 operator's prior experience in waste management or 32 operations. The Agency may deny such a permit if the 33 prospective owner or operator or any employee or officer of 34 the prospective owner or operator has a history of:

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(1) repeated violations of federal, State, or local
 laws, regulations, standards, or ordinances in the
 operation of waste management facilities or sites; or

4 (2) conviction in this or another State of any
5 crime which is a felony under the laws of this State, or
6 conviction of a felony in a federal court; or

7 (3) proof of gross carelessness or incompetence in
8 handling, storing, processing, transporting or disposing
9 of waste.

10 (j) The issuance under this Act of a permit to engage in 11 the surface mining of any resources other than fossil fuels 12 shall not relieve the permittee from its duty to comply with 13 any applicable local law regulating the commencement, 14 location or operation of surface mining facilities.

15 A development permit issued under subsection (a) of (k) 16 Section 39 for any facility or site which is required to have a permit under subsection (d) of Section 21 shall expire at 17 the end of 2 calendar years from the date upon which 18 it was 19 issued, unless within that period the applicant has taken action to develop the facility or the site. In the event that 20 21 review of the conditions of the development permit is sought 22 pursuant to Section 40 or 41, or permittee is prevented from 23 commencing development of the facility or site by any other litigation beyond the permittee's control, such two-year 24 25 period shall be deemed to begin on the date upon which such review process or litigation is concluded. 26

(1) No permit shall be issued by the Agency under this Act for construction or operation of any facility or site located within the boundaries of any setback zone established pursuant to this Act, where such construction or operation is prohibited.

32 (m) The Agency may issue permits to persons owning or 33 operating a facility for composting landscape waste. In 34 granting such permits, the Agency may impose such conditions

as may be necessary to accomplish the purposes of this Act, 1 2 and as are not inconsistent with applicable regulations promulgated by the Board. Except as otherwise provided in 3 4 this Act, a bond or other security shall not be required as a condition for the issuance of a permit. If the Agency denies 5 б any permit pursuant to this subsection, the Agency shall 7 transmit to the applicant within the time limitations of this 8 subsection specific, detailed statements as to the reasons 9 the permit application was denied. Such statements shall include but not be limited to the following: 10

11 (1) the Sections of this Act that may be violated 12 if the permit were granted;

13 (2) the specific regulations promulgated pursuant 14 to this Act that may be violated if the permit were 15 granted;

16 (3) the specific information, if any, the Agency 17 deems the applicant did not provide in its application to 18 the Agency; and

19 (4) a statement of specific reasons why the Act and
20 the regulations might be violated if the permit were
21 granted.

If no final action is taken by the Agency within 90 days after the filing of the application for permit, the applicant may deem the permit issued. Any applicant for a permit may waive the 90 day limitation by filing a written statement with the Agency.

The Agency shall issue permits for such facilities upon receipt of an application that includes a legal description of the site, a topographic map of the site drawn to the scale of 200 feet to the inch or larger, a description of the operation, including the area served, an estimate of the volume of materials to be processed, and documentation that:

33 (1) the facility includes a setback of at least 200
34 feet from the nearest potable water supply well;

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(2) the facility is located outside the boundary of the 10-year floodplain or the site will be floodproofed;

(3) the facility is located so as to minimize 3 4 incompatibility with the character of the surrounding area, including at least a 200 foot setback from any 5 residence, and in the case of a facility that is 6 7 developed or the permitted composting area of which is expanded after November 17, 1991, the composting area is 8 9 located at least 1/8 mile from the nearest residence (other than a residence located on the same property as 10 11 the facility);

12 (4) the design of the facility will prevent any 13 compost material from being placed within 5 feet of the 14 water table, will adequately control runoff from the 15 site, and will collect and manage any leachate that is 16 generated on the site;

(5) the operation of the facility will include 17 appropriate dust and odor control measures, limitations 18 19 on operating hours, appropriate noise control measures 20 for shredding, chipping and similar equipment, management 21 procedures for composting, containment and disposal of 22 non-compostable wastes, procedures to be used for 23 terminating operations at the site, and recordkeeping sufficient to document the amount of materials received, 24 25 composted and otherwise disposed of; and

26 (6) the operation will be conducted in accordance27 with any applicable rules adopted by the Board.

The Agency shall issue renewable permits of not longer than 10 years in duration for the composting of landscape wastes, as defined in Section 3.155 3.70 of this Act, based on the above requirements.

32 The operator of any facility permitted under this 33 subsection (m) must submit a written annual statement to the 34 Agency on or before April 1 of each year that includes an estimate of the amount of material, in tons, received for
 composting.

3 (n) The Agency shall issue permits jointly with the 4 Department of Transportation for the dredging or deposit of 5 material in Lake Michigan in accordance with Section 18 of 6 the Rivers, Lakes, and Streams Act.

7 (Blank.) From--September-47-1990-until-December-317 (0) 8 1993,-no-permit--shall--be--issued--by--the--Agency--for--the 9 development--or--construction-of-any-new-facility-intended-to be-used-for-the-incineration--of-any-hazardous--waste----This 10 11 subsection-shall-not-apply-to-facilities-intended-for-use-for 12 combustion--of--potentially-infectious-medical-waste;-for-use 13 as-part-of-a-State-or-federally-designated--elean-up--action7 or--for--use--solely--for--the--conduct--of--research-and-the 14 15 development--and--demonstration--of--technologies---for---the 16 incineration-of-hazardous-waste.

(p) (1) Any person submitting an application for a 17 permit for a new MSWLF unit or for a lateral expansion under 18 19 subsection (t) of Section 21 of this Act for an existing MSWLF unit that has not received and is not subject to local 20 21 siting approval under Section 39.2 of this Act shall publish 22 notice of the application in a newspaper of general 23 circulation in the county in which the MSWLF unit is or is proposed to be located. The notice must be published at 24 25 least 15 days before submission of the permit application to The notice shall state the name and address of 26 the Agency. the applicant, the location of the MSWLF unit or proposed 27 MSWLF unit, the nature and size of the MSWLF unit or proposed 28 29 MSWLF unit, the nature of the activity proposed, the probable 30 life of proposed activity, the date the permit the application will be submitted, and a statement that persons 31 32 may file written comments with the Agency concerning the permit application within 30 days after the filing of the 33 34 permit application unless the time period to submit comments

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is extended by the Agency.

2 When a permit applicant submits information to the Agency to supplement a permit application being reviewed by the 3 4 Agency, the applicant shall not be required to reissue the 5 notice under this subsection.

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The Agency shall accept written comments concerning 6 (2)7 the permit application that are postmarked no later than 30 days after the filing of the permit application, unless the 8 9 time period to accept comments is extended by the Agency.

(3) Each applicant for a permit described in part (1) of 10 11 this subsection shall file a copy of the permit application with the county board or governing body of the municipality 12 in which the MSWLF unit is or is proposed to be located at 13 the same time the application is submitted to the Agency. 14 15 The permit application filed with the county board or 16 governing body of the municipality shall include all documents submitted to or to be submitted to the Agency, 17 except trade secrets as determined under Section 7.1 of this 18 19 Act. The permit application and other documents on file with the county board or governing body of the municipality shall 20 21 be made available for public inspection during regular 22 business hours at the office of the county board or the 23 governing body of the municipality and may be copied upon payment of the actual cost of reproduction. 24

(Source: P.A. 89-487, eff. 6-21-96; 89-556, eff. 7-26-96; 25 90-14, eff. 7-1-97; 90-367, eff. 8-10-97; 90-537, eff. 26 11-26-97; 90-655, eff 7-30-98.) 27

28

(415 ILCS 5/39.2) (from Ch. 111 1/2, par. 1039.2)

29 Sec. 39.2. Local siting review.

The county board of the county or the governing body 30 (a) 31 of the municipality, as determined by paragraph (c) of Section 39 of this Act, shall approve or disapprove the 32 33 request for local siting approval for each pollution control facility which is subject to such review. An applicant for local siting approval shall submit sufficient details describing the proposed facility to demonstrate compliance, and local siting approval shall be granted only if the proposed facility meets the following criteria:

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(i) the facility is necessary to accommodate the waste needs of the area it is intended to serve;

8 (ii) the facility is so designed, located and 9 proposed to be operated that the public health, safety 10 and welfare will be protected;

(iii) the facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property;

(iv) (A) for a facility other than a sanitary 15 16 landfill or waste disposal site, the facility is located outside the boundary of the 100 year flood plain or the 17 site is flood-proofed; (B) for a facility that 18 is a sanitary landfill or waste disposal site, the facility is 19 located outside the boundary of the 100-year floodplain, 20 21 or if the facility is a facility described in subsection 22 (b)(3) of Section 22.19a, the site is flood-proofed;

(v) the plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents;

26 (vi) the traffic patterns to or from the facility 27 are so designed as to minimize the impact on existing 28 traffic flows;

29 (vii) if the facility will be treating, storing or 30 disposing of hazardous waste, an emergency response plan 31 exists for the facility which includes notification, 32 containment and evacuation procedures to be used in case 33 of an accidental release;

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(viii) if the facility is to be located in a county

where the county board has adopted a solid waste management plan consistent with the planning requirements of the Local Solid Waste Disposal Act or the Solid Waste Planning and Recycling Act, the facility is consistent with that plan; and

6 (ix) if the facility will be located within a 7 regulated recharge area, any applicable requirements 8 specified by the Board for such areas have been met.

9 The county board or the governing body of the municipality may also consider as evidence the previous 10 11 operating experience and past record of convictions or admissions of violations of the applicant (and any subsidiary 12 or parent corporation) in the field of solid waste management 13 when considering criteria (ii) and (v) under this Section. 14

No later than 14 days before the date on which the 15 (b) 16 county board or governing body of the municipality receives prior--to a request for site location approval, the applicant 17 shall cause written notice of such request to be served 18 19 either in person or by registered mail, return receipt requested, on the owners of all property within the subject 20 21 area not solely owned by the applicant, and on the owners of all property within 250 feet in each direction of 22 the lot 23 line of the subject property, said owners being such persons or entities which appear from the authentic tax records of 24 25 the County in which such facility is to be located; provided, that the number of all feet occupied by all public roads, 26 streets, alleys and other public ways shall be excluded in 27 computing the 250 feet requirement; provided further, that in 28 29 event shall this requirement exceed 400 feet, including no 30 public streets, alleys and other public ways.

31 Such written notice shall also be served upon members of 32 the General Assembly from the legislative district in which 33 the proposed facility is located and shall be published in a 34 newspaper of general circulation published in the county in

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1 which the site is located.

2 Such notice shall state the name and address of the applicant, the location of the proposed site, the nature and 3 4 size of the development, the nature of the activity proposed, 5 the probable life of the proposed activity, the date when the 6 request for site approval will be submitted, and а 7 description of the right of persons to comment on such 8 request as hereafter provided.

9 An applicant shall file a copy of its request with (C) the county board of the county or the governing body of the 10 11 municipality in which the proposed site is located. The request shall include (i) the substance of the applicant's 12 proposal and (ii) all documents, if any, submitted as of that 13 date to the Agency pertaining to the proposed facility, 14 15 except trade secrets as determined under Section 7.1 of this 16 Act. All such documents or other materials on file with the county board or governing body of the municipality shall be 17 18 made available for public inspection at the office of the 19 county board or the governing body of the municipality and of 20 may be copied upon payment of the actual cost 21 reproduction.

Any person may file written comment with the county board 22 23 body of the municipality concerning or governing the appropriateness of the proposed site for its 24 intended 25 The county board or governing body of purpose. the municipality shall consider any comment received 26 or postmarked not later than 30 days after the date of the last 27 public hearing. 28

(d) At least one public hearing is to be held by the county board or governing body of the municipality no sooner than 90 days but no later than 120 days <u>after the date on</u> <u>which it received</u> <u>from--receipt--of</u> the request for site approval. No later than 14 days prior to such hearing, notice shall be published in a newspaper of general

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1 circulation published in the county of the proposed site, and 2 delivered by certified mail to all members of the General Assembly from the district in which the proposed site is 3 4 located, to the governing authority of every municipality 5 to the proposed site or contiguous to the contiguous 6 municipality in which the proposed site is to be located, to 7 the county board of the county where the proposed site is to 8 be located, if the proposed site is located within the 9 boundaries of a municipality, and to the Agency. Members or representatives of the governing authority of a municipality 10 11 contiguous to the proposed site or contiguous to the municipality in which the proposed site is to be located 12 13 and, if the proposed site is located in a municipality, members or representatives of the county board of a county in 14 15 which the proposed site is to be located may appear at and 16 participate in public hearings held pursuant to this Section. The public hearing shall develop a record sufficient to form 17 the basis of appeal of the decision in accordance with 18 19 Section 40.1 of this Act. The fact that a member of the 20 county board or governing body of the municipality has 21 publicly expressed an opinion on an issue related to a site review proceeding shall not preclude the member from taking 22 23 part in the proceeding and voting on the issue.

Decisions of the county board or governing body of 24 (e) 25 the municipality are to be in writing, specifying the reasons for the decision, such reasons to be in conformance with 26 subsection (a) of this Section. In granting approval for a 27 site the county board or governing body of the municipality 28 29 may impose such conditions as may be reasonable and necessary 30 to accomplish the purposes of this Section and as are not inconsistent with regulations promulgated by the Board. 31 Such 32 decision shall be available for public inspection at the of the county board or governing body of 33 office the 34 municipality and may be copied upon payment of the actual

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1 cost of reproduction. If there is no final action by the 2 county board or governing body of the municipality within 180 3 days after the <u>date on which it received</u> filing--of the 4 request for site approval, the applicant may deem the request 5 approved.

б At any time prior to completion by the applicant of the 7 presentation of the applicant's factual evidence and an 8 opportunity for cross-questioning by the county board or 9 governing body of the municipality and any participants, the applicant may file not more than one amended application upon 10 11 payment of additional fees pursuant to subsection (k); in which case the time limitation for final action set forth in 12 this subsection (e) shall be extended for an additional 13 period of 90 days. 14

If, prior to making a final local siting decision, 15 а 16 county board or governing body of a municipality has negotiated and entered into a host agreement with the local 17 18 siting applicant, the terms and conditions of the host 19 agreement, whether written or oral, shall be disclosed and made a part of the hearing record for that local siting 20 21 proceeding. In the case of an oral agreement, the disclosure shall be made in the form of a written summary jointly 22 23 prepared and submitted by the county board or governing body of the municipality and the siting applicant and shall 24 25 describe the terms and conditions of the oral agreement.

(e-5) Siting approval obtained pursuant to this Section 26 is transferable and may be transferred to a subsequent owner 27 operator. In the event that siting approval has been 28 or 29 transferred to a subsequent owner or operator, that 30 subsequent owner or operator assumes and takes subject to any and all conditions imposed upon the prior owner or operator 31 32 by the county board of the county or governing body of the municipality pursuant to subsection (e). However, any such 33 34 conditions imposed pursuant to this Section may be modified

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1 by agreement between the subsequent owner or operator and the 2 appropriate county board or governing body. Further, in the event that siting approval obtained pursuant to this Section 3 4 has been transferred to a subsequent owner or operator, that 5 subsequent owner or operator assumes all rights and 6 obligations and takes the facility subject to any and all 7 terms and conditions of any existing host agreement between 8 the prior owner or operator and the appropriate county board 9 or governing body.

(f) A local siting approval granted under this Section 10 11 shall expire at the end of 2 calendar years from the date upon which it was granted, unless the local siting approval 12 granted under this Section is for a sanitary landfill 13 operation, in which case the approval shall expire at the end 14 3 calendar years from the date upon which it was granted, 15 of 16 and unless within that period the applicant has made application to the Agency for a permit to develop the site. 17 18 event that the local siting decision has been Τn the 19 appealed, such expiration period shall be deemed to begin on the date upon which the appeal process is concluded. 20

Except as otherwise provided in this subsection, upon the expiration of a development permit under subsection (k) of Section 39, any associated local siting approval granted for the facility under this Section shall also expire.

25 If a first development permit for a municipal waste incineration facility expires under subsection (k) of Section 26 39 after September 30, 1989 due to circumstances beyond 27 the control of the applicant, any associated local siting 28 approval granted for the facility under this Section may 29 be 30 used to fulfill the local siting approval requirement upon application for a second development permit for the same 31 32 site, provided that the proposal in the new application is materially the same, with respect to the criteria 33 in 34 subsection (a) of this Section, as the proposal that received

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the original siting approval, and application for the second
 development permit is made before January 1, 1990.

3 (g) The siting approval procedures, criteria and appeal 4 procedures provided for in this Act for new pollution control 5 facilities shall be the exclusive siting procedures and rules 6 and appeal procedures for facilities subject to such 7 procedures. Local zoning or other local land use requirements 8 shall not be applicable to such siting decisions.

9 (h) Nothing in this Section shall apply to any existing 10 or new pollution control facility located within the 11 corporate limits of a municipality with a population of over 12 1,000,000.

13 (i) (Blank.) The--Department--shall--make--a--study--of 14 technical--considerations--relating--to--the--siting--of--new 15 pollution--control--facilities--Such-study-shall-include,-but 16 need-not-be-limited-to,-a-determination-of-the--geologic--and 17 hydrologic--conditions--in--the--State--most-suitable-for-the siting-of-such-facilities,-the-establishment-of-a--data--base 18 19 on--such--conditions-in-Illinois, and recommendations-for-the 20 establishment-of-technical-guidelines-and-criteria-to-be-used 21 in-making-such-siting-decisions---The-Department-shall-report 22 such-study-and-recommendations-to-the-General--Assembly,--the 23 Governor, -- the -- Board - and - the - public - no - later - than - October - 1, 1984-24

25 The Board shall adopt regulations establishing the geologic and hydrologic siting criteria necessary to protect 26 27 usable groundwater resources which are to be followed by the Agency in its review of permit applications for new pollution 28 29 control facilities. Such regulations, insofar as they apply to new pollution control facilities authorized to store, 30 31 treat or dispose of any hazardous waste, shall be at least as stringent as the requirements of the Resource Conservation 32 33 and Recovery Act and any State or federal regulations adopted 34 pursuant thereto.

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1 (j) Any new pollution control facility which has never 2 obtained local siting approval under the provisions of this 3 Section shall be required to obtain such approval after a 4 final decision on an appeal of a permit denial.

5 (k) A county board or governing body of a municipality 6 may charge applicants for siting review under this Section a 7 reasonable fee to cover the reasonable and necessary costs 8 incurred by such county or municipality in the siting review 9 process.

10 (1) The governing Authority as determined by subsection 11 (c) of Section 39 of this Act may request the Department of 12 Transportation to perform traffic impact studies of proposed 13 or potential locations for required pollution control 14 facilities.

(m) An applicant may not file a request for local siting approval which is substantially the same as a request which was disapproved pursuant to a finding against the applicant under any of criteria (i) through (ix) of subsection (a) of this Section within the preceding 2 years.

In any review proceeding of a decision of the county 20 (n) 21 board or governing body of a municipality made pursuant to the local siting review process, the petitioner in the review 22 23 proceeding shall pay to the county or municipality the cost of preparing and certifying the record of proceedings. 24 25 Should the petitioner in the review proceeding fail to make payment, the provisions of Section 3-109 of the Code of Civil 26 Procedure shall apply. 27

In the event the petitioner is a citizens' group that participated in the siting proceeding and is so located as to be affected by the proposed facility, such petitioner shall be exempt from paying the costs of preparing and certifying the record.

33 (o) Notwithstanding any other provision of this Section,
34 a transfer station used exclusively for landscape waste,

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1 where landscape waste is held no longer than 24 hours from 2 the time it was received, is not subject to the requirements 3 of local siting approval under this Section, but is subject 4 only to local zoning approval.

5 (Source: P.A. 90-217, eff. 1-1-98; 90-409, eff. 8-15-97; 6 90-503, eff. 8-19-97; 90-537, eff. 11-26-97; 90-655, eff. 7 7-30-98; 91-588, eff. 8-14-99.)

8

(415 ILCS 5/39.3) (from Ch. 111 1/2, par. 1039.3)

9 Sec. 39.3. <u>Hazardous waste facilities.</u>

10 (a) The provisions of this Section apply to anv application for a permit under the Solid Waste Rules of the 11 Board's Rules and Regulations to develop a new pollution 12 control facility for the disposal of hazardous waste, and to 13 any application to modify the development of an existing site 14 15 or facility which would allow the disposal of hazardous waste for the first time. The requirements of this Section are in 16 17 addition to any other procedures as may be required by law.

18 (b) Any application for a permit under this Section shall be made to the Agency, and shall be accompanied by 19 20 proof that notice of the application has been served upon the 21 Attorney General, the State's Attorney and the Chairman of 22 the County Board of the county in which the facility is proposed to be located, each member of the General Assembly 23 24 from the legislative district in which the facility is proposed to be located, and the clerk of each municipality, 25 any portion of which is within three miles of the boundary of 26 27 the facility. Upon the request of any person upon whom 28 notice is required to be served, the applicant shall promptly 29 furnish a copy of the application to the person making the 30 request.

31 (c) (i) Not more than 90 days after receipt of a 32 complete application for a permit under this Section, the 33 Agency shall give public notice of its preliminary

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determination to either issue or deny the permit, and shall give notice of the opportunity for a public hearing on that preliminary determination under this Section. Upon the request of the permit applicant, or of any other person who is admitted as a party pursuant to subsection (d), the Agency shall schedule a public hearing pursuant to subsection (e).

7 (ii) The Agency notice shall be published in a newspaper 8 of general circulation in the county in which the site is 9 proposed to be located, and shall be served upon the Attorney General, the State's Attorney and the Chairman of the County 10 11 Board of the county in which the facility is proposed to be located, each member of the General Assembly from the 12 legislative district in which the facility is proposed to be 13 located, and the clerk of each municipality, any portion of 14 which is within three miles of the boundary of the facility. 15

16 (iii) The contents, form, and manner of service of the
17 Agency notice shall conform to the requirements of Section
18 10-25 of the Illinois Administrative Procedure Act.

19 (d) Within 60 days after the date of the Agency notice required by subsection (c) of this Section, any person who 20 21 may be adversely affected by an Agency decision on the permit 22 application may petition the Agency to intervene before the 23 Agency as a party. The petition to intervene shall contain a short and plain statement identifying the petitioner and 24 25 stating the petitioner's interest. The petitioner shall serve the petition upon the applicant for the permit and upon 26 any other persons who have petitioned to intervene. Unless 27 the Agency determines that the petition is <u>duplicative</u> 28 29 duplicitous or frivolous, it shall admit the petitioner as a 30 party.

31 (e) (i) Not less than 60 days nor more than 180 days 32 after the date of the Agency notice required by subsection 33 (c) of this Section, the Agency shall commence the public 34 hearing required by this Section.

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1 (ii) The public hearing and other proceedings required 2 by this Section shall be conducted in accordance with the 3 provisions concerning contested cases of the Illinois 4 Administrative Procedure Act.

5 (iii) The public hearing required by this Section may, 6 with the concurrence of the Agency, the permit applicant and 7 the County Board of the county or the governing body of the 8 municipality, be conducted jointly with the public hearing 9 required by Section 39.2 of this Act.

10 (iv) All documents submitted to the Agency in connection 11 with the public hearing shall be reproduced and filed at the 12 office of the county board or governing body of the 13 municipality and may be copied upon payment of the actual 14 cost of reproduction.

(f) Within sixty days of the completion of the public hearing required by this Section the Agency shall render a final decision either granting or denying the permit.

18 (g) The Agency shall adopt such procedural rules as may 19 be necessary and appropriate to carry out its duties under 20 this Section which are not inconsistent with the requirements 21 of this Section. In adopting such procedural rules the 22 Agency shall follow the requirements concerning rulemaking of 23 the Illinois Administrative Procedure Act.

(h) This Section shall not apply to permits issued by
the Agency pursuant to authority delegated from the United
States pursuant to the Resource Conservation and Recovery Act
of 1976, P.L. 94-580, as amended, or the Safe Drinking Water
Act, P.L. 93-523, as amended.

29 (Source: P.A. 90-655, eff. 7-30-98.)

30 (415 ILCS 5/40) (from Ch. 111 1/2, par. 1040)

31 Sec. 40. Appeal of permit denial.

32 (a) (1) If the Agency refuses to grant or grants with33 conditions a permit under Section 39 of this Act, the

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1 applicant may, within 35 days after the date on which the 2 Agency served its decision on the applicant, petition for a hearing before the Board to contest the decision of the 3 4 However, the 35-day period for petitioning for a Agency. 5 hearing may be extended for an additional a period of time б not to exceed 90 days by written notice provided to the Board 7 from the applicant and the Agency within the initial appeal period. The Board shall give 21 day notice to any person in 8 9 the county where is located the facility in issue who has requested notice of enforcement proceedings and to each 10 11 member of the General Assembly in whose legislative district that installation or property is located; and shall publish 12 day notice in a newspaper of general circulation in 13 that 21 that county. The Agency shall appear as respondent 14 in such At such hearing the rules prescribed in Section 32 15 hearing. 16 and subsection (a) of Section 33 of this Act shall apply, and the burden of proof shall be on the petitioner. If, however, 17 the Agency issues an NPDES permit that imposes limits which 18 19 are based upon a criterion or denies a permit based upon application of a criterion, then the Agency shall have the 20 21 burden of going forward with the basis for the derivation of 22 those limits or criterion which were derived under the 23 Board's rules.

Except as provided in paragraph (a)(3), if there is 24 (2) 25 no final action by the Board within 120 days after the date on which it received the petition, the petitioner may deem 26 the permit issued under this Act, provided, however, 27 that that period of 120 days shall not run for any period of time, 28 not to exceed 30 days, during which the Board is without 29 30 sufficient membership to constitute the quorum required by subsection (a) of Section 5 of this Act, and provided further 31 32 that such 120 day period shall not be stayed for lack of quorum beyond 30 days regardless of whether the lack of 33 quorum exists at the beginning of such 120 day period or 34

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occurs during the running of such 120 day period.

(3) Paragraph (a)(2) shall not apply to any permit which
is subject to subsection (b), (d) or (e) of Section 39. If
there is no final action by the Board within 120 days after
the date on which it received the petition, the petitioner
shall be entitled to an Appellate Court order pursuant to
subsection (d) of Section 41 of this Act.

If the Agency grants a RCRA permit for a hazardous 8 (b) 9 waste disposal site, a third party, other than the permit applicant or Agency, may, within 35 days after the date on 10 11 which the Agency issued its decision, petition the Board within-35-days for a hearing to contest the issuance of the 12 Unless the Board determines that such petition is 13 permit. duplicative duplicitous or frivolous, or that the petitioner 14 is so located as to not be affected by the permitted 15 16 facility, the Board shall hear the petition in accordance with the terms of subsection (a) of this Section and its 17 procedural rules governing denial appeals, such hearing to be 18 19 based exclusively on the record before the Agency. The burden of proof shall be on the petitioner. The Agency and 20 21 the permit applicant shall be named co-respondents.

The provisions of this subsection do not apply to the granting of permits issued for the disposal or utilization of sludge from publicly-owned sewage works.

25 (c) Any party to an Agency proceeding conducted pursuant to Section 39.3 of this Act may petition as of right to the 26 Board for review of the Agency's decision within 35 days from 27 the date of issuance of the Agency's decision, provided that 28 such appeal is not <u>duplicative</u> duplicitous or frivolous. 29 30 However, the 35-day period for petitioning for a hearing may be extended by the applicant for a period of time not to 31 32 exceed 90 days by written notice provided to the Board from the applicant and the Agency within the initial appeal 33 34 period. If another person with standing to appeal wishes to

1 obtain an extension, there must be a written notice provided 2 to the Board by that person, the Agency, and the applicant, within the initial appeal period. The decision of the Board 3 4 shall be based exclusively on the record compiled in the Agency proceeding. In other respects the Board's review 5 shall be conducted in accordance with subsection (a) of this 6 7 Section and the Board's procedural rules governing permit 8 denial appeals.

9 In reviewing the denial or any condition of a permit (d) issued by the Agency pursuant to rules and regulations 10 11 adopted under subsection (c) of Section 9.1 of this Act, the decision of the Board shall be based exclusively on the 12 record before the Agency including the record of the hearing, 13 if any, held pursuant to paragraph (f)(3) of Section 39 14 15 unless the parties agree to supplement the record. The Board 16 shall, if it finds the Agency is in error, make a final determination as to the substantive limitations of the permit 17 including a final determination of Lowest Achievable Emission 18 Rate or Best Available Control Technology. 19

(e) (1) If the Agency grants or denies a permit under
subsection (b) of Section 39 of this Act, a third party,
other than the permit applicant or Agency, may petition
the Board within 35 days from the date of issuance of the
Agency's decision, for a hearing to contest the decision
of the Agency.

26 (2) A petitioner shall include the following within
27 a petition submitted under subdivision (1) of this
28 subsection:

(A) a demonstration that the petitioner raised
the issues contained within the petition during the
public notice period or during the public hearing on
the NPDES permit application, if a public hearing
was held; and

34

(B) a demonstration that the petitioner is so

situated as to be affected by the permitted
 facility.

(3) If the Board determines that the petition is 3 4 not duplicative duplicitous or frivolous and contains a satisfactory demonstration under subdivision (2) of this 5 subsection, the Board shall hear the petition (i) in 6 7 accordance with the terms of subsection (a) of this 8 Section and its procedural rules governing permit denial 9 appeals and (ii) exclusively on the basis of the record before the Agency. The burden of proof shall be on the 10 11 petitioner. The Agency and permit applicant shall be 12 named co-respondents.

(f) Any person who files a petition to contest the issuance of a permit by the Agency shall pay a filing fee. (Source: P.A. 90-274, eff. 7-30-97.)

16

(415 ILCS 5/40.1) (from Ch. 111 1/2, par. 1040.1)

17 Sec. 40.1. <u>Appeal of siting approval.</u>

If the county board or the governing body of 18 (a) the municipality, as determined by paragraph (c) of Section 39 of 19 20 this Act, refuses to grant or grants with conditions approval 21 under Section 39.2 of this Act, the applicant may, within 35 22 days after the date on which the local siting authority disapproved or conditionally approved siting, petition for a 23 24 hearing before the Board to contest the decision of the county board or the governing body of the municipality. 25 The Board shall publish 21 day notice of the hearing on 26 the appeal in a newspaper of general circulation published in 27 28 that county. The county board or governing body of the 29 municipality shall appear as respondent in such hearing, and such hearing shall be based exclusively on the record before 30 31 the county board or the governing body of the municipality. At such hearing the rules prescribed in Sections 32 and 33 32 33 (a) of this Act shall apply, and the burden of proof shall be

1 on the petitioner; however, no new or additional evidence in 2 support of or in opposition to any finding, order, determination or decision of the appropriate county board or 3 4 governing body of the municipality shall be heard by the 5 In making its orders and determinations under this Board. Section the Board shall include in its consideration the 6 7 written decision and reasons for the decision of the county 8 board or the governing body of the municipality, the 9 transcribed record of the hearing held pursuant to subsection (d) of Section 39.2, and the fundamental fairness of the 10 11 procedures used by the county board or the governing body of the municipality in reaching its decision. The Board shall 12 transmit a copy of its decision to the office of the county 13 board or governing body of the municipality where it shall be 14 15 available for public inspection and copied upon payment of 16 the actual cost of reproduction. If there is no final action by the Board within 120 days after the date on which it 17 received the petition, the petitioner may deem the site 18 19 location approved; provided, however, that that period of 120 days shall not run for any period of time, not to exceed 30 20 21 days, during which the Board is without sufficient membership 22 to constitute the quorum required by subsection (a) of 23 Section 5 of this Act, and provided further, that such 120 day period shall not be stayed for lack of quorum beyond 30 24 25 days regardless of whether the lack of quorum exists at the beginning of such 120 day period or occurs during the running 26 of such 120 day period. 27

If the county board or the governing body of the 28 (b) 29 municipality as determined by paragraph (c) of Section 39 of 30 this Act, grants approval under Section 39.2 of this Act, a third party other than the applicant who participated in the 31 32 public hearing conducted by the county board or governing body of the municipality may, petition-the--Board within 35 33 days after the date on which the local siting authority 34

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granted siting approval, petition the Board for a hearing to 1 2 contest the approval of the county board or the governing body of the municipality. Unless the Board determines that 3 4 such petition is <u>duplicative</u> duplieitous or frivolous, or 5 that the petitioner is so located as to not be affected by 6 the proposed facility, the Board shall hear the petition in accordance with the terms of subsection (a) of this Section 7 8 and its procedural rules governing denial appeals, such 9 hearing to be based exclusively on the record before county board or the governing body of the municipality. The burden 10 11 of proof shall be on the petitioner. The county board or the governing body of the municipality and the applicant shall be 12 13 named as co-respondents.

14 The Board shall transmit a copy of its decision to the 15 office of the county board or governing body of the 16 municipality where it shall be available for public 17 inspection and may be copied upon payment of the actual cost 18 of reproduction.

19 (c) Any person who files a petition to contest a 20 decision of the county board or governing body of the 21 municipality shall pay a filing fee.

22 (Source: P.A. 85-1331.)

23

(415 ILCS 5/40.2) (from Ch. 111 1/2, par. 1040.2)

24 Sec. 40.2. Application of review process.

(a) Subsection (a) of Section 40 does not apply to any 25 permit which is subject to Section 39.5. 26 If the Agency refuses to grant or grants with conditions a CAAPP permit, 27 28 makes a determination of incompleteness regarding a submitted 29 CAAPP application, or fails to act on an application for a CAAPP permit, permit renewal, or permit revision within the 30 31 time specified in paragraph 5(j) of Section 39.5 of this Act, the applicant, any person who participated in the public 32 comment process pursuant to subsection 8 of Section 39.5 of 33

1 this Act, or any other person who could obtain judicial 2 <u>review</u> a--hearing-before-the-Board pursuant to Section 41(a) of this Act, may, within 35 days after final permit action, 3 4 petition for a hearing before the Board to contest the 5 decision of the Agency. However, the 35-day period for petitioning for a hearing may be extended by the applicant 6 7 for an additional a period of time not to exceed 90 days by 8 written notice provided to the Board from the applicant and 9 the Agency within the initial appeal period. If another person with standing to appeal wishes to obtain an extension, 10 11 there must be a written notice provided to the Board by that person, the Agency, and the applicant, within the initial 12 Notwithstanding the preceding requirements, 13 appeal period. petitions for a hearing before the Board 14 under this subsection may be filed after the 35-day period, only if such 15 16 petitions are based solely on grounds arising after the 35-day period expires. Such petitions shall be filed within 17 35 days after the new grounds for review arise. If the final 18 19 permit action being challenged is the Agency's failure to take final action, a petition for a hearing before the Board 20 21 shall be filed before the Agency denies or issues the final 22 permit.

The Agency shall appear as respondent in such hearing. At such hearing the rules prescribed in Sections 32 and 33(a) of this Act shall apply, and the burden of proof shall be on the petitioner.

(b) The Agency's failure to take final action within 90 days of receipt of an application requesting minor permit modification procedures (or 180 days for modifications subject to group processing requirements), pursuant to subsection 14 of Section 39.5, will be subject to this Section and Section 41 of this Act.

33 (c) If there is no final action by the Board within 120
34 days <u>after the date on which it received the petition</u>, the

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1 permit shall not be deemed issued; rather, the petitioner 2 shall be entitled to an Appellate Court order pursuant to Section 41(d) of this Act. The period of 120 days shall not 3 4 run for any period of time, not to exceed 30 days, during which the Board is without sufficient membership to 5 constitute the quorum required by subsection (a) of Section 5 6 7 of this Act; the 120 day period shall not be stayed for lack of guorum beyond 30 days, regardless of whether the lack of 8 9 quorum exists at the beginning of the 120 day period or occurs during the running of the 120 day period. 10

(d) Any person who files a petition to contest the final permit action by the Agency under this Section shall pay a filing fee.

(e) The Agency shall notify USEPA, in writing, of 14 any petition for hearing brought under this Section involving a 15 16 provision or denial of a Phase II acid rain permit within 30 days of the filing of the petition. USEPA may intervene as a 17 18 matter of right in any such hearing. The Agency shall notify 19 USEPA, in writing, of any determination or order in a hearing under this Section that interprets, voids, or 20 brought 21 otherwise relates to any portion of a Phase II acid rain 22 permit.

23 (Source: P.A. 91-357, eff. 7-29-99.)

24

(415 ILCS 5/45) (from Ch. 111 1/2, par. 1045)

25 Sec. 45. <u>Injunctive and other relief</u>.

existing civil or criminal remedy 26 No for any (a) wrongful action shall be excluded or impaired by this Act. 27 Nothing in this Act shall be construed to limit or supersede 28 29 the provisions of the Illinois Oil and Gas Act and the powers therein granted to prevent the intrusion of water into oil, 30 31 gas or coal strata and to prevent the pollution of fresh water supplies by oil, gas or salt water or oil field wastes, 32 33 except that water quality standards as set forth by the Pollution Control Board apply to and are effective within the areas covered by and affected by permits issued by the Department of Natural Resources. However, if the Department of Natural Resources fails to act upon any complaint within a period of 10 working days following the receipt of a complaint by the Department, the Environmental Protection Agency may proceed under the provisions of this Act.

8 (b) Any person adversely affected in fact by a violation 9 of this Act, any rule or regulation adopted under this Act, or any permit or term or condition of a permit, or-of 10 11 regulations-adopted-thereunder may sue for injunctive relief However, except as provided in 12 against such violation. subsection (d), no action shall be brought under this Section 13 until 30 days after the plaintiff has been denied relief by 14 15 the Board in a proceeding brought under subsection (d) (b) of 16 Section 31 of this Act. The prevailing party shall be awarded costs and reasonable attorneys' fees. 17

18 Nothing in Section 39.4 of this Act shall limit (C)the authority of the Agency to proceed with enforcement under the 19 provisions of this Act for violations of terms and conditions 20 21 of an endorsed agrichemical facility permit, an endorsed 22 lawncare containment permit, or this Act or regulations 23 hereunder caused or threatened by an agrichemical facility or a lawncare wash water containment area, provided that prior 24 25 notice is given to the Department of Agriculture which 26 provides that Department an opportunity to respond as 27 appropriate.

If the State brings an action under this Act against 28 (d) 29 a person with an interest in real property upon which the 30 person is alleged to have allowed open dumping or open burning by a third party in violation of this Act, which 31 action seeks to compel the defendant to remove the waste or 32 otherwise clean up the site, the defendant may, in the manner 33 provided by law for third-party complaints, bring in as 34 а

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1 third-party defendant a person who with actual knowledge 2 caused or contributed to the illegal open dumping or open burning, or who is or may be liable for all or part of the 3 4 removal and cleanup costs. The court may include any of the 5 parties which it determines to have, with actual knowledge, allowed, caused or contributed to the illegal open dumping or 6 7 open burning in any order that it may issue to compel removal 8 of the waste and cleanup of the site, and may apportion the 9 removal and cleanup costs among such parties, as it deems appropriate. However, a person may not seek to recover any 10 11 fines or civil penalties imposed upon him under this Act from a third-party defendant in an action brought under this 12 13 subsection.

14 (Source: P.A. 91-357, eff. 7-29-99.)

15 (415 ILCS 5/49) (from Ch. 111 1/2, par. 1049)

Sec. 49. <u>Proceedings governed by Act; compliance as</u> defense.

18 (a) <u>(Blank.)</u> Until-the-Board-and-the-Agency-established 19 by--this--Act--has--been--appointed--and--taken--office₇--the 20 functions-assigned-to-the-Board-and-to-the--Agency--shall--be 21 performed--by--the--members--of--the--existing--Air-Pollution 22 Control-Board-and-Sanitary-Water-Board-and-by-the--Department 23 of-Public-Health.

(b) All proceedings respecting acts done before the effective date of this Act shall be determined in accordance with the law and regulations in force at the time such acts occurred. All proceedings instituted for actions taken after the effective date of this Act (July 1, 1970) shall be governed by this Act.

30 (c) <u>(Blank.)</u> All--rules--and--regulations--of--the--Air 31 Pollution--Control--Board,--the--Sanitary-Water-Board,-or-the 32 Department-of-Public-Health--relating--to--subjects--embraced 33 within--this--Act-shall-remain-in-full-force-and-effect-until

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1 repealed,-amended,-or-superseded-by--regulations--under--this 2 Aet. All----orders----entered,---permits---or 3 (d) (Blank.) 4 certifications-granted,-and-pending-proceedings-instituted-by the-Air-Pollution-Control-Board, -the-Sanitary-Water-Board, -or 5 6 the-Department-of-Public-Health-relating-to-subjects-embraced 7 within-this-Act-shall-remain-in-full-force-and--effect--until 8 superseded-by-actions-taken-under-this-Act-9 (e) Compliance with the rules and regulations promulgated by the Board under this Act shall constitute a 10 11 prima facie defense to any action, legal, equitable, or 12 criminal, or an administrative proceeding for a violation of 13 this Act, brought by any person. (Source: P.A. 76-2429.) 14 15 (415 ILCS 5/55) (from Ch. 111 1/2, par. 1055) Sec. 55. Prohibited activities. 16 17 (a) No person shall: 18 (1) Cause or allow the open dumping of any used or waste tire. 19 20 (2) Cause or allow the open burning of any used or 21 waste tire. 22 (3) Except at a tire storage site which contains more than 50 used tires, cause or allow the storage of 23 24 any used tire unless the tire is altered, reprocessed, converted, covered, or otherwise prevented 25 from 26 accumulating water. (4) Cause or allow the operation of a tire storage 27 28 site except in compliance with Board regulations. 29 (5) Abandon, dump or dispose of any used or waste tire on private or public property, except in a sanitary 30 landfill approved by the Agency pursuant to regulations 31 adopted by the Board. 32 33 (6) Fail to submit required reports, tire removal

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agreements, or Board regulations.

(Blank.) Beginning-July-1,-1994-through-December-31, 2 (b) 3 1994,--no--person-shall-knowingly-mix-any-whole-used-or-waste 4 tire-with-municipal-waste,-and-no--owner--or--operator--of--a 5 sanitary--landfill--shall-accept-any-whole-used-or-waste-tire for-final-disposal,-except-that--such--tires--when--separated 6 7 from--other--waste--may--be--accepted--if:--(1)--the-sanitary 8 landfill--provides--and--maintains--a--means--for--shredding, 9 slitting-or-chopping-such-tires-and-so-treats-all-such--tires 10 prior-to-disposal;-and-(2)-the-sanitary-landfill-implements-a 11 program-to-actively-seek-alternative-uses-for-the-tire-scraps 12 so-as-to-minimize-the-need-for-on-site-disposal,-including-at 13 a--minimum-participation-in-the-Illinois-Industrial-Materials Exchange-Service-to-communicate-the-availability-of-the--tire 14 15 scraps, -- and - consultation - with - the - Department - of - Commerce - and 16 Community-Affairs-regarding-the-status-of-regional--marketing 17 of--tire--scraps--to--facilities--for--reuse,-reprocessing-or converting---Such-alternative-uses-may-also--include--on-site 18 19 practices-such-as-lining-of-roadways-with-tire-scraps.

20 (b-1) Beginning January 1, 1995, no person shall 21 knowingly mix any used or waste tire, either whole or cut, 22 with municipal waste, and no owner or operator of a sanitary 23 landfill shall accept any used or waste tire for final 24 disposal; except that used or waste tires, when separated 25 from other waste, may be accepted if: (1) the sanitary 26 landfill provides and maintains a means for shredding, slitting, or chopping whole tires and so treats whole tires 27 and, if approved by the Agency in a permit issued under this 28 29 Act, uses the used or waste tires for alternative uses, which 30 may include on-site practices such as lining of roadways with tire scraps, alternative daily cover, or use in a leachate 31 32 collection system or (2) the sanitary landfill, by its 33 notification to the Illinois Industrial Materials Exchange 34 Service, makes available the used or waste tire to an

1 appropriate facility for reuse, reprocessing, or converting, 2 including use as an alternate energy fuel. If, within 30 days after notification to the Illinois Industrial Materials 3 4 Exchange Service of the availability of waste tires, no 5 specific request for the used or waste tires is received by 6 the sanitary landfill, and the sanitary landfill determines 7 it has no alternative use for those used or waste tires, the 8 sanitary landfill may dispose of slit, chopped, or shredded 9 used or waste tires in the sanitary landfill. In the event the physical condition of a used or waste tire makes 10 11 shredding, slitting, chopping, reuse, reprocessing, or other alternative use of the used or waste tire impractical or 12 infeasible, then the sanitary landfill, after authorization 13 by the Agency, may accept the used or waste tire for 14 15 disposal.

16 Sanitary landfills and facilities for reuse, reprocessing, or converting, including use as alternative 17 18 fuel, shall (i) notify the Illinois Industrial Materials 19 Exchange Service of the availability of and demand for used 20 or waste tires and (ii) consult with the Department of Commerce and Community Affairs regarding the status of 21 marketing of waste tires to facilities for reuse. 22

23 On or before January 1, 1990, any person who (C) operates a tire storage site or a tire disposal site which 24 25 contains more than 50 used or waste tires shall give notice of such activity to the Agency. Any person engaging in such 26 activity for the first time after January 1, 1990, shall give 27 notice to the Agency within 30 days after the date of 28 commencement of the activity. The form of such notice shall 29 30 be specified by the Agency and shall be limited to information regarding the following: 31

32 (1) the name and address of the owner and operator;
33 (2) the name, address and location of the
34 operation;

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1 (3) the type of operations involving used and waste 2 tires (storage, disposal, conversion or processing); and (4) the number of used and waste tires present at 3 4 the location.

Beginning January 1, 1992, no person shall cause or 5 (d) б allow the operation of:

7 (1) a tire storage site which contains more than 50 8 used tires, unless the owner or operator, by January 1, 9 1992 (or the January 1 following commencement of operation, whichever is later) and January 1 of each year 10 11 thereafter, (i) registers the site with the Agency, (ii) 12 certifies to the Agency that the site complies with any applicable standards adopted by the Board pursuant to 13 Section 55.2, (iii) reports to the Agency the number of 14 tires accumulated, the status of vector controls, and the 15 16 actions taken to handle and process the tires, and (iv) pays the fee required under subsection (b) of Section 17 55.6; or 18

a tire disposal site, unless the owner or 19 (2) operator (i) has received approval from the Agency after 20 21 filing a tire removal agreement pursuant to Section 55.4, 22 or (ii) has entered into a written agreement to 23 participate in a consensual removal action under Section 55.3. 24

25 The Agency shall provide written forms for the annual registration and certification required under this subsection 26 27 (d).

(e) shall cause or allow the storage, 28 No person 29 disposal, treatment or processing of any used or waste tire 30 in violation of any regulation or standard adopted by the Board. 31

32 No person shall arrange for the transportation of (f) used or waste tires away from the site of generation with a 33 34 person known to openly dump such tires.

1 (g) No person shall engage in any operation as a used or 2 waste tire transporter except in compliance with Board 3 regulations.

(h) No person shall cause or allow the combustion of any
used or waste tire in an enclosed device unless a permit has
been issued by the Agency authorizing such combustion
pursuant to regulations adopted by the Board for the control
of air pollution and consistent with the provisions of
Section 9.4 of this Act.

10 (i) No person shall cause or allow the use of pesticides11 to treat tires except as prescribed by Board regulations.

12 (j) No person shall fail to comply with the terms of a 13 tire removal agreement approved by the Agency pursuant to 14 Section 55.4.

15 (Source: P.A. 88-690, eff. 1-24-95; 89-445, eff. 2-7-96.)

- 16 (415 ILCS 5/56.1) (from Ch. 111 1/2, par. 1056.1)
- 17 Sec. 56.1. <u>Acts prohibited.</u>
- 18 <u>(A)</u> No person shall:

19 (a) Cause or allow the disposal of any potentially 20 infectious medical waste. Sharps may be disposed in any 21 landfill permitted by the Agency under Section 21 of this Act 22 to accept municipal waste for disposal, if both:

(1) the infectious potential has been eliminatedfrom the sharps by treatment; and

25 (2) the sharps are packaged in accordance with
26 <u>Board regulations.</u>÷

27

(A)--Board-regulations;-or

28 (B)--subsection-(b)(2),-until-Board-regulations 29 relating-to-the-packaging-of-potentially--infectious 30 medical-waste-are-adopted-and-effective.

31 (b) Cause or allow the delivery of any potentially 32 infectious medical waste for transport, storage, treatment, 33 or transfer except in accordance with <u>Board regulations.</u>;

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1 (1)--Board-regulations;-or 2 (2)--the-following,-until-Board-regulations-relating 3 to--the-packaging-of-potentially-infectious-medical-waste 4 are-adopted-and-effective: 5 (A)--All-potentially-infectious--medical--waste shall--be--placed--in-a-container-or-containers-that 6 7 are-(i)-rigid;-(ii)-leak-resistant;-(iii)-impervious 8 to--moisture;--(iv)--of--a--strength--sufficient--to prevent-tearing-or-bursting-under-normal--conditions 9 10 of--use--and--handling;--and--(v)--sealed-to-prevent 11 leakage-during-transport. 12 (B)--In--addition--to---the---requirements---of 13 subsection---(b)(2)(A),---sharps---and--sharps--with residual-fluids-shall-be-packaged-in-packaging--that 14 15 is-puncture-resistant. 16 (C)--Oversized--potentially--infectious-medical 17 waste-need-not-be-placed-in-containers. 18

18 (c) Beginning July 1, 1992, cause or allow the delivery 19 of any potentially infectious medical waste to a person or 20 facility for storage, treatment, or transfer that does not 21 have a permit issued by the agency to receive potentially 22 infectious medical waste, unless no permit is required under 23 subsection (g)(1).

24 (d) Beginning July 1, 1992, cause or allow the delivery 25 or transfer of any potentially infectious medical waste for 26 transport unless:

(1) the transporter has a permit issued by the
Agency to transport potentially infectious medical waste,
or the transporter is exempt from the permit requirement
set forth in subsection (f)(1).

31 (2) a potentially infectious medical waste manifest
32 is completed for the waste if a manifest is required
33 under subsection (h).

34 (e) Cause or allow the acceptance of any potentially

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1 infectious medical waste for purposes of transport, storage, 2 treatment, or transfer except in accordance with Board 3 regulations.+ (1)--Board-regulations;-or 4 5 (2)--The-following,-until-Board-regulations-relating to-the-packaging-and-storage--of--potentially--infectious 6 7 medical-waste-are-adopted-and-effective: 8 (A)--All--potentially--infectious-medical-waste 9 shall-be-placed-in-a-container--or--containers--that 10 are-(i)-rigid;-(ii)-leak-resistant;-(iii)-impervious 11 to--moisture;--(iv)--of--a--strength--sufficient--to 12 prevent--tearing-or-bursting-under-normal-conditions 13 of-use-and--handling;--and--(v)--sealed--to--prevent 14 leakage-during-transport. 15 (B)--In---addition---to---the--requirements--of 16 subsection--(b)(2)(A),--sharps---and---sharps---with 17 residual--fluids-shall-be-packaged-in-packaging-that 18 is-puncture-resistant. 19 (C)--Oversized-potentially--infectious--medical 20 waste-need-not-be-placed-in-containers. 21 (D)--Any----person---who---stores---potentially 22 infectious--medical--waste--prior--to--treatment--or disposal-on-site-or-transport-off-site--must--comply 23 24 with-all-of-the-following-storage-requirements: 25 (i)--Store---the---potentially--infectious 26 medical-waste-in-a--manner--and--location--that 27 maintains--the--integrity--of-the-packaging-and 28 provides-protection-from-water,-rain,-and-wind. 29 (ii)--Maintain-the-potentially--infectious 30 medical--waste--in-a-nonputrescent-state,-using refrigeration-when-necessary. 31 (iii)--Lock--the--outdoor--storage---areas 32 33 containing-potentially-infectious-medical-waste 34 to-prevent-unauthorized-access-

1 (iv)--Limit---access--to--on-site--storage 2 areas-to-authorized-employees. (v)--Store--the---potentially---infectious 3 4 medical---waste---in---a--manner--that--affords 5 protection-from-animals-and-does-not-provide--a б breeding-place-or-a-food-source-for-insects-and 7 rodents. (f) Beginning July 1, 1992, conduct any potentially 8 9 infectious medical waste transportation operation: 10 (1) Without a permit issued by the Agency to 11 transport potentially infectious medical waste. No permit is required under this provision (f)(1) for: 12 13 (A) a person transporting potentially infectious medical waste generated solely by that 14 15 person's activities; (B) noncommercial transportation of less than 16 50 pounds of potentially infectious medical waste at 17 any one time; or 18 19 (C) the U.S. Postal Service. (2) In violation of any condition of any permit 20 21 issued by the Agency under this Act. 22 (3) In violation of any regulation adopted by the 23 Board. (4) In violation of any order adopted by the Board 24 25 under this Act. (g) Beginning July 1, 1992, conduct any potentially 26 infectious medical waste treatment, storage, or transfer 27 operation: 28 (1) without a permit issued by the Agency that 29 specifically authorizes the treatment, storage, or transfer 30 of potentially infectious medical waste. No permit is 31 32 required under this subsection (g) for any: (A) Person conducting a potentially infectious 33 34 medical waste treatment, storage, or transfer

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1 operation for potentially infectious medical waste 2 generated by the person's own activities that are 3 treated, stored, or transferred within the site 4 where the potentially infectious medical waste is 5 generated.

6 (B) Hospital that treats, stores, or transfers 7 only potentially infectious medical waste generated 8 by its own activities or by members of its medical 9 staff.

10 (2) in violation of any condition of any permit11 issued by the Agency under this Act.

12 (3) in violation of any regulation adopted by the13 Board.

14 (4) In violation of any order adopted by the Board15 under this Act.

16 (h) Transport potentially infectious medical waste 17 unless the transporter carries a completed potentially 18 infectious medical waste manifest. No manifest is required 19 for the transportation of:

20 (1) potentially infectious medical waste being 21 transported by generators who generated the waste by 22 their own activities, when the potentially infectious 23 medical waste is transported within or between sites or 24 facilities owned, controlled, or operated by that person; 25 (2) less than 50 pounds of potentially infectious

(2) less than 50 pounds of potentially infectious
medical waste at any one time for a noncommercial
transportation activity; or

28 (3) potentially infectious medical waste by the29 U.S. Postal Service.

30 (i) Offer for transportation, transport, deliver, 31 receive or accept potentially infectious medical waste for 32 which a manifest is required, unless the manifest indicates 33 that the fee required under Section 56.4 of this Act has 34 been paid.

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1 (j) Beginning January 1, 1994, conduct a potentially 2 infectious medical waste treatment operation at an incinerator in existence on the effective date of this Title 3 4 in violation of emission standards established for these 5 incinerators under Section 129 of the Clean Air Act (42 USC 7429), as amended. б

7 (B) (k) In making its orders and determinations relative 8 to penalties, if any, to be imposed for violating subdivision 9 (A)(a) of this Section 56-1(a)-of-this-Act, the Board, in addition to the factors in Sections 33(c) and 42(h) of this 10 11 Act, or the Court shall take into consideration whether the owner or operator of the landfill reasonably relied on 12 13 written statements from the person generating or treating the waste that the waste is not potentially infectious medical 14 15 waste.

16 (Source: P.A. 87-752; 87-1097.)

17 (415 ILCS 5/56.2) (from Ch. 111 1/2, par. 1056.2)

18

Sec. 56.2. <u>Regulations.</u>

19 (a) No later than July 1, 1993, the Board shall adopt
20 regulations in accordance with Title VII of this Act
21 prescribing design and operating standards and criteria for
22 all potentially infectious medical waste treatment, storage,
23 and transfer facilities. At a minimum, these regulations
24 shall require treatment of potentially infectious medical
25 waste at a facility that:

26 (1) eliminates the infectious potential of the 27 waste;

(2) prevents compaction and rupture of containers
 during handling operations;

30 (3) disposes of treatment residuals in accordance
31 with this Act and regulations adopted thereunder;
32 (4) provides for quality assurance programs;
33 (5) provides for periodic testing using biological

testing, where appropriate, that demonstrate proper treatment of the waste;

3 (6) provides for assurances that clearly
4 demonstrate that potentially infectious medical waste has
5 been properly treated; and

6 (7) is in compliance with all Federal and State 7 laws and regulations pertaining to environmental 8 protection.

9 Until--the--effective--date-of-the-Board-regulations (b) 10 adopted--under--subsection--(a),---each---applicant---for---a 11 potentially--infectious--medical-waste-treatment-permit-shall 12 prove-that-the-facility-will-not-cause-a-violation-of-the-Act 13 or-of-regulations-adopted--thereunder,--and--prove--that--the facility--meets--the--requirements--set--forth-in-subsections 14 15 (a)(1)-through-(a)(7). After the effective date of the Board 16 regulations adopted under subsection (a), each applicant for a potentially infectious medical waste treatment permit shall 17 prove that the facility will not cause a violation of the Act 18 19 or of regulations adopted thereunder.

20 (c) No later than July 1, 1993, the Board shall adopt 21 regulations in accordance with Title VII of this Act 22 prescribing standards and criteria for transporting, 23 packaging, segregating, labeling, and marking potentially 24 infectious medical waste.

(d) In accord with Title VII of this Act, no later than
January 1, 1992, the Board shall repeal Subpart I of 35 Ill.
Adm. Code 809.

(e) No later than January 1, 1992, the Board shall adopt
rules that are identical in substance to the list of
etiologic agents identified as Class 4 agents as set forth in
"Classification of Etiological Agents on the Basis of Hazard,
1974", published by the Centers for Disease Control. If the
Centers for Disease Control amends the listing of etiologic
agents identified as Class 4 agents as set forth in

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1 "Classification of Etiological Agents on the Basis of Hazard, 2 1974", the Board shall adopt rules that are identical in substance to the amended list within 180 days after the 3 4 Centers for Disease Control's amendment. The provisions and requirements of Title VII of this Act shall not apply to 5 6 rules adopted under this subsection (e). Section 5 of the 7 Illinois Administrative Procedure Act relating to the procedures for rulemaking shall not apply to rules adopted 8 9 under this subsection (e).

10 (f) In accord with Title VII of this Act, the Board may 11 adopt regulations to promote the purposes of this Title. The 12 regulations prescribed in subsection (a), (c), and (e) shall 13 not limit the generality of this authority.

14 (Source: P.A. 87-752; 87-1097.)

15 (415 ILCS 5/57.7)

Sec. 57.7. Leaking underground storage tanks; physical soil classification, groundwater investigation, site classification, and corrective action.

19 (a) Physical soil classification and groundwater20 investigation.

(1) Prior to conducting any physical soil
classification and groundwater investigation activities
required by statute or regulation, the owner or operator
shall prepare and submit to the Agency for the Agency's
approval or modification:

26 (A) a physical soil classification and
27 groundwater investigation plan designed to
28 determine site classification, in accordance
29 with subsection (b) of this Section, as High
30 Priority, Low Priority, or No Further Action.

31 (B) a request for payment of costs
32 associated with eligible early action costs as
33 provided in Section 57.6(b). However, for

purposes of payment for early action costs, fill materials shall not be removed in an amount in excess of 4 feet from the outside dimensions of the tank.

(2) If the owner or operator intends to seek 5 payment from the Fund, prior to conducting any physical 6 7 classification and groundwater investigation soil activities required by statute or regulation, the owner 8 9 or operator shall submit to the Agency for the Agency's approval or modification a physical soil classification 10 11 and groundwater investigation budget which includes, but is not limited to, an accounting of all costs associated 12 with the implementation and completion of the physical 13 soil classification and groundwater investigation plan. 14

15 (3) Within 30 days of completion of the physical
16 soil classification or groundwater investigation report
17 the owner or operator shall submit to the Agency:

18 (A) all physical soil classification and19 groundwater investigation results; and

(B) a certification by a Licensed Professional
Engineer of the site's classification as High
Priority, Low Priority, or No Further Action in
accordance with subsection (b) of this Section as
High Priority, Low Priority, or No Further Action.
(b) Site Classification.

(1) After evaluation of the physical 26 soil classification and groundwater investigation results, 27 when required, and general site information, the site 28 29 shall be classified as "No Further Action", "Low Priority", or "High Priority" based on the requirements 30 of this Section. Site classification shall be determined 31 by a Licensed Professional Engineer in accordance with 32 requirements of this Title and the Licensed 33 the Professional Engineer shall submit a certification to the 34

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1 Agency of the site classification. The Agency has the 2 authority to audit site classifications and reject or modify any site classification inconsistent with the 3 4 requirements of this Title.

(2) Sites shall be classified as No Further Action 5 if the criteria in subparagraph (A) are satisfied:

7 (A)(i) The site is located in an area 8 designated D, E, F and G on the Illinois Geological 9 Survey Circular (1984) titled "Potential for Contamination of Shallow Aquifers in Illinois," by 10 11 Berg, Richard C., et al.;

(ii) A site evaluation under the direction of 12 Licensed Professional Engineer verifies the 13 a physical soil classification conditions 14 are 15 consistent with those indicated on the Illinois 16 Geological Survey Circular (1984) titled "Potential for Contamination of Shallow Aquifers in Illinois," 17 by Berg, Richard C., et al.; and 18

(iii) The conditions identified in subsections 19 (b)(3)(B), (C), (D), and (E) do not exist. 20

21 (B) Groundwater investigation monitoring may 22 be required to confirm that a site meets the 23 criteria of a No Further Action site. The Board shall adopt rules setting forth the criteria under 24 25 which the Agency may exercise its discretionary authority to require investigations and the minimum 26 field requirements for conducting investigations. 27

(3) Sites shall be classified as High Priority if 28 29 any of the following are met:

30 (A) The site is located in an area designated A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4, 31 or C5 on the Illinois Geological Survey Circular 32 titled "Potential for Contamination of 33 (1984) Shallow Aquifers in Illinois," by Berg, Richard C., 34

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1 et al.; a site evaluation under the direction of a Licensed Professional Engineer verifies the physical 2 soil classifications conditions are consistent with 3 4 those indicated on the Illinois Geological Survey (1984) entitled 5 Circular "Potential for Contamination of Shallow Aquifers in Illinois," by 6 7 Berg, Richard C., et al.; and the results of the 8 physical soil classification and groundwater 9 investigation indicate that an applicable indicator contaminant groundwater quality standard 10 or 11 groundwater objective has been exceeded at the 12 property boundary line or 200 feet from the excavation, whichever is less as a consequence of 13 the underground storage tank release. 14

15 (B) The underground storage tank is within the 16 minimum or maximum setback zone of a potable water 17 supply well or regulated recharge area of a potable 18 water supply well.

19 (C) There is evidence that, through natural or
20 manmade pathways, migration of petroleum or vapors
21 threaten human health or human safety or may cause
22 explosions in basements, crawl spaces, utility
23 conduits, storm or sanitary sewers, vaults or other
24 confined spaces.

(D) Class III special resource groundwater
exists within 200 feet of the excavation.

27 (E) A surface water body is adversely affected
28 by the presence of a visible sheen or free product
29 layer as the result of an underground storage tank
30 release.

31 (4) Sites shall be classified as Low Priority if32 all of the following are met:

33 (A) The site does not meet any of the criteria
34 for classification as a High Priority Site.

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(B) (i) The site is located in area designated
A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4,
C5 on the Illinois Geological Survey Circular (1984)
entitled "Potential for Contamination of Shallow
Aquifers in Illinois," by Berg, Richard C., et al.;
and

7 (ii) a site evaluation under the direction of 8 a Licensed Professional Engineer verifies the 9 physical soil classification conditions are consistent with those indicated on the Illinois 10 11 Geological Survey Circular (1984) titled "Potential 12 for Contamination of Shallow Aquifers in Illinois," by Berg, Richard C., et al.; and 13

(iii) the results of the physical soil 14 15 classification and groundwater investigation do not 16 indicate an applicable indicator contaminant 17 groundwater quality standard or groundwater objective has been exceeded at the property boundary 18 line or 200 feet from the underground storage tank, 19 whichever is less. 20

21 (5) In the event the results of the physical soil 22 classification and any required groundwater investigation reveal that the actual site geologic characteristics are 23 different than those indicated by the Illinois Geological 24 Circular (1984) titled "Potential 25 Survey for Contamination of Shallow Aquifers in Illinois" by Berg, 26 27 Richard C., et al., classification of the site shall be determined using the actual 28 site geologic 29 characteristics.

30 (6) For purposes of physical soil classification,
31 the Board is authorized to prescribe by regulation
32 alternatives to use of the Illinois Geological Survey
33 Circular (1984) titled "Potential for Contamination of
34 Shallow Aquifers in Illinois" by Berg, Richard C., et al.

1 (c) Corrective Action.

2

(1) High Priority Site.

(A) Prior to performance of any corrective 3 4 action, beyond that required by Section 57.6 and subsection (a) of Section 57.7 of this Act, the 5 owner or operator shall prepare and submit to the 6 7 Agency for the Agency's approval or modification a 8 corrective action plan designed to mitigate any 9 threat to human health, human safety or the environment resulting from the underground storage 10 11 tank release.

(B) If the owner or operator intends to seek 12 payment from the Fund, prior to performance of any 13 corrective action beyond that required by Section 14 57.6 and subsection (a) of Section 57.7, the owner 15 16 or operator shall submit to the Agency for the Agency's approval or modification a corrective 17 action plan budget which includes, but is not 18 19 limited to, an accounting of all costs associated with the implementation and completion of the 20 21 corrective action plan.

(C) The corrective action plan shall do all ofthe following:

(i) Provide that applicable 24 indicator 25 contaminant groundwater quality standards or groundwater objectives will not be exceeded in 26 groundwater at the property boundary line or 27 200 feet from the excavation, whichever is 28 less, or other level if approved by the Agency, 29 30 for any contaminant identified in the groundwater investigation after complete 31 32 performance of the corrective action plan.

33 (ii) Provide that Class III special34 resource groundwater quality standards for

1 Class III special resource groundwater within 2 200 feet of the excavation will not be exceeded as a result of the underground storage tank 3 4 release for any indicator contaminant 5 identified in the groundwater investigation б after complete performance of the corrective 7 action plan.

(iii) Remediate threats due to 8 the 9 presence or migration, through natural or 10 manmade pathways, of petroleum in 11 concentrations sufficient to harm human health 12 or human safety or to cause explosions in 13 basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other 14 15 confined spaces.

16 (iv) Remediate threats to a potable water 17 supply.

18 (v) Remediate threats to a surface water19 body.

(D) Within 30 days of completion of the 20 21 corrective action, the owner or operator shall 22 submit to the Agency such a completion report that 23 includes a description of the corrective action plan and a description of the corrective action work 24 25 performed and all analytical or sampling results derived from performance of the corrective action 26 27 plan.

(E) The Agency shall issue to the owner or
operator a no further remediation letter in
accordance with Section 57.10 if all of the
following are met:

32 (i) The corrective action completion
33 report demonstrates that: (a) applicable
34 indicator contaminant groundwater quality

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1 standards or groundwater objectives are not 2 exceeded at the property boundary line or 200 feet from the excavation, whichever is less, as 3 4 a result of the underground storage tank for any 5 indicator contaminant release identified in the groundwater investigation; 6 7 (b) Class III special use resource groundwater quality standards, for Class III special use 8 9 resource groundwater within 200 feet of the underground storage tank, are not exceeded as a 10 11 result of the underground storage tank release for any contaminant identified in 12 the groundwater investigation; (c) the underground 13 storage tank release does not threaten human 14 health or human safety due to the presence or 15 16 migration, through natural or manmade pathways, of petroleum or hazardous substances 17 in concentrations sufficient to harm human health 18 or human safety or to cause explosions in 19 basements, crawl spaces, utility conduits, 20 21 storm or sanitary sewers, vaults or other 22 confined spaces; (d) the underground storage 23 tank release does not threaten any surface water body; and (e) the underground storage 24 25 tank release does not threaten any potable 26 water supply.

(ii) The owner or operator submits to the
Agency a certification from a Licensed
Professional Engineer that the work described
in the approved corrective action plan has been
completed and that the information presented in
the corrective action completion report is
accurate and complete.

34 (2) Low Priority Site.

1 (A) Corrective action at a low priority site 2 must include groundwater monitoring consistent with part (B) of this paragraph (2). 3 4 (B) Prior to implementation of groundwater 5 monitoring, the owner or operator shall prepare and submit to the Agency a groundwater monitoring plan 6 7 and, if the owner or operator intends to seek payment under this Title, an associated budget which 8 9 includes, at a minimum, all of the following: (i) Placement of groundwater monitoring 10 11 wells at the property line, or at 200 feet from the excavation which ever is closer, designed 12 to provide the greatest likelihood of detecting 13 migration of groundwater contamination. 14 15 (ii) Quarterly groundwater sampling for a 16 period of one year, semi-annual sampling for the second year and annual groundwater sampling 17 for one subsequent year for all indicator 18 19 contaminants identified during the groundwater investigation. 20 21 (iii) The annual submittal to the Agency 22 of a summary of groundwater sampling results. 23 (C) If at any time groundwater sampling 24 results indicate a confirmed exceedence of 25 applicable indicator contaminant groundwater quality standards or groundwater objectives as a result of 26 the underground storage tank release, the site may 27 be reclassified as a High Priority Site by the 28 29 Agency at any time before the Agency's final 30 approval of a Low Priority groundwater monitoring 31 completion report. Agency review and approval shall be in accordance with paragraph (4) of subsection 32 (c) of this Section. If the owner or operator elects 33 34 to appeal an Agency action to disapprove, modify, or

1 reject by operation of law а Low Priority 2 groundwater monitoring completion report, the Agency shall indicate to the Board in conjunction with such 3 4 appeal whether it intends to reclassify the site as High Priority. If a site is reclassified as a High 5 Priority Site, the owner or operator shall submit a 6 7 corrective action plan and budget to the Agency within 120 days of the confirmed exceedence and 8 9 shall initiate compliance with all corrective action requirements for a High Priority Site. 10

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11 (D) If, throughout the implementation of the 12 groundwater monitoring plan, the groundwater sampling results do not confirm an exceedence of 13 applicable indicator contaminant groundwater quality 14 15 standards or groundwater objectives as a result of 16 the underground storage tank release, the owner or operator shall submit to the Agency a certification 17 of a Licensed Professional Engineer so stating. 18

19 (E) Unless the Agency takes action under subsection (b)(2)(C) to reclassify a site as high 20 21 priority, upon receipt of a certification by a Licensed Professional Engineer submitted pursuant to 22 23 paragraph (2) of subsection (c) of this Section, the Agency shall issue to the owner or operator a no 24 25 further remediation letter in accordance with Section 57.10. 26

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(3) No Further Action Site.

(A) No Further Action sites 28 require no 29 remediation beyond that required in Section 57.6 and 30 subsection (a) of this Section if the owner or operator has submitted to the Agency a certification 31 by a Licensed Professional Engineer that the site 32 meets all of the criteria for classification as No 33 Further Action in subsection (b) of this Section. 34

1 (B) Unless the Agency takes action to reject 2 or modify a site classification under subsection (b) of this Section or the site classification is 3 4 rejected by operation of law under item (4)(B) of subsection (c) of this Section, upon receipt of a 5 certification by a Licensed Professional Engineer 6 7 submitted pursuant to part (A) of paragraph (3) of 8 subsection (c) of this Section, the Agency shall 9 issue to the owner or operator a no further remediation letter in accordance with Section 57.10. 10 11 (4) Agency review and approval.

(A) Agency approval of any plan and associated 12 budget, as described in this item (4), shall be 13 considered final approval for purposes of seeking 14 15 and obtaining payment from the Underground Storage 16 Tank Fund if the costs associated with the completion of any such plan are less than or equal 17 to the amounts approved in such budget. 18

19 (B) In the event the Agency fails to approve, disapprove, or modify any plan or report submitted 20 21 pursuant to this Title in writing within 120 days of 22 the receipt by the Agency, the plan or report shall 23 be considered to be rejected by operation of law for purposes of this Title and rejected for purposes of 24 25 payment from the Leaking Underground Storage Tank 26 Fund.

27 (i) For purposes of those plans as identified in subparagraph 28 (E) of this 29 subsection (c)(4), the Agency's review may be 30 an audit procedure. Such review or audit shall be consistent with the procedure for such 31 review or audit as promulgated by the Board 32 under item (7) of subsection (b) of Section 33 34 57.14. The Agency has the authority to 1

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establish an auditing program to verify compliance of such plans with the provisions of this Title.

4 (ii) For purposes of those plans submitted pursuant to Part (E) (iii) of this 5 paragraph (4) for which payment from the Fund 6 7 is not being sought, the Agency need not take action on such plan until 120 days after it 8 9 receives the corrective action completion report required under Section 57(c)(1)(D). In 10 11 the event the Agency approved the plan, it shall proceed under the provisions of Section 12 13 57(c)(4).

(C) In approving any plan submitted pursuant 14 15 to Part (E) of this paragraph (4), the Agency shall 16 determine, by a procedure promulgated by the Board under item (7) of subsection (b) of Section 57.14, 17 that the costs associated with the plan are 18 19 reasonable, will be incurred in the performance of corrective action, and will not be used for 20 corrective action activities in excess of those 21 22 required to meet the minimum requirements of this 23 title.

24 (D) For any plan or report received after 25 September 13, the-effective-date-of-this-amendatory Act-of 1993, any action by the Agency to disapprove 26 or modify a plan submitted pursuant to this Title 27 shall be provided to the owner or operator in 28 29 writing within 120 days of the receipt by the Agency 30 or, in the case of a corrective action plan for which payment is not being sought, within 120 days 31 of receipt of the corrective action completion 32 report, and shall be accompanied by: 33

34 (i) an explanation of the Sections of

1 this Act which may be violated if the plans 2 were approved; (ii) an explanation of the provisions of 3 4 the regulations, promulgated under this Act, 5 which may be violated if the plan were б approved; 7 (iii) an explanation of the specific type 8 of information, if any, which the Agency deems 9 the applicant did not provide the Agency; and (iv) a statement of specific reasons why 10 11 the Act and the regulations might not be met if 12 the plan were approved. Any action by the Agency to disapprove or 13 modify a plan or report or the rejection of any plan 14 15 or report by operation of law shall be subject to 16 appeal to the Board in accordance with the procedures of Section 40. If the owner or operator 17 elects to incorporate modifications required by the 18 19 Agency rather than appeal, an amended plan shall be submitted to the Agency within 35 days of receipt of 20 21 the Agency's written notification. 22 (E) For purposes of this Title, the term 23 "plan" shall include: (i) Any physical soil classification and 24 25 groundwater investigation plan submitted pursuant to item (1)(A) of subsection (a) of 26 this Section, or budget under item (2) of 27 subsection (a) of this Section; 28 29 (ii) Any groundwater monitoring plan or 30 budget submitted pursuant to subsection (c)(2)(B) of this Section; 31 32 (iii) Any corrective action plan submitted pursuant to subsection (c)(1)(A) of 33 34 this Section; or

1(iv) Any corrective action plan budget2submitted pursuant to subsection (c)(1)(B) of3this Section.

4 For purposes of this Title, the term "indicator (d) shall mean, unless and until the Board 5 contaminant" promulgates regulations to the contrary, the following: 6 (i) 7 an underground storage tank contains gasoline, the if indicator parameter shall be BTEX and Benzene; (ii) 8 if the 9 contained petroleum products consisting of middle tank distillate or heavy ends, then the indicator parameter shall 10 11 be determined by a scan of PNA's taken from the location where contamination is most likely to be present; and (iii) 12 the tank contained used oil, then the indicator 13 if contaminant shall be those chemical constituents 14 which 15 indicate the type of petroleum stored in an underground 16 storage tank. All references in this Title to groundwater objectives shall mean Class I groundwater standards or 17 objectives as applicable. 18

19 (e) (1) Notwithstanding the provisions of this Section, an owner or operator may proceed to conduct physical soil 20 21 classification, groundwater investigation, site 22 classification or other corrective action prior to the 23 submittal or approval of an otherwise required plan. Τf the owner or operator elects to so proceed, an applicable 24 25 plan shall be filed with the Agency at any time. Such plan shall detail the steps taken to determine the type 26 corrective action which was necessary at the site 27 of along with the corrective action taken or to be taken, in 28 29 addition to costs associated with activities to date and 30 anticipated costs.

31 (2) Upon receipt of a plan submitted after
32 activities have commenced at a site, the Agency shall
33 proceed to review in the same manner as required under
34 this Title. In the event the Agency disapproves all or

part of the costs, the owner or operator may appeal such decision to the Board. The owner or operator shall not be eligible to be reimbursed for such disapproved costs unless and until the Board determines that such costs were eligible for payment.

6 (Source: P.A. 88-496; 88-668, eff. 9-16-94; 89-428, eff. 7 1-1-96; 89-457, eff. 5-22-96.)

8 (415 ILCS 5/57.8)

Sec. 57.8. Underground Storage Tank Fund; 9 payment; 10 options for State payment; deferred correction election to 11 commence corrective action upon availability of funds. If an 12 owner or operator is eligible to access the Underground Storage Tank Fund pursuant to an Office of State Fire Marshal 13 eligibility/deductible final determination letter issued in 14 accordance with Section 57.9, the owner or operator may 15 submit a complete application for final or partial payment to 16 17 the Agency for activities taken in response to a confirmed 18 release. An owner or operator may submit a request for partial or final payment regarding a site no more frequently 19 20 than once every 90 days.

(a) Payment after completion of corrective action measures. The owner or operator may submit an application for payment for activities performed at a site after completion of the requirements of Sections 57.6 and 57.7, or after completion of any other required activities at the underground storage tank site.

(1) In the case of any approved plan and budget for
which payment is being sought, the Agency shall make a
payment determination within 120 days of receipt of the
application. Such determination shall be considered a
final decision. The Agency's review shall be limited to
generally accepted auditing and accounting practices. In
no case shall the Agency conduct additional review of any

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1 plan which was completed within the budget, beyond 2 auditing for adherence to the corrective action measures If the Agency fails to approve the 3 in the proposal. 4 payment application within 120 days, such application shall be deemed approved by operation of law and the 5 Agency shall proceed to reimburse the owner or operator 6 7 requested in the payment application. the amount 8 However, in no event shall the Agency reimburse the owner 9 or operator an amount greater than the amount approved in 10 the plan.

11 (2) If sufficient funds are available in the 12 Underground Storage Tank Fund, the Agency shall, within 13 60 days, forward to the Office of the State Comptroller a 14 voucher in the amount approved under the payment 15 application.

16 (3) In the case of insufficient funds, the Agency shall form a priority list for payment and shall notify 17 persons in such priority list monthly of the availability 18 of funds and when payment shall be made. Payment shall 19 20 be made to the owner or operator at such time as 21 sufficient funds become available for the costs associated with corrective action and costs expended for 22 23 activities performed where no proposal is required, if applicable. Such priority list shall be available to any 24 25 owner or operator upon request. Priority for payment shall be determined by the date the Agency receives a 26 complete request for partial 27 or final payment. Upon of notification from the Agency that the 28 receipt 29 requirements of this Title have been met, the Comptroller 30 shall make payment to the owner or operator of the amount approved by the Agency, if sufficient money exists in the 31 Fund. If there is insufficient money in the Fund, then 32 payment shall not be made. If the owner or operator 33 appeals a final Agency payment determination and it is 34

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1 determined that the owner or operator is eligible for 2 payment or additional payment, the priority date for the payment or additional payment shall be the same as the 3 4 priority date assigned to the original request for 5 partial or final payment.

(4) Any deductible, as determined pursuant to the 6 7 Office of the State Fire Marshal's eligibility and deductibility final determination in accordance with 8 9 Section 57.9, shall be subtracted from any payment invoice paid to an eligible owner or operator. Only one 10 11 deductible shall apply per underground storage tank site.

(5) In the event that costs are or will be incurred 12 13 in addition to those approved by the Agency, or after payment, the owner or operator may submit successive 14 15 plans containing amended budgets. The requirements of 16 Section 57.7 shall apply to any amended plans.

(6) For purposes of this Section, a complete 17 application shall consist of: 18

19 (A) A certification from а Licensed Professional Engineer as required under this Title 20 21 and acknowledged by the owner or operator.

(B) A statement of the amount approved in the 22 23 plan and the amount actually sought for payment along with a certified statement that the amount so 24 25 sought shall be expended in conformance with the 26 approved budget.

(C) A copy of the Office of the State Fire 27 eligibility and Marshal's deductibility 28 determination. 29

30 (D) Proof that approval of the payment requested will not result in the limitations set 31 forth in subsection (g) of this Section being 32 exceeded. 33

(E) A federal taxpayer identification number

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1 2 and legal status disclosure certification on a form prescribed and provided by the Agency.

Commencement of corrective action upon availability 3 (b) 4 of funds. The Board shall adopt regulations setting forth procedures based on risk to human health or the environment 5 6 under which the owner or operator who has received approval 7 for any budget plan submitted pursuant to Section 57.7, and who is eligible for payment from the Underground Storage Tank 8 9 Fund pursuant to an Office of the State Fire Marshal eligibility and deductibility determination, may elect to 10 11 defer site classification, low priority groundwater monitoring, or remediation activities until 12 funds are 13 available in an amount equal to the amount approved in the budget plan. The regulations shall establish criteria based 14 on risk to human health or the environment to be used for 15 16 determining on a site-by-site basis whether deferral is appropriate. The regulations also shall establish the 17 18 minimum investigatory requirements for determining whether the risk based criteria are present at a site considering 19 deferral and procedures for the notification of owners or 20 21 operators of insufficient funds, Agency review of request for deferral, notification of Agency final decisions, returning 22 23 deferred sites to active status, and earmarking of funds for 24 payment.

(c) When the owner or operator requests indemnification for payment of costs incurred as a result of a release of petroleum from an underground storage tank, if the owner or operator has satisfied the requirements of subsection (a) of this Section, the Agency shall forward a copy of the request to the Attorney General. The Attorney General shall review and approve the request for indemnification if:

32 (1) there is a legally enforceable judgment entered
33 against the owner or operator and such judgment was
34 entered due to harm caused by a release of petroleum from

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an underground storage tank and such judgment was not
 entered as a result of fraud; or

3 (2) a settlement with a third party due to a
4 release of petroleum from an underground storage tank is
5 reasonable.

(d) Notwithstanding any other provision of this Title, 6 7 the Agency shall not approve payment to an owner or operator 8 from the Fund for costs of corrective action or 9 indemnification incurred during a calendar year in excess of the following aggregate amounts based on the number of 10 11 petroleum underground storage tanks owned or operated by such 12 owner or operator in Illinois.

13AmountNumber of Tanks14\$1,000,000.....fewer than 10115\$2,000,000.....101 or more16(1) Costs incurred in excess of the aggregate17amounts set forth in paragraph (1) of this subsection

19 (2) For purposes of this subsection, requests
20 submitted by any of the agencies, departments, boards,
21 committees or commissions of the State of Illinois shall
22 be acted upon as claims from a single owner or operator.

18

shall not be eligible for payment in subsequent years.

(3) For purposes of this subsection, owner or
operator includes (i) any subsidiary, parent, or joint
stock company of the owner or operator and (ii) any
company owned by any parent, subsidiary, or joint stock
company of the owner or operator.

(e) Costs of corrective action or indemnification 28 29 incurred by an owner or operator which have been paid to an 30 owner or operator under a policy of insurance, another written agreement, or a court order are not eligible for 31 32 payment under this Section. An owner or operator who receives payment under a policy of insurance, another written 33 34 agreement, or a court order shall reimburse the State to the

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1 extent such payment covers costs for which payment was 2 received from the Fund. Any monies received by the State under this subsection (e) shall be deposited into the Fund. 3 4 (Blank.) Until-the-Board-adopts-regulations-pursuant (f) 5 to--Section--57.14,-handling-charges-are-eligible-for-payment only-if-they-are-equal-to-or-less-than-the-amount--determined 6 7 by-the-following-table: 8 Subcontract-or-field-----Eligible-Handling-Charges 9 Purchase-Cost-----as-a-Percentage-of-Cost 10 \$0---\$5,000.....12% 11 \$5,001---\$15,000....\$600+10%-of-amt.-over-\$5,000 12 \$15,001---\$50,000-----\$1600+8%-of-amt--over-\$15,000 \$50,001--\$100,000....\$4400+5\$-of-amt.-over-\$50,00013 14 \$100,001--\$1,000,000+-...\$6900+2\$-of-amt-over-\$100,000(g) The Agency shall not approve any payment from the 15 16 Fund to pay an owner or operator: (1) for costs of corrective action incurred by such 17 18 owner or operator in an amount in excess of \$1,000,000 19 per occurrence; and (2) for costs of indemnification of such owner or 20 21 operator in an amount in excess of \$1,000,000 per 22 occurrence. (h) Payment of any amount from the Fund for corrective 23 action or indemnification shall be subject to the State 24 25 acquiring by subrogation the rights of any owner, operator, or other person to recover the costs of corrective action or 26 indemnification for which the Fund has compensated such 27 28 owner, operator, or person from the person responsible or 29 liable for the release. 30 (i) If the Agency refuses to pay or authorizes only a

30 (1) If the Agency refuses to pay or authorizes only a 31 partial payment, the affected owner or operator may petition 32 the Board for a hearing in the manner provided for the review 33 of permit decisions in Section 40 of this Act.

34 (j) Costs of corrective action or indemnification

incurred by an owner or operator prior to July 28, 1989,
 shall not be eligible for payment or reimbursement under this
 Section.

4 (k) The Agency shall not pay costs of corrective action 5 or indemnification incurred before providing notification of 6 the release of petroleum in accordance with the provisions of 7 this Title.

8 (1) Corrective action does not include legal defense 9 costs. Legal defense costs include legal costs for seeking 10 payment under this Title unless the owner or operator 11 prevails before the Board in which case the Board may 12 authorize payment of legal fees.

(m) The Agency may apportion payment of costs for plans
submitted under Section 57.7(c)(4)(E)(iii) if:

(1) the owner or operator was deemed eligible to access the Fund for payment of corrective action costs for some, but not all, of the underground storage tanks at the site; and

19 (2) the owner or operator failed to justify all
20 costs attributable to each underground storage tank at
21 the site.

22 (Source: P.A. 91-357, eff. 7-29-99.)

23 (415 ILCS 5/57.13)

Sec. 57.13. Underground Storage Tank Program; transition. (a) If a release is reported to the proper State authority on or after <u>September 13</u>, the-effective-date-of this-amendatory-Act-of 1993, the owner or operator shall comply with the requirements of this Title.

(b) If a release is reported to the proper State authority prior to <u>September 13</u>, the-effective-date-of-this amendatory--Act--of 1993, the owner or operator of an underground storage tank may elect to proceed in accordance with the requirements of this Title by submitting a written

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1 statement to the Agency of such election. If the owner or 2 operator elects to proceed under the requirements of this Title all costs incurred in connection with the incident 3 4 prior to notification shall be reimbursable in the same 5 manner as was allowable under the then existing law. б Completion of corrective action shall then follow the 7 provisions of this Title.

8 (Source: P.A. 88-496.)

9 (415 ILCS 5/58.7)

10 Sec. 58.7. Review and approvals.

11 (a) Requirements. All plans and reports that are 12 submitted pursuant to this Title shall be submitted for 13 review or approval in accordance with this Section.

14

(b) Review and evaluation by the Agency.

15 (1) Except for sites excluded under subdivision (a)(2) of Section 58.1, the Agency shall, subject to 16 17 available resources, agree to provide review and 18 evaluation services for activities carried out pursuant to this Title for which the RA requested the services in 19 20 writing. As a condition for providing such services, the 21 Agency may require that the RA for a site:

(A) Conform with the procedures of this Title;
(B) Allow for or otherwise arrange site visits
or other site evaluation by the Agency when so
requested;

26 (C) Agree to perform the <u>Remedial Action Plan</u>
27 work-plan as approved under this Title;

(D) Agree to pay any reasonable costs incurred
and documented by the Agency in providing such
services;

31 (E) Make an advance partial payment to the
32 Agency for such anticipated services in an amount,
33 acceptable to the Agency, but not to exceed \$5,000

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or one-half of the total anticipated costs of the Agency, whichever sum is less; and

3 (F) Demonstrate, if necessary, authority to
4 act on behalf of or in lieu of the owner or
5 operator.

6 (2) Any moneys received by the State for costs 7 incurred by the Agency in performing review or evaluation 8 services for actions conducted pursuant to this Title 9 shall be deposited in the Hazardous Waste Fund.

10 (3) An RA requesting services under subdivision
11 (b)(1) of this Section may, at any time, notify the
12 Agency, in writing, that Agency services previously
13 requested are no longer wanted. Within 180 days after
14 receipt of the notice, the Agency shall provide the RA
15 with a final invoice for services provided until the date
16 of such notifications.

17 (4) The Agency may invoice or otherwise request or
18 demand payment from a RA for costs incurred by the Agency
19 in performing review or evaluation services for actions
20 by the RA at sites only if:

(A) The Agency has incurred costs in performing response actions, other than review or evaluation services, due to the failure of the RA to take response action in accordance with a notice issued pursuant to this Act;

26 (B) The RA has agreed in writing to the27 payment of such costs;

(C) The RA has been ordered to pay such costs
by the Board or a court of competent jurisdiction
pursuant to this Act; or

31 (D) The RA has requested or has consented to
32 Agency review or evaluation services under
33 subdivision (b)(1) of this Section.

34 (5) The Agency may, subject to available resources,

1 2 agree to provide review and evaluation services for
 response actions if there is a written agreement among
 parties to a legal action or if a notice to perform a
 response action has been issued by the Agency.

5 (c) Review and evaluation by a Licensed Professional 6 Engineer. A RA may elect to contract with a Licensed 7 Professional Engineer who will perform review and evaluation 8 services on behalf of and under the direction of the Agency 9 relative to the site activities.

10 (1) Prior to entering into the contract with the 11 Review and Evaluation Licensed Professional Engineer 12 (RELPE), the RA shall notify the Agency of the RELPE to 13 be selected. The Agency and the RA shall discuss the 14 potential terms of the contract.

15 (2) At a minimum, the contract with the RELPE 16 shall provide that the RELPE will submit any reports 17 directly to the Agency, will take his or her directions 18 for work assignments from the Agency, and will perform 19 the assigned work on behalf of the Agency.

20 (3) Reasonable costs incurred by the Agency shall
21 be paid by the RA directly to the Agency in accordance
22 with the terms of the review and evaluation services
23 agreement entered into under subdivision (b)(1) of
24 Section 58.7.

(4) In no event shall the RELPE acting on behalf of
the Agency be an employee of the RA or the owner or
operator of the site or be an employee of any other
person the RA has contracted to provide services relative
to the site.

30 (d) Review and approval. All reviews required under 31 this Title shall be carried out by the Agency or a RELPE, 32 both under the direction of a Licensed Professional Engineer. 33 (1) All review activities conducted by the Agency 34 or a RELPE shall be carried out in conformance with this

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1 Title and rules promulgated under Section 58.11. 2 (2) Specific plans, reports, and activities which the Agency or a RELPE may review include: 3 4 (A) Site Investigation Reports and related activities; 5 (B) Remediation Objectives Reports; 6 7 (C) Remedial Action Plans and related activities; and 8 9 (D) Remedial Action Completion Reports and related activities. 10 11 (3) Only the Agency shall have the authority to 12 approve, disapprove, or approve with conditions a plan or report as a result of the review process including 13 those plans and reports reviewed by a RELPE. 14 If the 15 Agency disapproves a plan or report or approves a plan or 16 report with conditions, the written notification required by subdivision (d)(4) of this Section shall contain the 17 following information, as applicable: 18 (A) An explanation of the Sections of this 19 Title that may be violated if the plan or report was 20 21 approved; 22 (B) An explanation of the provisions of the 23 rules promulgated under this Title that may be violated if the plan or report was approved; 24 25 (C) An explanation of the specific type of information, if any, that the Agency deems the 26 applicant did not provide the Agency; 27 (D) A statement of specific reasons why the 28 29 Title and regulations might not be met if the plan 30 or report were approved; and (E) An explanation of the reasons for 31 conditions if conditions are required. 32 33 (4) Upon approving, disapproving, or approving with 34 conditions a plan or report, the Agency shall notify the

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1 RA in writing of its decision. In the case of approval 2 or approval with conditions of a Remedial Action 3 Completion Report, the Agency shall prepare a No Further 4 Remediation Letter that meets the requirements of Section 5 58.10 and send a copy of the letter to the RA.

(5) All reviews undertaken by the Agency or a RELPE 6 7 shall be completed and the decisions communicated to the 8 RA within 60 days of the request for review or approval. 9 RA may waive the deadline upon a request from the The Agency. If the Agency disapproves or approves with 10 11 conditions a plan or report or fails to issue a final decision within the 60 day period and the RA has not 12 agreed to a waiver of the deadline, the RA may, within 35 13 file an appeal to the Board. Appeals to the Board 14 days, shall be in the manner provided for the review of permit 15 16 decisions in Section 40 of this Act.

(e) Standard of review. In making determinations, the following factors, and additional factors as may be adopted by the Board in accordance with Section 58.11, shall be considered by the Agency when reviewing or approving plans, reports, and related activities, or the RELPE, when reviewing plans, reports, and related activities:

23 Investigation Reports (1) Site and related activities: Whether investigations have been conducted 24 25 and results compiled in accordance with the the appropriate procedures and whether the interpretations 26 and conclusions reached are supported by the information 27 gathered. In making the determination, the following 28 factors shall be considered: 29

30 (A) The adequacy of the description of the
31 site and site characteristics that were used to
32 evaluate the site;

(B) The adequacy of the investigation of
 potential pathways and risks to receptors identified

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at the site; and

2 (C) The appropriateness of the sampling and 3 analysis used.

4 (2) Remediation Objectives Reports: Whether the 5 remediation objectives are consistent with the requirements of the applicable method for selecting or 6 7 determining remediation objectives under Section 58.5. In making the determination, the following factors shall 8 9 be considered:

(A) If the objectives were based on 10 the 11 determination of area background levels under subsection (b) of Section 58.5, whether the review 12 of current and historic conditions at or in the 13 immediate vicinity of the site has been thorough and 14 15 whether the site sampling and analysis has been 16 performed in a manner resulting in accurate determinations; 17

(B) If the objectives were calculated on the
basis of predetermined equations using site specific
data, whether the calculations were accurately
performed and whether the site specific data reflect
actual site conditions; and

(C) If the objectives were determined using a
site specific risk assessment procedure, whether the
procedure used is nationally recognized and
accepted, whether the calculations were accurately
performed, and whether the site specific data
reflect actual site conditions.

(3) Remedial Action Plans and related activities:
Whether the plan will result in compliance with this
Title, and rules adopted under it and attainment of the
applicable remediation objectives. In making the
determination, the following factors shall be considered:
(A) The likelihood that the plan will result

1

in the attainment of the applicable remediation
 objectives;

3 (B) Whether the activities proposed are
4 consistent with generally accepted engineering
5 practices; and

6 (C) The management of risk relative to any 7 remaining contamination, including but not limited 8 to, provisions for the long-term enforcement, 9 operation, and maintenance of institutional and 10 engineering controls, if relied on.

11 (4) Remedial Action Completion Reports and related 12 activities: Whether the remedial activities have been 13 completed in accordance with the approved Remedial Action 14 Plan and whether the applicable remediation objectives 15 have been attained.

16 (f) All plans and reports submitted for review shall include a Licensed Professional Engineer's certification that 17 all investigations and remedial activities were carried out 18 19 under his or her direction and, to the best of his or her knowledge and belief, the work described in the plan or 20 21 report has been completed in accordance with generally 22 accepted engineering practices, and the information presented 23 is accurate and complete.

(g) In accordance with Section 58.11, the Agency shall 24 25 propose and the Board shall adopt rules to carry out the purposes of this Section. At a minimum, the rules shall 26 27 detail the types of services the Agency may provide in response to requests under subdivision (b)(1) of this Section 28 29 and the recordkeeping it will utilize in documenting to the 30 RA the costs incurred by the Agency in providing such services. Until-the-Board-adopts-the-rules,-the--Agency--may 31 32 continue---to--offer--services--of--the--type--offered--under 33 subsections-(m)-and-(n)-of-Section-22-2-of-this-Act-prior--to 34 their-repeal.

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1 (h) Public participation.

2 (1) The Agency shall develop guidance to assist 3 RA's in the implementation of a community relations plan 4 to address activity at sites undergoing remedial action 5 pursuant to this Title.

6 (2) The RA may elect to enter into a services 7 agreement with the Agency for Agency assistance in 8 community outreach efforts.

9 (3) The Agency shall maintain a registry listing 10 those sites undergoing remedial action pursuant to this 11 Title.

12 (4) Notwithstanding any provisions of this Section,
13 the RA of a site undergoing remedial activity pursuant to
14 this Title may elect to initiate a community outreach
15 effort for the site.

16 (Source: P.A. 89-431, eff. 12-15-95; 89-443, eff. 7-1-96; 17 89-626, eff. 8-9-96.)

18 (415 ILCS 5/58.8)

19 Sec. 58.8. Duty to record.

(a) The RA receiving a No Further Remediation Letter 20 21 from the Agency pursuant to Section 58.10, shall submit the 22 letter to the Office of the Recorder or the Registrar of Titles of the county in which the site is located within 45 23 24 days of receipt of the letter. The Office of the Recorder or the Registrar of Titles shall accept and record that letter 25 in accordance with Illinois law so that it forms a permanent 26 part of the chain of title for the site. 27

(b) A No Further Remediation Letter shall not become
effective until officially recorded in accordance with
subsection (a) of this Section. The RA shall obtain and
submit to the Agency a certified copy of the <u>No Further</u>
<u>Remediation</u> Letter as recorded.

33 (c) At no time shall any site for which a land use

1 limitation has been imposed as a result of remediation 2 activities under this Title be used in a manner inconsistent 3 with the land use limitation unless further investigation or 4 remedial action has been conducted that documents the 5 attainment of objectives appropriate for the new land use and 6 a new <u>No Further Remediation</u> Letter obtained and recorded in 7 accordance with this Title.

8 (d) In the event that a No Further Remediation Letter 9 issues by operation of law pursuant to Section 58.10, the RA 10 may, for purposes of this Section, file an affidavit stating 11 that the letter issued by operation of law. Upon receipt of 12 the No Further Remediation Letter from the Agency, the RA 13 shall comply with the requirements of subsections (a) and (b) 14 of this Section.

15 (Source: P.A. 89-431, eff. 12-15-95; 89-443, eff. 7-1-96.)

16 (415 ILCS 5/58.14)

17 Sec. 58.14. Environmental Remediation Tax Credit review.

Prior to applying for the Environmental Remediation 18 (a) Tax Credit under Section 201 of the Illinois Income Tax Act, 19 20 Remediation Applicants shall first submit to the Agency an application for review of remediation costs. 21 The application 22 and review process shall be conducted in accordance with the requirements of this Section and the rules adopted under 23 24 subsection (g). A preliminary review of the estimated remediation costs for development and implementation of the 25 Remedial Action Plan may be obtained in accordance with 26 subsection (d). 27

(b) No application for review shall be submitted until a No Further Remediation Letter has been issued by the Agency and recorded in the chain of title for the site in accordance with Section 58.10. The Agency shall review the application to determine whether the costs submitted are remediation costs, and whether the costs incurred are reasonable. The

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1 application shall be on forms prescribed and provided by the 2 Agency. At a minimum, the application shall include the 3 following:

4 (1) information identifying the Remediation
5 Applicant and the site for which the tax credit is being
6 sought and the date of acceptance of the site into the
7 Site Remediation Program;

8 (2) a copy of the No Further Remediation Letter 9 with official verification that the letter has been 10 recorded in the chain of title for the site and a 11 demonstration that the site for which the application is 12 submitted is the same site as the one for which the No 13 Further Remediation Letter is issued;

demonstration that the release of 14 (3) a the regulated substances of concern for which the No Further 15 16 Remediation Letter was issued were not caused or contributed to in any material respect by the Remediation 17 Applicant. After the Pollution Control Board rules are 18 19 adopted pursuant to the Illinois Administrative Procedure Act for the administration and enforcement of Section 20 21 58.9 of the Environmental Protection Act, determinations 22 as to credit availability shall be made consistent with 23 those rules;

24

25

(4) an itemization and documentation, including receipts, of the remediation costs incurred;

26 (5) a demonstration that the costs incurred are
 27 remediation costs as defined in this Act and its rules;

(6) a demonstration that the costs submitted for
review were incurred by the Remediation Applicant who
received the No Further Remediation Letter;

31 (7) an application fee in the amount set forth in 32 subsection (e) for each site for which review of 33 remediation costs is requested and, if applicable, 34 certification from the Department of Commerce and 1 2 Community Affairs that the site is located in an enterprise zone;

3 (8) any other information deemed appropriate by the4 Agency.

Within 60 days after receipt by the Agency of 5 (C) an 6 application meeting the requirements of subsection (b), the 7 Agency shall issue a letter to the applicant approving, disapproving, or modifying the remediation costs submitted in 8 9 the application. If the remediation costs are approved as submitted, the Agency's letter shall state the amount of the 10 11 remediation costs to be applied toward the Environmental Remediation Tax Credit. If an application is disapproved or 12 approved with modification of remediation costs, the Agency's 13 letter shall set forth the reasons for the disapproval or 14 15 modification and state the amount of the remediation costs, 16 if any, to be applied toward the Environmental Remediation Tax Credit. 17

18 If a preliminary review of a budget plan has been 19 obtained under subsection (d), the Remediation Applicant may submit, with the application and supporting documentation 20 21 under subsection (b), a copy of the Agency's final determination accompanied by a certification that the actual 22 costs 23 remediation incurred for the development and implementation of the Remedial Action Plan are equal to 24 or 25 costs approved in the Agency's final less than the determination on the budget plan. The certification shall be 26 signed by the Remediation Applicant and notarized. Based on 27 that submission, the Agency shall not be required to conduct 28 further review of the costs incurred for development and 29 30 implementation of the Remedial Action Plan and may approve costs as submitted. 31

32 Within 35 days after receipt of an Agency letter 33 disapproving or modifying an application for approval of 34 remediation costs, the Remediation Applicant may appeal the Agency's decision to the Board in the manner provided for the
 review of permits in Section 40 of this Act.

(d) (1) A Remediation Applicant may obtain a preliminary 3 4 review of estimated remediation costs for the development implementation of the Remedial Action Plan by 5 and submitting a budget plan along with the Remedial Action 6 7 The budget plan shall be set forth on forms Plan. 8 prescribed and provided by the Agency and shall include 9 shall not be limited to line item estimates of the but. costs associated with each line item (such as personnel, 10 11 equipment, and materials) that the Remediation Applicant anticipates will be incurred for the development and 12 implementation of the Remedial Action Plan. The Agency 13 shall review the budget plan along with the Remedial 14 15 Action Plan to determine whether the estimated costs 16 submitted are remediation costs and whether the costs estimated for the activities are reasonable. 17

18 (2) If the Remedial Action Plan is amended by the
19 Remediation Applicant or as a result of Agency action,
20 the corresponding budget plan shall be revised
21 accordingly and resubmitted for Agency review.

(3) The budget plan shall be accompanied by theapplicable fee as set forth in subsection (e).

24 (4) Submittal of a budget plan shall be deemed an
25 automatic 60-day waiver of the Remedial Action Plan
26 review deadlines set forth in this Section and its rules.

Within the applicable period of review, the 27 (5) Agency shall issue a letter to the Remediation Applicant 28 29 approving, disapproving, or modifying the estimated 30 remediation costs submitted in the budget plan. Ιf а budget plan is disapproved or approved with modification 31 of estimated remediation costs, the Agency's letter shall 32 33 set forth the reasons for the disapproval or modification. 34

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1 (6) Within 35 days after receipt of an Agency 2 letter disapproving or modifying a budget plan, the 3 Remediation Applicant may appeal the Agency's decision to 4 the Board in the manner provided for the review of 5 permits in Section 40 of this Act.

6 (e) The fees for reviews conducted under this Section 7 are in addition to any other fees or payments for Agency 8 services rendered pursuant to the Site Remediation Program 9 and shall be as follows:

10 (1) The fee for an application for review of 11 remediation costs shall be \$1,000 for each site reviewed. 12 (2) The fee for the review of the budget plan 13 submitted under subsection (d) shall be \$500 for each 14 site reviewed.

15 (3) In the case of a Remediation Applicant 16 submitting for review total remediation costs of \$100,000 or less for a site located within an enterprise zone (as 17 set forth in paragraph (i) of subsection (l) of Section 18 19 201 of the Illinois Income Tax Act), the fee for an application for review of remediation costs shall be \$250 20 21 for each site reviewed. For those sites, there shall be 22 no fee for review of a budget plan under subsection (d). 23 The application fee shall be made payable to the State of Illinois, for deposit into the Hazardous Waste Fund. 24

25 Pursuant to appropriation, the Agency shall use the fees 26 collected under this subsection for development and 27 administration of the review program.

(f) The Agency shall have the authority to enter into
any contracts or agreements that may be necessary to carry
out its duties and responsibilities under this Section.

31 (g) Within 6 months after July 21, the-effective-date-of 32 this-amendatory-Act-of 1997, the Agency shall propose rules 33 prescribing procedures and standards for its administration 34 of this Section. Within 6 months after receipt of the 1 Agency's proposed rules, the Board shall adopt on second 2 notice, pursuant to Sections 27 and 28 of this Act and the Administrative Procedure Act, rules that are 3 Illinois 4 consistent with this Section. Prior to the effective date of rules adopted under this Section, the Agency may conduct 5 6 reviews of applications under this Section and the Agency is 7 further authorized to distribute guidance documents on costs 8 that are eligible or ineligible as remediation costs. 9 (Source: P.A. 90-123, eff. 7-21-97; 90-792, eff. 1-1-99.)

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(415 ILCS 5/58.17)

Sec. 58.17. Environmental Land Use Control. No later 11 than 2 months after July 7, 2000 the-effective-date--of--this 12 amendatory--Act--of--the--91st--General-Assembly, the Agency, 13 14 after consideration of the recommendations of the Regulations 15 and Site Remediation Advisory Committee, shall propose rules creating an instrument to be known as the Environmental Land 16 17 Use Control (ELUC). Within 6 months after receipt of the 18 Agency's proposed rules, the Board shall adopt, pursuant to 19 Sections 27 and 28 of this Act, rules creating the ELUC that 20 establish land use limitations or obligations on the use of 21 real property when necessary to manage risk to human health 22 or the environment arising from contamination left in place pursuant to the procedures set forth in Section 58.5 of this 23 24 Act or 35 Ill. Adm. Code 742. The rules shall include provisions addressing establishment, content, recording, 25 26 duration, and enforcement of ELUCs.

27 (Source: P.A. 91-909, eff. 7-7-00.)

28 (415 ILCS 5/4.1 rep.)

29 (415 ILCS 5/5.1 rep.)

30 (415 ILCS 5/12.1 rep.)

31 (415 ILCS 5/22.20 rep.)

32 (415 ILCS 5/22.41 rep.)

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(415 ILCS 5/22.42 rep.)

2 (415 ILCS 5/50 rep.)

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3 Section 10. The Environmental Protection Act is amended 4 by repealing Sections 4.1, 5.1, 12.1, 22.20, 22.41, 22.42, 5 and 50.

6 Section 15. The Employment of Illinois Workers on Public
7 Works Act is amended by changing Section 1 as follows:

(30 ILCS 570/1) (from Ch. 48, par. 2201)

9 Sec. 1. For the purposes of Article 2 of this Act, the 10 following words have the meanings ascribed to them in this 11 Section.

(1) "Illinois laborer" refers to any person who has
resided in Illinois for at least 30 days and intends to
become or remain an Illinois resident.

15 (2) "A period of excessive unemployment" means any month 16 immediately following 2 consecutive calendar months during 17 which the level of unemployment in the State of Illinois has 18 exceeded 5% as measured by the United States Bureau of Labor 19 Statistics in its monthly publication of employment and 20 unemployment figures.

(3) "Hazardous waste" has the definition ascribed to it
in Section <u>3.220</u> 3.15 of the Illinois Environmental
Protection Act, approved June 29, 1970, as amended.

24 (Source: P.A. 86-1015.)

25 Section 20. The Counties Code is amended by changing 26 Section 5-15002 as follows:

(55 ILCS 5/5-15002) (from Ch. 34, par. 5-15002)
Sec. 5-15002. Definitions. When used in this Division
the term "waterworks system" means and includes a waterworks
system in its entirety, or any integral part thereof,

including mains, hydrants, meters, valves, standpipes,
 storage tanks, pumps, tanks, intakes, wells, impounding
 reservoirs, machinery, purification plants, softening
 apparatus, and all other elements useful in connection with a
 water supply or water distribution system.

The term "sewerage system" means and includes any or all 6 7 of the following: Sewerage treatment plant or plants, 8 collecting, intercepting, and outlet sewers, lateral sewers 9 and drains, including combined storm water and sanitary drains, force mains, conduits, pumping stations, ejector 10 11 stations, and all other appurtenances, extensions and improvements necessary, useful or convenient for the 12 collection, treatment and disposal in a sanitary manner of 13 storm water, sanitary sewage and industrial wastes. 14

The term "combined waterworks and sewerage system" means and includes a waterworks and sewerage system, as hereinabove defined, which any county shall determine to operate in combination.

19 The term "waste management" means the process of storage, 20 treatment or disposal, but not the hauling or transport, of 21 "waste" as defined in Section <u>3.535</u> 3-53 of the Environmental 22 Protection Act, but excluding "hazardous waste" as defined in 23 that Act.

24 (Source: P.A. 86-962; 87-650.)

25 Section 25. The Illinois Municipal Code is amended by 26 changing Section 11-31-1 as follows:

27 (65 ILCS 5/11-31-1) (from Ch. 24, par. 11-31-1)
28 Sec. 11-31-1. Demolition, repair, enclosure, or
29 remediation.

30 (a) The corporate authorities of each municipality may
 31 demolish, repair, or enclose or cause the demolition, repair,
 32 or enclosure of dangerous and unsafe buildings or uncompleted

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1 and abandoned buildings within the territory of the 2 municipality and may remove or cause the removal of garbage, debris, and other hazardous, noxious, or unhealthy substances 3 4 or materials from those buildings. In any county having 5 adopted by referendum or otherwise a county health department 6 as provided by Division 5-25 of the Counties Code or its 7 predecessor, the county board of that county may exercise those powers with regard to dangerous and unsafe buildings or 8 9 uncompleted and abandoned buildings within the territory of any city, village, or incorporated town having less than 10 11 50,000 population.

The corporate authorities shall apply to the circuit 12 court of the county in which the building is located (i) for 13 an order authorizing action to be taken with respect to a 14 15 building if the owner or owners of the building, including 16 the lien holders of record, after at least 15 days' written notice by mail so to do, have failed to put the building in a 17 safe condition or to demolish it or (ii) for an order 18 19 requiring the owner or owners of record to demolish, repair, 20 or enclose the building or to remove garbage, debris, and 21 other hazardous, noxious, or unhealthy substances or It is not a defense to the 22 materials from the building. 23 cause of action that the building is boarded up or otherwise enclosed, although the court may order the defendant to have 24 25 the building boarded up or otherwise enclosed. Where, upon diligent search, the identity or whereabouts of the owner or 26 27 owners of the building, including the lien holders of record, is not ascertainable, notice mailed to the person or persons 28 29 in whose name the real estate was last assessed is sufficient 30 notice under this Section.

The hearing upon the application to the circuit court shall be expedited by the court and shall be given precedence over all other suits. Any person entitled to bring an action under subsection (b) shall have the right to intervene in an

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1 action brought under this Section.

2 The cost of the demolition, repair, enclosure, or removal incurred by the municipality, by an intervenor, or by a lien 3 4 holder of record, including court costs, attorney's fees, and 5 other costs related to the enforcement of this Section, is 6 recoverable from the owner or owners of the real estate or 7 the previous owner or both if the property was transferred 8 during the 15 day notice period and is a lien on the real 9 estate; the lien is superior to all prior existing liens and encumbrances, except taxes, if, within 180 days after 10 the 11 repair, demolition, enclosure, or removal, the municipality, the lien holder of record, or the intervenor who incurred the 12 cost and expense shall file a notice of lien for the cost and 13 expense incurred in the office of the recorder in the county 14 15 in which the real estate is located or in the office of the 16 registrar of titles of the county if the real estate affected is registered under the Registered Titles (Torrens) Act. 17

The notice must consist of a sworn statement setting out 18 19 (1) a description of the real estate sufficient for its 20 identification, (2) the amount of money representing the cost 21 and expense incurred, and (3) the date or dates when the cost 22 and expense was incurred by the municipality, the lien holder 23 of record, or the intervenor. Upon payment of the cost and expense by the owner of or persons interested in the property 24 25 after the notice of lien has been filed, the lien shall be released by the municipality, the person in whose name the 26 lien has been filed, or the assignee of the lien, and the 27 release may be filed of record as in the case of 28 filina notice of lien. Unless the lien is enforced under subsection 29 30 (c), the lien may be enforced by foreclosure proceedings as in the case of mortgage foreclosures under Article XV of the 31 32 Code of Civil Procedure or mechanics' lien foreclosures. An action to foreclose this lien may be commenced at any time 33 34 after the date of filing of the notice of lien. The costs of 1 foreclosure incurred by the municipality, including court 2 costs, reasonable attorney's fees, advances to preserve the 3 property, and other costs related to the enforcement of this 4 subsection, plus statutory interest, are a lien on the real 5 estate and are recoverable by the municipality from the owner 6 or owners of the real estate.

7 All liens arising under this subsection (a) shall be 8 assignable. The assignee of the lien shall have the same 9 power to enforce the lien as the assigning party, except that 10 the lien may not be enforced under subsection (c).

11 If the appropriate official of any municipality 12 determines that any dangerous and unsafe building or uncompleted and abandoned building within its territory 13 fulfills the requirements for an action by the municipality 14 15 under the Abandoned Housing Rehabilitation Act, the 16 municipality may petition under that Act in a proceeding 17 brought under this subsection.

Any owner or tenant of real property within 1200 18 (b) 19 feet in any direction of any dangerous or unsafe building located within the territory of a municipality with a 20 21 population of 500,000 or more may file with the appropriate 22 municipal authority a request that the municipality apply to 23 the circuit court of the county in which the building is located for an order permitting the demolition, removal of 24 25 garbage, debris, and other noxious or unhealthy substances and materials from, or repair or enclosure of the building in 26 the manner prescribed in subsection (a) of this Section. If 27 the municipality fails to institute an action in circuit 28 court within 90 days after the filing of the request, the 29 30 owner or tenant of real property within 1200 feet in any direction of the building may institute an action in circuit 31 32 court seeking an order compelling the owner or owners of record to demolish, remove garbage, debris, and other noxious 33 34 or unhealthy substances and materials from, repair or enclose

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1 or to cause to be demolished, have garbage, debris, and other 2 noxious or unhealthy substances and materials removed from, repaired, or enclosed the building in question. A private 3 4 owner or tenant who institutes an action under the preceding sentence shall not be required to pay any fee to the clerk of 5 the circuit court. The cost of repair, removal, demolition, 6 7 or enclosure shall be borne by the owner or owners of record 8 of the building. In the event the owner or owners of record 9 fail to demolish, remove garbage, debris, and other noxious or unhealthy substances and materials from, repair, or 10 11 enclose the building within 90 days of the date the court entered its order, the owner or tenant who instituted the 12 13 action may request that the court join the municipality as a party to the action. The court may order the municipality to 14 15 demolish, remove materials from, repair, or enclose the 16 building, or cause that action to be taken upon the request of any owner or tenant who instituted the action or upon the 17 municipality's request. The municipality may file, 18 and the 19 court may approve, a plan for rehabilitating the building in question. A court order authorizing the municipality to 20 21 demolish, remove materials from, repair, or enclose a 22 building, or cause that action to be taken, shall not 23 preclude the court from adjudging the owner or owners of record of the building in contempt of court due to 24 the 25 failure to comply with the order to demolish, remove garbage, debris, and other noxious or unhealthy substances and 26 materials from, repair, or enclose the building. 27

If a municipality or a person or persons other than 28 the 29 owner or owners of record pay the cost of demolition, removal 30 of garbage, debris, and other noxious or unhealthy substances and materials, repair, or enclosure pursuant to a court 31 32 order, the cost, including court costs, attorney's fees, and other costs related to the enforcement of this subsection, is 33 34 recoverable from the owner or owners of the real estate and

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1 is a lien on the real estate; the lien is superior to all 2 prior existing liens and encumbrances, except taxes, if, within 180 days after the repair, removal, demolition, or 3 4 enclosure, the municipality or the person or persons who paid 5 the costs of demolition, removal, repair, or enclosure shall 6 file a notice of lien of the cost and expense incurred in the 7 office of the recorder in the county in which the real estate is located or in the office of the registrar of the county if 8 9 the real estate affected is registered under the Registered Titles (Torrens) Act. The notice shall be in a form as is 10 11 provided in subsection (a). An owner or tenant who 12 institutes an action in circuit court seeking an order to compel the owner or owners of record to demolish, remove 13 materials from, repair, or enclose any dangerous or unsafe 14 15 building, or to cause that action to be taken under this 16 subsection may recover court costs and reasonable attorney's fees for instituting the action from the owner or owners of 17 record of the building. Upon payment of the costs and 18 19 expenses by the owner of or a person interested in the property after the notice of lien has been filed, the lien 20 21 shall be released by the municipality or the person in whose 22 name the lien has been filed or his or her assignee, and the 23 release may be filed of record as in the case of filing а notice of lien. Unless the lien is enforced under subsection 24 25 (c), the lien may be enforced by foreclosure proceedings as 26 in the case of mortgage foreclosures under Article XV of the Code of Civil Procedure or mechanics' lien foreclosures. 27 An action to foreclose this lien may be commenced at any time 28 after the date of filing of the notice of lien. The costs of 29 30 foreclosure incurred by the municipality, including court costs, reasonable attorneys' fees, advances to preserve the 31 32 property, and other costs related to the enforcement of this subsection, plus statutory interest, are a lien on the real 33 34 estate and are recoverable by the municipality from the owner

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1 or owners of the real estate.

All liens arising under the terms of this subsection (b) shall be assignable. The assignee of the lien shall have the same power to enforce the lien as the assigning party, except that the lien may not be enforced under subsection (c).

6 (c) In any case where a municipality has obtained a lien 7 under subsection (a), (b), or (f), the municipality may 8 enforce the lien under this subsection (c) in the same 9 proceeding in which the lien is authorized.

A municipality desiring to enforce a lien under this 10 11 subsection (c) shall petition the court to retain jurisdiction for foreclosure proceedings under 12 this subsection. Notice of the petition shall be served, by 13 certified or registered mail, on all persons who were served 14 notice under subsection (a), (b), or (f). 15 The court shall 16 conduct a hearing on the petition not less than 15 days after the notice is served. If the court determines that the 17 requirements of this subsection (c) have been satisfied, it 18 19 shall grant the petition and retain jurisdiction over the matter until the foreclosure proceeding is completed. 20 The 21 costs of foreclosure incurred by the municipality, including 22 court costs, reasonable attorneys' fees, advances to preserve 23 the property, and other costs related to the enforcement of this subsection, plus statutory interest, are a lien on the 24 25 real estate and are recoverable by the municipality from the owner or owners of the real estate. If the court denies the 26 petition, the municipality may enforce the lien in a separate 27 action as provided in subsection (a), (b), or (f). 28

All persons designated in Section 15-1501 of the Code of Civil Procedure as necessary parties in a mortgage foreclosure action shall be joined as parties before issuance of an order of foreclosure. Persons designated in Section 15-1501 of the Code of Civil Procedure as permissible parties may also be joined as parties in the action. 1 The provisions of Article XV of the Code of Civil 2 Procedure applicable to mortgage foreclosures shall apply to the foreclosure of a lien under this subsection (c), except 3 4 to the extent that those provisions are inconsistent with For purposes of foreclosures of liens 5 this subsection. 6 under this subsection, however, the redemption period 7 described in subsection (b) of Section 15-1603 of the Code of Civil Procedure shall end 60 days after the date of entry of 8 the order of foreclosure. 9

10 (d) In addition to any other remedy provided by law, the 11 corporate authorities of any municipality may petition the 12 circuit court to have property declared abandoned under this 13 subsection (d) if:

14 (1) the property has been tax delinquent for 2 or
15 more years or bills for water service for the property
16 have been outstanding for 2 or more years;

17 (2) the property is unoccupied by persons legally18 in possession; and

19 (3) the property contains a dangerous or unsafe20 building.

21 All persons having an interest of record in the property, 22 including tax purchasers and beneficial owners of any 23 Illinois land trust having title to the property, shall be named as defendants in the petition and shall be served with 24 25 In addition, service shall be had under Section process. 2-206 of the Code of Civil Procedure as in other cases 26 27 affecting property.

The municipality, however, may proceed under this subsection in a proceeding brought under subsection (a) or (b). Notice of the petition shall be served by certified or registered mail on all persons who were served notice under subsection (a) or (b).

33 If the municipality proves that the conditions described 34 in this subsection exist and the owner of record of the

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1 property does not enter an appearance in the action, or, if 2 title to the property is held by an Illinois land trust, if 3 neither the owner of record nor the owner of the beneficial 4 interest of the trust enters an appearance, the court shall 5 declare the property abandoned.

6 If that determination is made, notice shall be sent by certified or registered mail to all persons having an 7 8 interest of record in the property, including tax purchasers 9 and beneficial owners of any Illinois land trust having title to the property, stating that title to the property will be 10 11 transferred to the municipality unless, within 30 days of the notice, the owner of record enters an appearance in the 12 action, or unless any other person having an interest in the 13 property files with the court a request to demolish the 14 15 dangerous or unsafe building or to put the building in safe 16 condition.

17 If the owner of record enters an appearance in the action 18 within the 30 day period, the court shall vacate its order 19 declaring the property abandoned. In that case, the 20 municipality may amend its complaint in order to initiate 21 proceedings under subsection (a).

22 If a request to demolish or repair the building is filed 23 within the 30 day period, the court shall grant permission to the requesting party to demolish the building within 30 days 24 25 or to restore the building to safe condition within 60 days after the request is granted. An extension of that period 26 for up to 60 additional days may be given for good cause. 27 Ιf more than one person with an interest in the property files a 28 29 timely request, preference shall be given to the person with 30 the lien or other interest of the highest priority.

If the requesting party proves to the court that the building has been demolished or put in a safe condition within the period of time granted by the court, the court shall issue a quitclaim judicial deed for the property to the

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1 requesting party, conveying only the interest of the owner of 2 record, upon proof of payment to the municipality of all costs incurred by the municipality in connection with the 3 4 including but not limited to court costs, attorney's action, fees, administrative costs, the costs, if any, 5 associated 6 with building enclosure or removal, and receiver's 7 certificates. The interest in the property so conveyed shall 8 be subject to all liens and encumbrances on the property. In 9 addition, if the interest is conveyed to a person holding a certificate of purchase for the property under the Property 10 11 Tax Code, the conveyance shall be subject to the rights of redemption of all persons entitled to redeem under that Act, 12 including the original owner of record. 13

If no person with an interest in the property files 14 а 15 timely request or if the requesting party fails to demolish 16 the building or put the building in safe condition within the time specified by the court, the municipality may petition 17 the court to issue a judicial deed for the property to the 18 19 municipality. A conveyance by judicial deed shall operate to extinguish all existing ownership interests in, liens on, and 20 21 other interest in the property, including tax liens, and 22 shall extinguish the rights and interests of any and all 23 holders of a bona fide certificate of purchase of the property for delinquent taxes. 24 Any such bona fide 25 certificate of purchase holder shall be entitled to a sale in error as prescribed under Section 21-310 of the Property Tax 26 27 Code.

(e) Each municipality may use the provisions of this subsection to expedite the removal of certain buildings that are a continuing hazard to the community in which they are located.

If a residential or commercial building is 3 stories or less in height as defined by the municipality's building code, and the corporate official designated to be in charge

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1 of enforcing the municipality's building code determines that 2 the building is open and vacant and an immediate and continuing hazard to the community in which the building is 3 4 located, then the official shall be authorized to post a notice not less than 2 feet by 2 feet in size on the front of 5 the building. The notice shall be dated as of the date of 6 the posting and shall state that unless the building is 7 8 demolished, repaired, or enclosed, and unless any garbage, 9 debris, and other hazardous, noxious, or unhealthy substances or materials are removed so that an immediate and continuing 10 11 hazard to the community no longer exists, then the building 12 may be demolished, repaired, or enclosed, or any garbage, 13 debris, and other hazardous, noxious, or unhealthy substances or materials may be removed, by the municipality. 14

Not later than 30 days following the posting of the notice, the municipality shall do all of the following:

(1) Cause to be sent, by certified mail, return 17 receipt requested, a Notice to Remediate to all owners 18 of record of the property, the beneficial owners of any 19 20 Illinois land trust having title to the property, and all 21 lienholders of record in the property, stating the intent 22 of the municipality to demolish, repair, or enclose the building or remove any garbage, debris, 23 or other hazardous, noxious, or unhealthy substances or materials 24 if that action is not taken by the owner or owners. 25

(2) Cause to be published, in a newspaper published 26 or circulated in the municipality where the building is 27 located, a notice setting forth (i) the permanent tax 28 29 index number and the address of the building, (ii) a statement that the property is open and vacant and 30 constitutes an immediate and continuing hazard to the 31 community, and (iii) a statement that the municipality 32 intends to demolish, repair, or enclose the building or 33 remove any garbage, debris, or other hazardous, noxious, 34

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1 or unhealthy substances or materials if the owner or 2 owners or lienholders of record fail to do so. This 3 notice shall be published for 3 consecutive days.

4 (3) Cause to be recorded the Notice to Remediate 5 mailed under paragraph (1) in the office of the recorder 6 in the county in which the real estate is located or in 7 the office of the registrar of titles of the county if 8 the real estate is registered under the Registered Title 9 (Torrens) Act.

10 Any person or persons with a current legal or equitable 11 interest in the property objecting to the proposed actions of 12 the corporate authorities may file his or her objection in an 13 appropriate form in a court of competent jurisdiction.

If the building is not demolished, repaired, or enclosed, 14 15 or the garbage, debris, or other hazardous, noxious, or 16 unhealthy substances or materials are not removed, within 30 days of mailing the notice to the owners of record, the 17 beneficial owners of any Illinois land trust having title to 18 19 the property, and all lienholders of record in the property, or within 30 days of the last day of publication of the 20 21 notice, whichever is later, the corporate authorities shall 22 have the power to demolish, repair, or enclose the building 23 or to remove any garbage, debris, or other hazardous, noxious, or unhealthy substances or materials. 24

25 The municipality may proceed to demolish, repair, or 26 enclose a building or remove any garbage, debris, or other hazardous, noxious, or unhealthy substances or materials 27 under this subsection within a 120-day period following the 28 29 date of the mailing of the notice if the appropriate official 30 determines that the demolition, repair, enclosure, or removal 31 of any garbage, debris, or other hazardous, noxious, or 32 unhealthy substances or materials is necessary to remedy the immediate and continuing hazard. If, however, before the 33 34 municipality proceeds with any of the actions authorized by 1 this subsection, any person with a legal or equitable 2 interest in the property has sought a hearing under this subsection before a court and has served a copy of the 3 4 complaint on the chief executive officer of the municipality, 5 then the municipality shall not proceed with the demolition, 6 repair, enclosure, or removal of garbage, debris, or other 7 substances until the court determines that that action is remedy the hazard and issues an order 8 necessary to 9 authorizing the municipality to do so.

Following the demolition, repair, or enclosure of 10 а 11 building, or the removal of garbage, debris, or other hazardous, noxious, or unhealthy substances or materials 12 under this subsection, the municipality may file a notice of 13 lien against the real estate for the cost of the demolition, 14 15 repair, enclosure, or removal within 180 days after the 16 repair, demolition, enclosure, or removal occurred, for the cost and expense incurred, in the office of the recorder 17 in the county in which the real estate is located or in the 18 19 office of the registrar of titles of the county if the real estate affected is registered under the Registered Titles 20 21 (Torrens) Act; this lien has priority over the interests of 22 those parties named in the Notice to Remediate mailed under 23 paragraph (1), but not over the interests of third party purchasers or encumbrancers for value who obtained their 24 25 interests in the property before obtaining actual or constructive notice of the lien. The notice of lien shall 26 consist of a sworn statement setting forth (i) a description 27 of the real estate, such as the address or other description 28 of the property, sufficient for its identification; (ii) 29 the 30 expenses incurred by the municipality in undertaking the remedial actions authorized under this subsection; (iii) 31 the 32 date or dates the expenses were incurred by the municipality; (iv) a statement by the corporate official responsible for 33 34 enforcing the building code that the building was open and 1 vacant and constituted an immediate and continuing hazard to 2 the community; (v) a statement by the corporate official that the required sign was posted on the building, that notice was 3 4 sent by certified mail to the owners of record, and that 5 notice was published in accordance with this subsection; and 6 (vi) a statement as to when and where the notice was The lien authorized by this subsection may 7 published. thereafter be released or enforced by the municipality as 8 9 provided in subsection (a).

(f) The corporate authorities of each municipality may 10 11 remove or cause the removal of, or otherwise environmentally remediate hazardous substances and petroleum products on, in, 12 13 or under any abandoned and unsafe property within the territory of a municipality. In addition, where preliminary 14 15 evidence indicates the presence or likely presence of a 16 hazardous substance or a petroleum product or a release or a substantial threat of a release of a hazardous substance or a 17 petroleum product on, in, or under the property, the 18 19 corporate authorities of the municipality may inspect the 20 property and test for the presence or release of hazardous 21 substances and petroleum products. In any county having 22 adopted by referendum or otherwise a county health department 23 as provided by Division 5-25 of the Counties Code or its predecessor, the county board of that county may exercise the 24 25 above-described powers with regard to property within the territory of any city, village, or incorporated town having 26 less than 50,000 population. 27

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For purposes of this subsection (f):

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(1) "property" or "real estate" means all real
property, whether or not improved by a structure;

(2) "abandoned" means;

32 (A) the property has been tax delinquent for 2
33 or more years;

(B) the property is unoccupied by persons

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legally in possession; and

2 (3) "unsafe" means property that presents an actual
3 or imminent threat to public health and safety caused by
4 the release of hazardous substances; and

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(4) "hazardous substances" means the same as in Section 3.215 3-14 of the Environmental Protection Act.

7 corporate authorities shall apply to the circuit The 8 court of the county in which the property is located (i) for 9 an order allowing the municipality to enter the property and inspect and test substances on, in, or under the property; or 10 11 (ii) for an order authorizing the corporate authorities to 12 take action with respect to remediation of the property if 13 conditions on the property, based on the inspection and testing authorized in paragraph (i), indicate the presence of 14 15 hazardous substances or petroleum products. Remediation 16 shall be deemed complete for purposes of paragraph (ii) above when the property satisfies Tier I, II, or III remediation 17 objectives for the property's most 18 recent usage, as 19 established by the Environmental Protection Act, and the 20 rules and regulations promulgated thereunder. Where, upon 21 diligent search, the identity or whereabouts of the owner or 22 owners of the property, including the lien holders of record, 23 is not ascertainable, notice mailed to the person or persons in whose name the real estate was last assessed is sufficient 24 25 notice under this Section.

The court shall grant an order authorizing testing under 26 27 paragraph (i) above upon a showing of preliminary evidence indicating the presence or likely presence of a hazardous 28 29 substance or a petroleum product or a release of or a 30 substantial threat of a release of a hazardous substance or a 31 petroleum product on, in, or under abandoned property. The preliminary evidence may include, but is not limited to, 32 evidence of prior use, visual site inspection, or records of 33 34 prior environmental investigations. The testing authorized

1 by paragraph (i) above shall include any type of 2 investigation which is necessary for an environmental professional to determine the environmental condition of the 3 4 property, including but not limited to performance of soil 5 borings and groundwater monitoring. The court shall grant a б remediation order under paragraph (ii) above where testing of 7 the property indicates that it fails to meet the applicable 8 remediation objectives. The hearing upon the application to 9 the circuit court shall be expedited by the court and shall be given precedence over all other suits. 10

11 The cost of the inspection, testing, or remediation incurred by the municipality or by a lien holder of record, 12 including court costs, attorney's fees, and other costs 13 related to the enforcement of this Section, is a lien on the 14 15 real estate; except that in any instances where a 16 municipality incurs costs of inspection and testing but finds no hazardous substances or petroleum products on the property 17 that present an actual or imminent threat to public health 18 19 and safety, such costs are not recoverable from the owners nor are such costs a lien on the real estate. The 20 lien is 21 superior to all prior existing liens and encumbrances, except 22 taxes and any lien obtained under subsection (a) or (e), if, 23 within 180 days after the completion of the inspection, testing, or remediation, the municipality or the lien holder 24 25 of record who incurred the cost and expense shall file a notice of lien for the cost and expense incurred in the 26 office of the recorder in the county in which the real estate 27 is located or in the office of the registrar of titles of the 28 county if the real estate affected is registered under 29 the 30 Registered Titles (Torrens) Act.

The notice must consist of a sworn statement setting out (i) a description of the real estate sufficient for its identification, (ii) the amount of money representing the cost and expense incurred, and (iii) the date or dates when 1 the cost and expense was incurred by the municipality or the 2 lien holder of record. Upon payment of the lien amount by the owner of or persons interested in the property after the 3 4 notice of lien has been filed, a release of lien shall be issued by the municipality, the person in whose name the lien 5 has been filed, or the assignee of the lien, and the release 6 may be filed of record as in the case of filing notice of 7 8 lien.

9 lien may be enforced under subsection (c) or by The foreclosure proceedings as in 10 the case of mortgage 11 foreclosures under Article XV of the Code of Civil Procedure or mechanics' lien foreclosures; provided that where the lien 12 13 is enforced by foreclosure under subsection (c) or under either statute, the municipality may not proceed against the 14 15 other assets of the owner or owners of the real estate for 16 any costs that otherwise would be recoverable under this Section but that remain unsatisfied after foreclosure except 17 where such additional recovery is authorized by separate 18 19 environmental laws. An action to foreclose this lien may be commenced at any time after the date of filing of the notice 20 21 of lien. The costs of foreclosure incurred by the 22 municipality, including court costs, reasonable attorney's 23 fees, advances to preserve the property, and other costs related to the enforcement of this subsection, plus statutory 24 25 interest, are a lien on the real estate.

All liens arising under this subsection (f) shall be assignable. The assignee of the lien shall have the same power to enforce the lien as the assigning party, except that the lien may not be enforced under subsection (c).

30 (g) In any case where a municipality has obtained a lien 31 under subsection (a), the municipality may also bring an 32 action for a money judgment against the owner or owners of 33 the real estate in the amount of the lien in the same manner 34 as provided for bringing causes of action in Article II of

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1 the Code of Civil Procedure and, upon obtaining a judgment, 2 file a judgment lien against all of the real estate of the 3 owner or owners and enforce that lien as provided for in 4 Article XII of the Code of Civil Procedure.

5 (Source: P.A. 91-162, eff. 7-16-99; 91-177, eff. 1-1-00; 6 91-357, eff. 7-29-99; 91-542, eff. 1-1-00; 91-561, eff. 7 1-1-00; 92-16, eff. 6-28-01.)

8 Section 30. The Conservation District Act is amended by9 changing Section 19 as follows:

10 (70 ILCS 410/19) (from Ch. 96 1/2, par. 7129)

11 Sec. 19. Landfills.

12 (a) No land that is owned or acquired by a conservation 13 district may be used for the development or operation of any 14 new pollution control facility, as those terms are defined in 15 Section <u>3.330</u> 3.32 of the Environmental Protection Act.

16 (b) A conservation district may not transfer any land or 17 interest in land owned or acquired by the district to any other entity which the district has reason to know intends to 18 19 construct, expand or operate thereon any sanitary landfill or 20 regulated waste treatment, disposal or storage facility or 21 operate thereon any new pollution control develop or facility, as that term is defined in Section 3.330 3-32 of 22 23 the Environmental Protection Act.

A conservation district that wishes to transfer any land or interest in land owned or acquired by the district to any other entity must impose, as a condition of the transfer, a covenant prohibiting the development thereon or operation of any new pollution control facility, as that term is defined in Section 3.330 3-32 of the Environmental Protection Act. (Source: P.A. 87-554; 88-681, eff. 12-22-94.)

Section 35. The Downstate Forest Preserve District Act

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is amended by changing Section 18.6c as follows:

2 3 (70 ILCS 805/18.6c) (from Ch. 96 1/2, par. 6340c) Sec. 18.6c. Landfills.

4 (a) No land that is owned or acquired by a forest 5 preserve district may be used for the development or 6 operation of any new pollution control facility, as that term 7 is defined in Section <u>3.330</u> 3-32 of the Environmental 8 Protection Act.

(b) A forest preserve district may not transfer any land 9 10 or interest in land owned or acquired by the district to any other entity which the district has reason to know intends to 11 construct, expand or operate thereon any sanitary landfill or 12 regulated waste treatment, disposal or storage facility or 13 14 develop or operate thereon any new pollution control 15 facility, as that term is defined in Section 3.330 3-32 of the Environmental Protection Act. 16

A forest preserve district that wishes to transfer any land or interest in land owned or acquired by the district to any other entity must impose, as a condition of the transfer, a covenant prohibiting the development thereon or operation of any new pollution control facility, as that term is defined in Section <u>3.330</u> 3-32 of the Environmental Protection Act.

24 (Source: P.A. 87-554; 88-681, eff. 12-22-94.)

25 Section 40. The Public Utilities Act is amended by 26 changing Section 8-403.1 as follows:

27 (220 ILCS 5/8-403.1) (from Ch. 111 2/3, par. 8-403.1)
28 Sec. 8-403.1. Electricity purchased from qualified solid
29 waste energy facility; tax credit; distributions for economic
30 development.

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(a) It is hereby declared to be the policy of this State

1 to encourage the development of alternate energy production 2 facilities in order to conserve our energy resources and to 3 provide for their most efficient use.

4 (b) For the purpose of this Section and Section 9-215.1, 5 "qualified solid waste energy facility" means a facility 6 determined by the Illinois Commerce Commission to qualify as 7 such under the Local Solid Waste Disposal Act, to use methane 8 gas generated from landfills as its primary fuel, and to 9 possess characteristics that would enable it to qualify as a cogeneration or small power production facility under federal 10 11 law.

(c) In furtherance of the policy declared in this 12 Section, the Illinois Commerce Commission shall require 13 electric utilities to enter into long-term contracts 14 to electricity from qualified solid waste energy 15 purchase 16 facilities located in the electric utility's service area, for a period beginning on the date that the facility begins 17 generating electricity and having a duration of not less than 18 facilities 19 10 years in the case of fueled by 20 landfill-generated methane, or 20 years in the case of 21 facilities fueled by methane generated from a landfill owned 22 by a forest preserve district. The purchase rate contained 23 in such contracts shall be equal to the average amount per kilowatt-hour paid from time to time by the unit or units of 24 25 local government in which the electricity generating facilities are located, excluding amounts paid for street 26 lighting and pumping service. 27

(d) Whenever a public utility is required to purchase electricity pursuant to subsection (c) above, it shall be entitled to credits in respect of its obligations to remit to the State taxes it has collected under the Electricity Excise Tax Law equal to the amounts, if any, by which payments for such electricity exceed (i) the then current rate at which the utility must purchase the output of qualified facilities

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1 pursuant to the federal Public Utility Regulatory Policies 2 Act of 1978, less (ii) any costs, expenses, losses, damages or other amounts incurred by the utility, or for which it 3 4 becomes liable, arising out of its failure to obtain such electricity from such other sources. The amount of any such 5 credit shall, in the first instance, be determined by the 6 7 utility, which shall make a monthly report of such credits to Illinois Commerce Commission and, on its monthly tax 8 the 9 return, to the Illinois Department of Revenue. Under no circumstances shall a utility be required to purchase 10 11 electricity from a qualified solid waste energy facility at the rate prescribed in subsection (c) of this Section if such 12 purchase would result in estimated tax credits that exceed, 13 on a monthly basis, the utility's estimated obligation to 14 15 remit to the State taxes it has collected under the 16 Electricity Excise Tax Law. The owner or operator shall negotiate facility operating conditions with the purchasing 17 18 utility in accordance with that utility's posted standard 19 terms and conditions for small power producers. If the Department of Revenue disputes the amount of any such credit, 20 21 such dispute shall be decided by the Illinois Commerce Commission. Whenever a qualified solid waste energy facility 22 23 has paid or otherwise satisfied in full the capital costs or indebtedness incurred in developing and implementing 24 the 25 qualified facility, the qualified facility shall reimburse the Public Utility Fund and the General Revenue Fund in the 26 State treasury for the actual reduction in payments to those 27 Funds caused by this subsection (d) in a manner to be 28 determined by the Illinois Commerce Commission and based on 29 30 the manner in which revenues for those Funds were reduced.

31 (e) The Illinois Commerce Commission shall not require 32 an electric utility to purchase electricity from any 33 qualified solid waste energy facility which is owned or 34 operated by an entity that is primarily engaged in the

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business of producing or selling electricity, gas, or useful
 thermal energy from a source other than one or more qualified
 solid waste energy facilities.

4 (f) This Section does not require an electric utility to
5 construct additional facilities unless those facilities are
6 paid for by the owner or operator of the affected qualified
7 solid waste energy facility.

The Illinois Commerce Commission shall require that: 8 (q) 9 (1)electric utilities use the electricity purchased from a qualified solid waste energy facility to displace electricity 10 11 generated from nuclear power or coal mined and purchased outside the boundaries of the State of Illinois before 12 displacing electricity generated from coal 13 mined and purchased within the State of Illinois, to the extent 14 15 possible, and (2) electric utilities report annually to the 16 Commission on the extent of such displacements.

(h) Nothing in this Section is intended to cause 17 an electric utility that is required to purchase power hereunder 18 19 to incur any economic loss as a result of its purchase. All amounts paid for power which a utility is required to 20 21 purchase pursuant to subparagraph (c) shall be deemed to be costs prudently incurred for purposes of computing charges 22 23 under rates authorized by Section 9-220 of this Act. Тах credits provided for herein shall be reflected in charges 24 25 made pursuant to rates so authorized to the extent such 26 credits are based upon a cost which is also reflected in such 27 charges.

Beginning in February 1999 and through January 2009, 28 (i) 29 each qualified solid waste energy facility that sells 30 electricity to an electric utility at the purchase rate described in subsection (c) shall file with the Department of 31 32 Revenue on or before the 15th of each month a form, prescribed by the Department of Revenue, that states the 33 number of kilowatt hours of electricity for which payment was 34

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1 received at that purchase rate from electric utilities in 2 Illinois during the immediately preceding month. This form shall be accompanied by a payment from the qualified solid 3 4 waste energy facility in an amount equal to six-tenths of а 5 mill (\$0.0006) per kilowatt hour of electricity stated on the 6 form. Beginning on the effective date of this amendatory Act 7 of the 92nd General Assembly, a qualified solid waste energy facility must file the form required under this subsection 8 9 before the 15th of each month regardless of whether the (i) facility received any payment in the previous 10 month. 11 Payments received by the Department of Revenue shall be deposited into the Municipal Economic Development Fund, a 12 trust fund created outside the State treasury. The State 13 Treasurer may invest the moneys in the Fund in any investment 14 authorized by the Public Funds Investment Act, and investment 15 16 income shall be deposited into and become part of the Fund. Moneys in the Fund shall be used by the State Treasurer as 17 provided in subsection (j). The obligation of a qualified 18 19 solid waste energy facility to make payments into the Municipal Economic Development Fund shall terminate upon 20 21 either: (1) expiration or termination of a facility's 22 contract to sell electricity to an electric utility at the 23 purchase rate described in subsection (c); or (2) entry of an enforceable, final, and non-appealable order by a court of 24 25 competent jurisdiction that Public Act 89-448 is invalid. Payments by a qualified solid waste energy facility into the 26 Municipal Economic Development Fund do 27 not relieve the qualified solid waste energy facility of its obligation to 28 reimburse the Public Utility Fund and the General Revenue 29 30 Fund for the actual reduction in payments to those Funds as a result of credits received by electric utilities under 31 32 subsection (d).

33 A qualified solid waste energy facility that fails to34 timely file the requisite form and payment as required by

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1 this subsection (i) shall be subject to penalties and 2 interest in conformance with the provisions of the Illinois 3 Uniform Penalty and Interest Act.

4 Every qualified solid waste energy facility subject to 5 the provisions of this subsection (i) shall keep and maintain 6 records and books of its sales pursuant to subsection (c), 7 including payments received from those sales and the 8 corresponding tax payments made in accordance with this 9 subsection (i), and for purposes of enforcement of this subsection (i) all such books and records shall be subject to 10 11 inspection by the Department of Revenue or its duly 12 authorized agents or employees.

When a qualified solid waste energy facility fails 13 to file the form or make the payment required under this 14 subsection (i), the Department of Revenue, to the extent that 15 16 it is practical, may enforce the payment obligation in a manner consistent with Section 5 of the Retailers' Occupation 17 18 Tax Act, and if necessary may impose and enforce a tax lien 19 in a manner consistent with Sections 5a, 5b, 5c, 5d, 5e, 5f, 5g, and 5i of the Retailers' Occupation Tax Act. No tax lien 20 21 may be imposed or enforced, however, unless a qualified solid 22 waste energy facility fails to make the payment required 23 under this subsection (i). Only to the extent necessary and for the purpose of enforcing this subsection (i), 24 the 25 Department of Revenue may secure necessary information from a qualified solid waste energy facility in a manner consistent 26 with Section 10 of the Retailers' Occupation Tax Act. 27

All information received by the Department of Revenue in its administration and enforcement of this subsection (i) shall be confidential in a manner consistent with Section 11 of the Retailers' Occupation Tax Act. The Department of Revenue may adopt rules to implement the provisions of this subsection (i).

34 For purposes of implementing the maximum aggregate

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1 distribution provisions in subsections (j) and (k), when a 2 qualified solid waste energy facility makes a late payment to the Department of Revenue for deposit into the Municipal 3 4 Economic Development Fund, that payment and deposit shall be 5 attributed to the month and corresponding quarter in which 6 the payment should have been made, and the Treasurer shall make retroactive distributions or refunds, as the case may 7 8 be, whenever such late payments so require.

9 The State Treasurer, without appropriation, (j) must. make distributions immediately after January 15, April 15, 10 11 July 15, and October 15 of each year, up to maximum aggregate distributions of \$500,000 for the distributions made in the 4 12 quarters beginning with the April distribution and ending 13 with the January distribution, from the Municipal Economic 14 Development Fund to each city, village, or incorporated town 15 16 that has within its boundaries an incinerator that: (1) uses or, on the effective date of Public Act 90-813, used 17 municipal waste as its primary fuel to generate electricity; 18 (2) was determined by the Illinois Commerce Commission to 19 qualify as a qualified solid waste energy facility prior to 20 21 the effective date of Public Act 89-448; and (3) commenced 22 operation prior to January 1, 1998. Total distributions in 23 aggregate to all qualified cities, villages, the and incorporated towns in the 4 quarters beginning with the April 24 25 distribution and ending with the January distribution shall not exceed \$500,000. The amount of each distribution shall 26 27 be determined pro rata based on the population of the city, incorporated town compared to the 28 village, or total 29 population of all cities, villages, and incorporated towns 30 eligible to receive a distribution. Distributions received by 31 a city, village, or incorporated town must be held in a 32 separate account and may be used only to promote and enhance industrial, commercial, residential, service, transportation, 33 and recreational activities and facilities within its 34

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1 boundaries, thereby enhancing the employment opportunities, 2 public health and general welfare, and economic development within the community, including administrative expenditures 3 4 exclusively to further these activities. These funds, 5 however, shall not be used by the city, village, or 6 incorporated town, directly or indirectly, to purchase, 7 lease, operate, or in any way subsidize the operation of any incinerator, and these funds shall not be paid, directly or 8 9 indirectly, by the city, village, or incorporated town to the owner, operator, lessee, shareholder, or bondholder of any 10 11 incinerator. Moreover, these funds shall not be used to pay attorneys fees in any litigation relating to the validity of 12 Public Act 89-448. Nothing in this Section prevents a city, 13 village, or incorporated town from using other corporate 14 15 funds for any legitimate purpose. For purposes of this 16 subsection, the term "municipal waste" has the meaning ascribed to it in Section 3.290 3.21 of the Environmental 17 Protection Act. 18

19 (k) If maximum aggregate distributions of \$500,000 under subsection (j) have been made after the January distribution 20 21 from the Municipal Economic Development Fund, then the 22 balance in the Fund shall be refunded to the qualified solid 23 waste energy facilities that made payments that were deposited into the Fund during the previous 12-month period. 24 25 The refunds shall be prorated based upon the facility's payments in relation to total payments for that 12-month 26 27 period.

Beginning January 1, 2000, and each January 1 28 (1) 29 thereafter, each city, village, or incorporated town that 30 received distributions from the Municipal Economic Development Fund, continued hold 31 to any of those 32 distributions, or made expenditures from those distributions during the immediately preceding year shall submit to a 33 financial and compliance and program audit of 34 those

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1 distributions performed by the Auditor General at no cost to 2 the city, village, or incorporated town that received the distributions. The audit should be completed by June 30 or 3 4 as soon thereafter as possible. The audit shall be submitted to the State Treasurer and those officers enumerated in 5 Section 3-14 of the Illinois State Auditing Act. If the 6 7 Auditor General finds that distributions have been expended 8 in violation of this Section, the Auditor General shall refer the matter to the Attorney General. The Attorney General may 9 recover, in a civil action, 3 times the amount of any 10 11 distributions illegally expended. For purposes of this subsection, the terms "financial audit," "compliance audit", 12 and "program audit" have the meanings ascribed to them in 13 Sections 1-13 and 1-15 of the Illinois State Auditing Act. 14 (Source: P.A. 91-901, eff. 1-1-01; 92-435, eff. 8-17-01.) 15

Section 45. The Hazardous Waste Crane and Hoisting Provide the Hazardous Waste Crane and Hoisting Requipment Operators Licensing Act is amended by changing Section 3 as follows:

19 (225 ILCS 220/3) (from Ch. 111, par. 7703)

20 Sec. 3. For the purposes of this Act, unless the context 21 otherwise requires:

22 (a) "Agency" means the Environmental Protection Agency.

(b) "Crane" means any hoisting equipment that lifts and rotates or moves a load horizontally or vertically, including: hydraulic back hoes, hydraulic cranes, friction cranes, derricks, jib hoists, gantry, bridge cranes, floating cranes of any type and air-borne hoisting equipment.

(c) "Hoist" includes, but is not limited to, a material hoist (construction elevator), air tugger (one drum), multi-drum hoist, overhead hoist, sideboom, A-Frame boom truck or behind the cab truck mounted boom.

32 (d) "Director" means the Director of the Environmental

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 (e) "Hazardous waste" means a hazardous waste as defined in Section <u>3.220</u> 3.15 of the Environmental Protection Act, except asbestos.
 (f) "Facility" means a pollution control facility as

Protection Agency.

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5 (f) "Facility" means a pollution control facility as 6 defined in Section <u>3.330</u> 3-32 of the Environmental Protection 7 Act, or a site undergoing cleanup pursuant to either the 8 federal Comprehensive Environmental Response, Compensation 9 and Liability Act of 1980, as amended, or Section 22.2 of the 10 Illinois Environmental Protection Act.

11 (Source: P.A. 88-681, eff. 12-22-94.)

Section 50. The Hazardous Waste Laborers Licensing Actis amended by changing Section 3 as follows:

14 (225 ILCS 221/3) (from Ch. 111, par. 7803)

Sec. 3. For the purposes of this Act, unless the context otherwise requires:

17 (a) "Agency" means the Environmental Protection Agency.

18 (b) "Director" means the Director of the Environmental19 Protection Agency.

20 (c) "Laborer" means a person who (1) erects, moves, 21 services and dismantles scaffolds and barricades at а facility; (2) constructs, erects, removes and dismantles 22 23 enclosures, chambers or decontamination units required for the removal or containment of hazardous waste at a facility; 24 (3) labels, bags, cartons or otherwise packages hazardous 25 waste for disposal; and (4) cleans up the work site and 26 performs other work incidental to the removal, abatement or 27 28 encapsulation of hazardous waste.

(d) "Hazardous waste" means a hazardous waste as defined
in Section <u>3.220</u> 3.15 of the Environmental Protection Act,
except asbestos.

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(e) "Facility" means a pollution control facility as

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defined in Section <u>3.330</u> 3-32 of the Environmental Protection
Act, or a site undergoing cleanup pursuant to either the
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3 federal Comprehensive Environmental Response, Compensation 4 and Liability Act of 1980, as amended, or Section 22.2 of the 5 Illinois Environmental Protection Act.

6 (Source: P.A. 88-681, eff. 12-22-94.)

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7 Section 55. The Environmental Toxicology Act is amended8 by changing Section 3 as follows:

9 (415 ILCS 75/3) (from Ch. 111 1/2, par. 983)

Sec. 3. Definitions. As used in this Act, unless the context otherwise requires;

12 (a) "Department" means the Illinois Department of Public13 Health;

14 (b) "Director" means the Director of the Illinois15 Department of Public Health;

16 (c) "Program" means the Environmental Toxicology program
17 as established by this Act;

"Exposure" means contact with a hazardous substance; 18 (d) (e) "Hazardous Substance" means chemical 19 compounds, 20 elements, or combinations of chemicals which, because of 21 concentration, physical characteristics quantity or toxicological characteristics may pose a substantial present 22 23 or potential hazard to human health and includes, but is not limited to, any substance defined as a hazardous substance in 24 Section <u>3.215 of</u> $3--\Theta f$ the "Environmental Protection Act", 25 approved June 29, 1970, as amended; 26

(f) "Initial Assessment" means a review and evaluation of site history and hazardous substances involved, potential for population exposure, the nature of any health related complaints and any known patterns in disease occurrence;

31 (g) "Comprehensive Health Study" means a detailed 32 analysis which may include: a review of available

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1 environmental, morbidity and mortality data; environmental 2 and biological sampling; detailed review of scientific literature; exposure analysis; population surveys; or any 3 4 other scientific or epidemiologic methods deemed necessary to 5 adequately evaluate the health status of the population at 6 risk and any potential relationship to environmental factors; 7 (h) "Superfund Site" means any hazardous waste site 8 designated for cleanup on the National Priorities List as 9 mandated by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (P.L. 96-510), as 10 11 amended;

12 (i) "State Remedial Action Priority List" means a list 13 compiled by the Illinois Environmental Protection Agency 14 which identifies sites that appear to present significant 15 risk to the public health, welfare or environment. 16 (Source: P.A. 84-987.)

Section 60. The Toxic Pollution Prevention Act is amended by changing Section 3 as follows:

19 (415 ILCS 85/3) (from Ch. 111 1/2, par. 7953)

20 Sec. 3. Definitions. As used in this Act:

21 "Agency" means the Illinois Environmental Protection22 Agency.

23 "Center" means the Waste Management and Research Center.
24 "Person" means any individual, partnership,
25 co-partnership, firm, company, corporation, association,
26 joint stock company, trust, political subdivision, State

27 agency, or any other legal entity, or its legal 28 representative, agent or assigns.

29 "Release" means emission to the air, discharge to surface 30 waters or off-site wastewater treatment facilities, or 31 on-site release to the land, including but not limited to 32 landfills, surface impoundments and injection wells.

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"Toxic substance" means any substance listed by the
 Agency pursuant to Section 4 of this Act.

3 "Toxic pollution prevention" means in-plant practices 4 that reduce, avoid or eliminate: (i) the use of toxic 5 substances, (ii) the generation of toxic constituents in 6 wastes, (iii) the disposal or release of toxic substances 7 into the environment, or (iv) the development or manufacture 8 of products with toxic constituents, through the application 9 of any of the following techniques:

10 (1) input substitution, which refers to replacing a 11 toxic substance or raw material used in a production 12 process with a nontoxic or less toxic substance;

13 (2) product reformulation, which refers to 14 substituting for an existing end product an end product 15 which is nontoxic or less toxic upon use, release or 16 disposal;

17 (3) production process redesign or modification,
18 which refers to developing and using production processes
19 of a different design than those currently used;

20 (4) production process modernization, which refers
21 to upgrading or replacing existing production process
22 equipment or methods with other equipment or methods
23 based on the same production process;

(5) improved operation and maintenance of existing production process equipment and methods, which refers to modifying or adding to existing equipment or methods, including but not limited to such techniques as improved housekeeping practices, system adjustments, product and process inspections, and production process control equipment or methods;

31 (6) recycling, reuse or extended use of toxic
32 substances by using equipment or methods which become an
33 integral part of the production process, including but
34 not limited to filtration and other closed loop methods.

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However, "toxic pollution prevention" shall not include
 or in any way be inferred to promote or require incineration,
 transfer from one medium of release to another, off-site or
 out of process waste recycling, or end of pipe treatment of
 toxic substances.

6 "Trade secret" means any information concerning 7 production processes employed or substances manufactured, 8 processed or otherwise used within a facility which the 9 Agency determines to satisfy the criteria established under Section 3.490 3-48 of the Environmental Protection Act, and 10 11 to which specific trade secret status has been granted by the 12 Agency.

13 (Source: P.A. 90-490, eff. 8-17-97.)

Section 65. The Litter Control Act is amended by changing Sections 3 and 4 as follows

16 (415 ILCS 105/3) (from Ch. 38, par. 86-3)

Sec. 3. As used in this Act, unless the context otherwise requires:

(a) "Litter" means any discarded, used or unconsumed 19 20 substance or waste. "Litter" may include, but is not limited 21 to, any garbage, trash, refuse, debris, rubbish, grass 22 clippings or other lawn or garden waste, newspaper, 23 magazines, glass, metal, plastic or paper containers or other packaging construction material, abandoned vehicle 24 (as defined in the Illinois Vehicle Code), motor vehicle parts, 25 furniture, oil, carcass of a dead animal, any nauseous 26 or 27 offensive matter of any kind, any object likely to injure any 28 person or create a traffic hazard, potentially infectious medical waste as defined in Section 3.360 3.84 of the 29 30 Environmental Protection Act, or anything else of an 31 unsightly or unsanitary nature, which has been discarded, 32 abandoned or otherwise disposed of improperly.

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(b) "Motor vehicle" has the meaning ascribed to that
 term in Section 1-146 of the Illinois Vehicle Code.

3 (c) "Person" means any individual, partnership, 4 copartnership, firm, company, corporation, association, joint 5 stock company, trust, estate, or any other legal entity, or 6 their legal representative, agent or assigns.

7 (Source: P.A. 90-89, eff. 1-1-98.)

8 (415 ILCS 105/4) (from Ch. 38, par. 86-4)

9 Sec. 4. No person shall dump, deposit, drop, throw, 10 discard, leave, cause or permit the dumping, depositing, 11 dropping, throwing, discarding or leaving of litter upon any 12 public or private property in this State, or upon or into any 13 river, lake, pond, or other stream or body of water in this 14 State, unless:

(a) the property has been designated by the State or any of its agencies, political subdivisions, units of local government or school districts for the disposal of litter, and the litter is disposed of on that property in accordance with the applicable rules and regulations of the Pollution Control Board;

(b) the litter is placed into a receptacle or other container intended by the owner or tenant in lawful possession of that property for the deposit of litter;

(c) the person is the owner or tenant in lawful possession of the property or has first obtained the consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of the owner or tenant and does not create a public health or safety hazard, a public nuisance, or a fire hazard;

30 (d) the person is acting under the direction of proper31 public officials during special cleanup days; or

32 (e) the person is lawfully acting in or reacting to an33 emergency situation where health and safety is threatened,

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and removes and properly disposes of such litter, including,
 but not limited to, potentially infectious medical waste as
 defined in Section <u>3.360</u> 3-84 of the Environmental Protection
 Act, when the emergency situation no longer exists.

5 (Source: P.A. 88-415; 88-670, eff. 12-2-94.)

6 Section 70. The Illinois Vehicle Code is amended by 7 changing Sections 11-1413 and 12-606 as follows:

8 (625 ILCS 5/11-1413) (from Ch. 95 1/2, par. 11-1413)

9 Sec. 11-1413. Depositing material on highway prohibited.

10 (a) No person shall throw, spill or deposit upon any
11 highway any bottle, glass, nails, tacks, wire, cans, or any
12 litter (as defined in Section 3 of the Litter Control Act).

(b) Any person who violates subsection (a) upon any highway shall immediately remove such material or cause it to be removed.

Any person removing a wrecked or damaged vehicle 16 (C)17 from a highway shall remove any glass or other debris, except any hazardous substance as defined in Section 3.215 3-14 of 18 19 the Environmental Protection Act, hazardous waste as defined 20 in Section 3.220 3.15 of the Environmental Protection Act, and potentially infectious medical waste as defined in 21 Section 3.360 3-84 of the Environmental Protection Act, 22 23 dropped upon the highway from such vehicle.

24 (Source: P.A. 87-190; 88-415; 88-670, eff. 12-2-94.)

25 (625 ILCS 5/12-606) (from Ch. 95 1/2, par. 12-606)

26 Sec. 12-606. Tow-trucks; identification; equipment; 27 insurance.

(a) Every tow-truck, except those owned by governmental
agencies, shall have displayed on each side thereof, a sign
with letters not less than 2 inches in height, contrasting in
color to that of the background, stating the full legal name,

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1 complete address (including street address and city), and 2 telephone number of the owner or operator thereof. This 3 information shall be permanently affixed to the sides of the 4 tow truck.

5 (b) Every tow-truck shall be equipped with:

6

(1) One or more brooms and shovels;

7 (2) One or more trash cans of at least 5 gallon
8 capacity; and

9 (3) One fire extinguisher. This extinguisher shall10 be either:

(i) of the dry chemical or carbon dioxide type with an aggregate rating of at least 4-B, C units, and bearing the approval of a laboratory qualified by the Division of Fire Prevention for this purpose; or

16 (ii) One that meets the requirements of the
17 Federal Motor Carrier Safety Regulations of the
18 United States Department of Transportation for fire
19 extinguishers on commercial motor vehicles.

Every owner or operator and driver of a tow-truck 20 (C) 21 shall comply with Section 11-1413 of this Act and shall 22 remove or cause to be removed all glass and debris, except 23 any (i) hazardous substance as defined in Section 3.215 3-14 the Environmental Protection Act, (ii) hazardous waste as 24 of 25 defined in Section 3.220 3.15 of the Environmental Protection Act, and (iii) medical samples or waste, including but not 26 27 limited to any blood samples, used syringes, other used medical supplies, or any other potentially infectious medical 28 waste as defined in Section 3.360 3-84 of the Environmental 29 30 Protection Act, deposited upon any street or highway by the disabled vehicle being serviced, and shall in addition, 31 32 spread dirt or sand or oil absorbent upon that portion of any street or highway where oil or grease has been deposited by 33 the disabled vehicle being serviced. 34

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1 (d) Every tow-truck operator shall in addition file an 2 indemnity bond, insurance policy, or other proof of insurance to be prescribed by the Secretary for: 3 in а form 4 garagekeepers liability insurance, in an amount no less than a combined single limit of \$500,000, and truck (auto) 5 liability insurance in an amount no less than a combined 6 single limit of \$500,000, on hook coverage or garagekeepers 7 in an amount of no less than \$25,000 which shall 8 coverage 9 indemnify or insure the tow-truck operator for the following:

10 (1) Bodily injury or damage to the property of 11 others.

12

(2) Damage to any vehicle towed by the tower.

13 (3) In case of theft, loss of, or damage to any
14 vehicle stored, garagekeepers legal liability coverage in
15 an amount of no less than \$25,000.

16 (4) In case of injury to or occupational illness of 17 the tow truck driver or helper, workers compensation 18 insurance meeting the minimum requirements of the 19 Workers' Compensation Act.

Any such bond or policy shall be issued only by a bonding or insuring firm authorized to do business as such in the State of Illinois, and a certificate of such bond or policy shall be carried in the cab of each tow-truck.

(e) The bond or policy required in subsection (d) shall 24 25 provide that the insurance carrier may cancel it by serving previous notice, as required by Sections 143.14 and 143.16 of 26 the Illinois Insurance Code, in writing, either personally or 27 by registered mail, upon the owner or operator of the motor 28 29 vehicle and upon the Secretary of State. Whenever any such 30 bond or policy shall be so cancelled, the Secretary of State shall mark the policy "Cancelled" and shall require such 31 32 owner or operator either to furnish a new bond or policy, in 33 accordance with this Act.

34 (Source: P.A. 88-415; 88-670, eff. 12-2-94; 89-433, eff.

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1 12-15-95.)

Section 99. Effective date. This Act takes effect upon 2 3 becoming law.

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