

1 AN ACT in relation to environmental protection.

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

4 ARTICLE I. Recommendations of the Illinois
5 Environmental Regulatory Review Commission.

6 Section 10. The Environmental Protection Act is amended
7 by changing Sections 4, 5, 22.2, 30, 31, 33, 35, 36, 37, 42,
8 and 45 and adding Section 28.6 as follows:

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

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

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

1 employ and compensate such consultants and technical
2 assistants as may be required.

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

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

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

19 (1) Inspecting and investigating to ascertain
20 possible violations of this Act, any rule or regulation
21 adopted under this Act, any permit or term or condition
22 of a permit, or any Board order; or the Act or of
23 regulations--thereunder,--or--of--permits--or--terms---or
24 conditions--thereof;--or

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

32 (e) The Agency shall have the duty to investigate
33 violations of this Act, any rule or regulation adopted under
34 this Act, any permit or term or condition of a permit, or any

1 ~~Board order; Act-or-of-regulations-adopted-thereunder,~~ or of
 2 ~~permits--or---terms---or---conditions---thereof,~~ to issue
 3 administrative citations as provided in Section 31.1 of this
 4 Act; and to take such summary enforcement action as is
 5 provided for by Section 34 of this Act.

6 (f) The Agency shall appear before the Board in any
 7 hearing upon a petition for variance, the denial of a permit,
 8 or the validity or effect of a rule or regulation of the
 9 Board, and shall have the authority to appear before the
 10 Board in any hearing under the Act.

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

26 (h) The Agency shall have authority to require the
 27 submission of complete plans and specifications from any
 28 applicant for a permit required by this Act or by regulations
 29 thereunder, and to require the submission of such reports
 30 regarding actual or potential violations of this Act, any
 31 rule or regulation adopted under this Act, any permit or term
 32 or condition of a permit, or any Board order ~~the-Act-or-of~~
 33 ~~regulations-thereunder,~~ or of ~~permits-or-terms-or--conditions~~
 34 thereof, as may be necessary for the purposes of this Act.

1 (i) The Agency shall have authority to make
2 recommendations to the Board for the adoption of regulations
3 under Title VII of the Act.

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

9 (k) The Agency shall have the authority to accept,
10 receive, and administer on behalf of the State any grants,
11 gifts, loans, indirect cost reimbursements, or other funds
12 made available to the State from any source for purposes of
13 this Act or for air or water pollution control, public water
14 supply, solid waste disposal, noise abatement, or other
15 environmental protection activities, surveys, or programs.
16 Any federal funds received by the Agency pursuant to this
17 subsection shall be deposited in a trust fund with the State
18 Treasurer and held and disbursed by him in accordance with
19 Treasurer as Custodian of Funds Act, provided that such
20 monies shall be used only for the purposes for which they are
21 contributed and any balance remaining shall be returned to
22 the contributor.

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

26 (l) The Agency is hereby designated as water pollution
27 agency for the state for all purposes of the Federal Water
28 Pollution Control Act, as amended; as implementing agency for
29 the State for all purposes of the Safe Drinking Water Act,
30 Public Law 93-523, as now or hereafter amended, except
31 Section 1425 of that Act; as air pollution agency for the
32 state for all purposes of the Clean Air Act of 1970, Public
33 Law 91-604, approved December 31, 1970, as amended; and as
34 solid waste agency for the state for all purposes of the

1 Solid Waste Disposal Act, Public Law 89-272, approved October
2 20, 1965, and amended by the Resource Recovery Act of 1970,
3 Public Law 91-512, approved October 26, 1970, as amended, and
4 amended by the Resource Conservation and Recovery Act of
5 1976, (P.L. 94-580) approved October 21, 1976, as amended; as
6 noise control agency for the state for all purposes of the
7 Noise Control Act of 1972, Public Law 92-574, approved
8 October 27, 1972, as amended; and as implementing agency for
9 the State for all purposes of the Comprehensive Environmental
10 Response, Compensation, and Liability Act of 1980 (P.L.
11 96-510), as amended; and otherwise as pollution control
12 agency for the State pursuant to federal laws integrated with
13 the foregoing laws, for financing purposes or otherwise. The
14 Agency is hereby authorized to take all action necessary or
15 appropriate to secure to the State the benefits of such
16 federal Acts, provided that the Agency shall transmit to the
17 United States without change any standards adopted by the
18 Pollution Control Board pursuant to Section 5(c) of this Act.
19 This subsection (1) of Section 4 shall not be construed to
20 bar or prohibit the Environmental Protection Trust Fund
21 Commission from accepting, receiving, and administering on
22 behalf of the State any grants, gifts, loans or other funds
23 for which the Commission is eligible pursuant to the
24 Environmental Protection Trust Fund Act. The Agency is
25 hereby designated as the State agency for all purposes of
26 administering the requirements of Section 313 of the federal
27 Emergency Planning and Community Right-to-Know Act of 1986.

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

34 (m) The Agency shall have authority, consistent with

1 Section 5(c) and other provisions of this Act, and for
2 purposes of Section 303(e) of the Federal Water Pollution
3 Control Act, as now or hereafter amended, to engage in
4 planning processes and activities and to develop plans in
5 cooperation with units of local government, state agencies
6 and officers, and other appropriate persons in connection
7 with the jurisdiction or duties of each such unit, agency,
8 officer or person. Public hearings shall be held on the
9 planning process, at which any person shall be permitted to
10 appear and be heard, pursuant to procedural regulations
11 promulgated by the Agency.

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

24 (o) The Agency shall have the authority to issue
25 certificates of competency to persons and laboratories
26 meeting the minimum standards established by the Agency in
27 accordance with Section 4(n) of this Act and to promulgate
28 and enforce regulations relevant to the issuance and use of
29 such certificates. The Agency may enter into formal working
30 agreements with other departments or agencies of state
31 government under which all or portions of this authority may
32 be delegated to the cooperating department or agency.

33 (p) Except as provided in Section 17.7, the Agency shall
34 have the duty to analyze samples as required from each public

1 water supply to determine compliance with the contaminant
2 levels specified by the Pollution Control Board. The maximum
3 number of samples which the Agency shall be required to
4 analyze for microbiological quality shall be 6 per month, but
5 the Agency may, at its option, analyze a larger number each
6 month for any supply. Results of sample analyses for
7 additional required bacteriological testing, turbidity,
8 residual chlorine and radionuclides are to be provided to the
9 Agency in accordance with Section 19. Owners of water
10 supplies may enter into agreements with the Agency to provide
11 for reduced Agency participation in sample analyses.

12 (q) The Agency shall have the authority to provide
13 notice to any person who may be liable pursuant to Section
14 22.2(f) of this Act for a release or a substantial threat of
15 a release of a hazardous substance or pesticide. Such notice
16 shall include the identified response action and an
17 opportunity for such person to perform the response action.

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

34 (s) The Agency shall have authority to take whatever

1 preventive or corrective action is necessary or appropriate,
2 including but not limited to expenditure of monies
3 appropriated from the Build Illinois Bond Fund and the Build
4 Illinois Purposes Fund for removal or remedial action,
5 whenever any hazardous substance or pesticide is released or
6 there is a substantial threat of such a release into the
7 environment. The State, the Director, and any State employee
8 shall be indemnified for any damages or injury arising out of
9 or resulting from any action taken under this subsection.
10 The Director of the Agency is authorized to enter into such
11 contracts and agreements as are necessary to carry out the
12 Agency's duties under this subsection.

13 (t) The Agency shall have authority to distribute
14 grants, subject to appropriation by the General Assembly, for
15 financing and construction of municipal wastewater
16 facilities. With respect to all monies appropriated from the
17 Build Illinois Bond Fund and the Build Illinois Purposes Fund
18 for wastewater facility grants, the Agency shall make
19 distributions in conformity with the rules and regulations
20 established pursuant to the Anti-Pollution Bond Act, as now
21 or hereafter amended.

22 (u) Pursuant to the Illinois Administrative Procedure
23 Act, the Agency shall have the authority to adopt such rules
24 as are necessary or appropriate for the Agency to implement
25 Section 31.1 of this Act.

26 (v) (Blank.)

27 (w) Neither the State, nor the Director, nor the Board,
28 nor any State employee shall be liable for any damages or
29 injury arising out of or resulting from any action taken
30 under subsection (s).

31 (x)(1) The Agency shall have authority to distribute
32 grants, subject to appropriation by the General Assembly,
33 to units of local government for financing and
34 construction of public water supply facilities. With

1 respect to all monies appropriated from the Build
2 Illinois Bond Fund or the Build Illinois Purposes Fund
3 for public water supply grants, such grants shall be made
4 in accordance with rules promulgated by the Agency. Such
5 rules shall include a requirement for a local match of
6 30% of the total project cost for projects funded through
7 such grants.

8 (2) The Agency shall not terminate a grant to a
9 unit of local government for the financing and
10 construction of public water supply facilities unless and
11 until the Agency adopts rules that set forth precise and
12 complete standards, pursuant to Section 5-20 of the
13 Illinois Administrative Procedure Act, for the
14 termination of such grants. The Agency shall not make
15 determinations on whether specific grant conditions are
16 necessary to ensure the integrity of a project or on
17 whether subagreements shall be awarded, with respect to
18 grants for the financing and construction of public water
19 supply facilities, unless and until the Agency adopts
20 rules that set forth precise and complete standards,
21 pursuant to Section 5-20 of the Illinois Administrative
22 Procedure Act, for making such determinations. The
23 Agency shall not issue a stop-work order in relation to
24 such grants unless and until the Agency adopts precise
25 and complete standards, pursuant to Section 5-20 of the
26 Illinois Administrative Procedure Act, for determining
27 whether to issue a stop-work order.

28 (y) The Agency shall have authority to release any
29 person from further responsibility for preventive or
30 corrective action under this Act following successful
31 completion of preventive or corrective action undertaken by
32 such person upon written request by the person.

33 (Source: P.A. 91-25, eff. 6-9-99; 92-574, eff. 6-26-02.)

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

2 Sec. 5. Pollution Control Board.

3 (a) There is hereby created an independent board to be
4 known as the Pollution Control Board, consisting of 7
5 technically qualified members, no more than 4 of whom may be
6 of the same political party, to be appointed by the Governor
7 with the advice and consent of the Senate.

8 All members shall hold office for 3 years from the first
9 day of July in the year in which they were appointed, except
10 in case of an appointment to fill a vacancy. In case of a
11 vacancy in the office when the Senate is not in session, the
12 Governor may make a temporary appointment until the next
13 meeting of the Senate, when he or she shall nominate some
14 person to fill such office; and any person so nominated, who
15 is confirmed by the Senate, shall hold the office during the
16 remainder of the term.

17 Members of the Board shall hold office until their
18 respective successors have been appointed and qualified. Any
19 member may resign from office, such resignation to take
20 effect when a successor has been appointed and has qualified.

21 Board members shall be paid \$37,000 per year or an amount
22 set by the Compensation Review Board, whichever is greater,
23 and the Chairman shall be paid \$43,000 per year or an amount
24 set by the Compensation Review Board, whichever is greater.
25 Each member shall be reimbursed for expenses necessarily
26 incurred, shall devote full time to the performance of his or
27 her duties and shall make a financial disclosure upon
28 appointment. Each Board member may employ one secretary and
29 one assistant, and the Chairman one secretary and 2
30 assistants. The Board also may employ and compensate hearing
31 officers to preside at hearings under this Act, and such
32 other personnel as may be necessary. Hearing officers shall
33 be attorneys licensed to practice law in Illinois.

34 The Governor shall designate one Board member to be

1 Chairman, who shall serve at the pleasure of the Governor.

2 The Board shall hold at least one meeting each month and
3 such additional meetings as may be prescribed by Board rules.
4 In addition, special meetings may be called by the Chairman
5 or by any 2 Board members, upon delivery of 24 hours written
6 notice to the office of each member. All Board meetings
7 shall be open to the public, and public notice of all
8 meetings shall be given at least 24 hours in advance of each
9 meeting. In emergency situations in which a majority of the
10 Board certifies that exigencies of time require the
11 requirements of public notice and of 24 hour written notice
12 to members may be dispensed with, and Board members shall
13 receive such notice as is reasonable under the circumstances.

14 Four members of the Board shall constitute a quorum, and
15 4 votes shall be required for any final determination by the
16 Board, except in a proceeding to remove a seal under
17 paragraph (d) of Section 34 of this Act. The Board shall
18 keep a complete and accurate record of all its meetings.

19 (b) The Board shall determine, define and implement the
20 environmental control standards applicable in the State of
21 Illinois and may adopt rules and regulations in accordance
22 with Title VII of this Act.

23 (c) The Board shall have authority to act for the State
24 in regard to the adoption of standards for submission to the
25 United States under any federal law respecting environmental
26 protection. Such standards shall be adopted in accordance
27 with Title VII of the Act and upon adoption shall be
28 forwarded to the Environmental Protection Agency for
29 submission to the United States pursuant to subsections (l)
30 and (m) of Section 4 of this Act. Nothing in this paragraph
31 shall limit the discretion of the Governor to delegate
32 authority granted to the Governor under any federal law.

33 (d) The Board shall have authority to conduct
34 proceedings upon complaints charging violations of this Act,

1 any rule or regulation adopted under this Act, ~~or~~ any permit
 2 or term or condition of a permit, or any Board order; upon
 3 administrative citations; upon petitions for variances or
 4 adjusted standards; upon petitions for review of the Agency's
 5 final determinations on permit applications in accordance
 6 with Title X of this Act; upon petitions to remove seals
 7 under Section 34 of this Act; and upon other petitions for
 8 review of final determinations which are made pursuant to
 9 this Act or Board rule and which involve a subject which the
 10 Board is authorized to regulate. The Board may also conduct
 11 other proceedings as may be provided by this Act or any other
 12 statute or rule.

13 (e) In connection with any proceeding pursuant to
 14 subsection (b) or (d) of this Section, the Board may subpoena
 15 and compel the attendance of witnesses and the production of
 16 evidence reasonably necessary to resolution of the matter
 17 under consideration. The Board shall issue such subpoenas
 18 upon the request of any party to a proceeding under
 19 subsection (d) of this Section or upon its own motion.

20 (f) The Board may prescribe reasonable fees for permits
 21 required pursuant to this Act. Such fees in the aggregate
 22 may not exceed the total cost to the Agency for its
 23 inspection and permit systems. The Board may not prescribe
 24 any permit fees which are different in amount from those
 25 established by this Act.

26 (Source: P.A. 92-574, eff. 6-26-02.)

27 (415 ILCS 5/22.2) (from Ch. 111 1/2, par. 1022.2)

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

29 (a) There are hereby created within the State Treasury 2
 30 special funds to be known respectively as the "Hazardous
 31 Waste Fund" and the "Hazardous Waste Research Fund",
 32 constituted from the fees collected pursuant to this Section.
 33 In addition to the fees collected under this Section, the

1 Hazardous Waste Fund shall include other moneys made
2 available from any source for deposit into the Fund.

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

6 (A) 9 cents per gallon or \$18.18 per cubic
7 yard, if the hazardous waste disposal site is
8 located off the site where such waste was produced.
9 The maximum amount payable under this subdivision
10 (A) with respect to the hazardous waste generated by
11 a single generator and deposited in monofills is
12 \$30,000 per year. If, as a result of the use of
13 multiple monofills, waste fees in excess of the
14 maximum are assessed with respect to a single waste
15 generator, the generator may apply to the Agency for
16 a credit.

17 (B) 9 cents or \$18.18 per cubic yard, if the
18 hazardous waste disposal site is located on the site
19 where such waste was produced, provided however the
20 maximum amount of fees payable under this paragraph
21 (B) is \$30,000 per year for each such hazardous
22 waste disposal site.

23 (C) If the hazardous waste disposal site is an
24 underground injection well, \$6,000 per year if not
25 more than 10,000,000 gallons per year are injected,
26 \$15,000 per year if more than 10,000,000 gallons but
27 not more than 50,000,000 gallons per year are
28 injected, and \$27,000 per year if more than
29 50,000,000 gallons per year are injected.

30 (D) 3 cents per gallon or \$6.06 per cubic yard
31 of hazardous waste received for treatment at a
32 hazardous waste treatment site, if the hazardous
33 waste treatment site is located off the site where
34 such waste was produced and if such hazardous waste

1 treatment site is owned, controlled and operated by
2 a person other than the generator of such waste.
3 After treatment at such hazardous waste treatment
4 site, the waste shall not be subject to any other
5 fee imposed by this subsection (b). For purposes of
6 this subsection (b), the term "treatment" is defined
7 as in Section 3.505 but shall not include recycling,
8 reclamation or reuse.

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

12 (3) The Agency shall have the authority to accept,
13 receive, and administer on behalf of the State any moneys
14 made available to the State from any source for the
15 purposes of the Hazardous Waste Fund set forth in
16 subsection (d) of this Section.

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

30 (5) Notwithstanding the other provisions of this
31 subsection (b), sludge from a publicly-owned sewage works
32 generated in Illinois, coal mining wastes and refuse
33 generated in Illinois, bottom boiler ash, flyash and flue
34 gas desulphurization sludge from public utility electric

1 generating facilities located in Illinois, and bottom
2 boiler ash and flyash from all incinerators which process
3 solely municipal waste shall not be subject to the fee.

4 (6) For the purposes of this subsection (b),
5 "monofill" means a facility, or a unit at a facility,
6 that accepts only wastes bearing the same USEPA hazardous
7 waste identification number, or compatible wastes as
8 determined by the Agency.

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

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

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

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

1 (3) In an amount up to 30% of the amount collected
2 as fees provided for in this Section, for use by the
3 Agency to conduct groundwater protection activities,
4 including providing grants to appropriate units of local
5 government which are addressing protection of underground
6 waters pursuant to the provisions of this Act.

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

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

16 (6) In an amount up to 15% of the fees collected
17 annually under subsection (b) of this Section, for use by
18 the Agency for administration of the provisions of this
19 Section.

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

27 The Department of Natural Resources may enter into
28 contracts with business, industrial, university, governmental
29 or other qualified individuals or organizations to assist in
30 the research and development intended to recycle, reduce the
31 volume of, separate, detoxify or reduce the hazardous
32 properties of hazardous wastes in Illinois. Monies in the
33 Fund may also be used by the Department of Natural Resources
34 for technical studies, monitoring activities, and educational

1 and research activities which are related to the protection
2 of underground waters. Monies in the Hazardous Waste
3 Research Fund may be used to administer the Illinois Health
4 and Hazardous Substances Registry Act. Monies in the
5 Hazardous Waste Research Fund shall not be used for any
6 sanitary landfill or the acquisition or construction of any
7 facility. This does not preclude the purchase of equipment
8 for the purpose of public demonstration projects. The
9 Department of Natural Resources shall adopt guidelines for
10 cost sharing, selecting, and administering projects under
11 this subsection.

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

19 (1) the owner and operator of a facility or vessel
20 from which there is a release or substantial threat of
21 release of a hazardous substance or pesticide;

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

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

1 substances or pesticides; and

2 (4) any person who accepts or accepted any
3 hazardous substances or pesticides for transport to
4 disposal, storage or treatment facilities or sites from
5 which there is a release or a substantial threat of a
6 release of a hazardous substance or pesticide.

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

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

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

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

31 (h) For purposes of this Section:

32 (1) The term "facility" means:

33 (A) any building, structure, installation,
34 equipment, pipe or pipeline including but not

1 limited to any pipe into a sewer or publicly owned
2 treatment works, well, pit, pond, lagoon,
3 impoundment, ditch, landfill, storage container,
4 motor vehicle, rolling stock, or aircraft; or

5 (B) any site or area where a hazardous
6 substance has been deposited, stored, disposed of,
7 placed, or otherwise come to be located.

8 (2) The term "owner or operator" means:

9 (A) any person owning or operating a vessel or
10 facility;

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

16 (C) in the case of a land trust as defined in
17 Section 2 of the Land Trustee as Creditor Act, the
18 person owning the beneficial interest in the land
19 trust;

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

28 (E) in the case of a "financial institution",
29 meaning the Illinois Housing Development Authority
30 and that term as defined in Section 2 of the
31 Illinois Banking Act, that has acquired ownership,
32 operation, management, or control of a vessel or
33 facility through foreclosure or under the terms of a
34 security interest held by the financial institution

1 or under the terms of an extension of credit made by
2 the financial institution, the financial institution
3 only if the financial institution takes possession
4 of the vessel or facility and the financial
5 institution exercises actual, direct, and continual
6 or recurrent managerial control in the operation of
7 the vessel or facility that causes a release or
8 substantial threat of a release of a hazardous
9 substance or pesticide resulting in removal or
10 remedial action;

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

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

34 (H) The term "owner or operator" does not

1 include a unit of State or local government which
2 acquired ownership or control through bankruptcy,
3 tax delinquency, abandonment, or other circumstances
4 in which the government acquires title by virtue of
5 its function as sovereign. The exclusion provided
6 under this paragraph shall not apply to any State or
7 local government which has caused or contributed to
8 the release or threatened release of a hazardous
9 substance from the facility, and such a State or
10 local government shall be subject to the provisions
11 of this Act in the same manner and to the same
12 extent, both procedurally and substantively, as any
13 nongovernmental entity, including liability under
14 Section 22.2(f).

15 (i) The costs and damages provided for in this Section
16 may be imposed by the Board in an action brought before the
17 Board in accordance with Title VIII of this Act, except that
18 Section 33(c) of this Act shall not apply to any such action.

19 (j) (1) There shall be no liability under this Section
20 for a person otherwise liable who can establish by a
21 preponderance of the evidence that the release or substantial
22 threat of release of a hazardous substance and the damages
23 resulting therefrom were caused solely by:

24 (A) an act of God;

25 (B) an act of war;

26 (C) an act or omission of a third party other than
27 an employee or agent of the defendant, or other than one
28 whose act or omission occurs in connection with a
29 contractual relationship, existing directly or
30 indirectly, with the defendant (except where the sole
31 contractual arrangement arises from a published tariff
32 and acceptance for carriage by a common carrier by rail),
33 if the defendant establishes by a preponderance of the
34 evidence that (i) he exercised due care with respect to

1 the hazardous substance concerned, taking into
2 consideration the characteristics of such hazardous
3 substance, in light of all relevant facts and
4 circumstances, and (ii) he took precautions against
5 foreseeable acts or omissions of any such third party and
6 the consequences that could foreseeably result from such
7 acts or omissions; or

8 (D) any combination of the foregoing paragraphs.

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

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

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

34 (A) its directions for storage, handling and use as

1 stated in its label or labeling;

2 (B) its warnings and cautions as stated in its
3 label or labeling; and

4 (C) the uses for which it is registered under the
5 Federal Insecticide, Fungicide and Rodenticide Act and
6 the Illinois Pesticide Act.

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

17 (4.6) There shall be no liability under subdivision
18 (f)(1) of this Section for response costs or damages as the
19 result of a substantial threat of a release of a pesticide
20 from an agrichemical facility site if the Agency has received
21 notice from the Department of Agriculture pursuant to Section
22 19.3 of the Illinois Pesticide Act and the owner or operator
23 of the agrichemical facility is proceeding with a corrective
24 action plan under the Agrichemical Facility Response Action
25 Program implemented under that Section.

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

34 (6)(A) The term "contractual relationship", for the

1 purpose of this subsection includes, but is not limited to,
2 land contracts, deeds or other instruments transferring title
3 or possession, unless the real property on which the facility
4 concerned is located was acquired by the defendant after the
5 disposal or placement of the hazardous substance on, in, or
6 at the facility, and one or more of the circumstances
7 described in clause (i), (ii), or (iii) of this paragraph is
8 also established by the defendant by a preponderance of the
9 evidence:

10 (i) At the time the defendant acquired the facility
11 the defendant did not know and had no reason to know that
12 any hazardous substance which is the subject of the
13 release or threatened release was disposed of on, in or
14 at the facility.

15 (ii) The defendant is a government entity which
16 acquired the facility by escheat, or through any other
17 involuntary transfer or acquisition, or through the
18 exercise of eminent domain authority by purchase or
19 condemnation.

20 (iii) The defendant acquired the facility by
21 inheritance or bequest.

22 In addition to establishing the foregoing, the defendant
23 must establish that he has satisfied the requirements of
24 subparagraph (C) of paragraph (1) of this subsection (j).

25 (B) To establish the defendant had no reason to know, as
26 provided in clause (i) of subparagraph (A) of this paragraph,
27 the defendant must have undertaken, at the time of
28 acquisition, all appropriate inquiry into the previous
29 ownership and uses of the property consistent with good
30 commercial or customary practice in an effort to minimize
31 liability. For purposes of the preceding sentence, the court
32 shall take into account any specialized knowledge or
33 experience on the part of the defendant, the relationship of
34 the purchase price to the value of the property if

1 uncontaminated, commonly known or reasonably ascertainable
2 information about the property, the obviousness of the
3 presence or likely presence of contamination at the property,
4 and the ability to detect such contamination by appropriate
5 inspection.

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

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

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

32 (I) the defendant obtained a Phase I Environmental
33 Audit of the real property that meets or exceeds the
34 requirements of this subparagraph (E), and the Phase I

1 Environmental Audit did not disclose the presence or
2 likely presence of a release or a substantial threat of a
3 release of a hazardous substance or pesticide at, on, to,
4 or from the real property; or

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

12 (ii) No presumption shall be created under clause (i) of
13 this subparagraph (E), and a defendant shall be precluded
14 from demonstrating that the defendant has made all
15 appropriate inquiry within the meaning of subdivision (6)(B)
16 of this subsection (j), if:

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

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

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

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

34 (V) there is any evidence of fraud, material

1 concealment, or material misrepresentation by the
2 defendant of environmental conditions or of related
3 information discovered during the course of an
4 Environmental Audit.

5 (iii) For purposes of this subparagraph (E), the term
6 "environmental professional" means an individual (other than
7 a practicing attorney) who, through academic training,
8 occupational experience, and reputation (such as engineers,
9 industrial hygienists, or geologists) can objectively conduct
10 one or more aspects of an Environmental Audit and who either:

11 (I) maintains at the time of the Environmental
12 Audit and for at least one year thereafter at least
13 \$500,000 of environmental consultants' professional
14 liability insurance coverage issued by an insurance
15 company licensed to do business in Illinois; or

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

18 An environmental professional may employ persons who are
19 not environmental professionals to assist in the preparation
20 of an Environmental Audit if such persons are under the
21 direct supervision and control of the environmental
22 professional.

23 (iv) For purposes of this subparagraph (E), the term
24 "real property" means any interest in any parcel of land, and
25 includes, but is not limited to, buildings, fixtures, and
26 improvements.

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

1 or from the real property. Until such time as the United
 2 States Environmental Protection Agency establishes standards
 3 for making appropriate inquiry into the previous ownership
 4 and uses of the facility pursuant to 42 U.S.C. Sec.
 5 9601(35)(B)(ii), the investigation shall comply with the
 6 procedures of the American Society for Testing and Materials,
 7 including the document known as Standard E1527-97, entitled
 8 "Standard Procedures for Environmental Site Assessment: Phase
 9 1 Environmental Site Assessment Process". Upon their
 10 adoption, the standards promulgated by USEPA pursuant to 42
 11 U.S.C. Sec. 9601(35)(B)(ii) shall govern the performance of
 12 Phase I Environmental Audits. In addition to the above
 13 requirements, the Phase I Environmental Audit shall include a
 14 review of recorded land title records for the purpose of
 15 determining whether the real property is subject to an
 16 environmental land use restriction such as a No Further
 17 Remediation Letter, Environmental Land Use Control, or
 18 Highway Authority Agreement. The investigation shall include
 19 a review of at least each of the following sources of
 20 information concerning the current and previous ownership and
 21 use of the real property:

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

25 (II) Aerial photographs that may reflect prior uses
 26 of the real property and that are reasonably obtainable
 27 through State, federal, or local government agencies or
 28 bodies.

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

32 (IV) Reasonably obtainable State, federal, and
 33 local government records of sites or facilities at, on,
 34 or near the real property to discover the presence or

1 likely--presence--of--a-hazardous-substance-or-pesticide,
2 and-whether-a--release--or--a--substantial--threat--of--a
3 release---of--a--hazardous--substance--or--pesticide--has
4 occurred-or-may-occur--at,
5 property.--Such-government-records-shall-include,
6 be-limited-to:-
7 local-government-investigation-reports-for-those-sites-or
8 facilities;-
9 local-government-records-of-activities-likely-to-cause-or
10 contribute-to-a-release-or--a--threatened--release--of--a
11 hazardous--substance-or-pesticide-at,
12 real-property,
13 storage,
14 storage-tank-records,
15 generator-records,
16 reasonably---obtainable---State,
17 government-environmental-records-that-report-incidents-or
18 activities--that--are--likely-to-cause-or-contribute-to-a
19 release-or-a-threatened-release-of-a-hazardous--substance
20 or--pesticide--at,
21 order-to-be-deemed-"reasonably--obtainable"--as--required
22 herein,
23 be--obtainable--from-the-government-agency-by-request-and
24 upon-payment-of-a-processing-fee,
25 the--government--agency.--The--Agency--is--authorized-to
26 establish--a--reasonable--fee--for--processing---requests
27 received--under--this--subparagraph-(E)-for-records.--All
28 fees-collected-by-the-Agency-under--this--clause--(v)(IV)
29 shall--be--deposited--into--the--Environmental-Protection
30 Permit-and-Inspection-Fund--in--accordance--with--Section
31 22.8.

32 Notwithstanding--any--other-law,
33 the-Agency-shall-process-a-request--received--under--this
34 subparagraph--(E)--for--records--within--30--days--of-the

1 receipt-of-such-request.

2 (V)--A-visual-site-inspection-of-the--real--property
 3 and--all-facilities-and-improvements-on-the-real-property
 4 and--a--visual--inspection--of---properties---immediately
 5 adjacent-to-the-real-property,--including-an-investigation
 6 of--any--use,--storage,--treatment,--spills--from-use,--or
 7 disposal-of-hazardous-substances,--hazardous-wastes,--solid
 8 wastes,--or-pesticides.---If--the--person--conducting--the
 9 investigation--is--denied-access-to-any-property-adjacent
 10 to-the-real-property,--the-person-shall-conduct--a--visual
 11 inspection-of-that-adjacent-property-from-the-property-to
 12 which--the--person--does--have--access--and--from--public
 13 rights-of-way.

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

16 (vi) For purposes of subparagraph (E), the term "Phase
 17 II Environmental Audit" means an investigation of real
 18 property, conducted by environmental professionals,
 19 subsequent to a Phase I Environmental Audit. If the Phase I
 20 Environmental Audit discloses the presence or likely presence
 21 of a hazardous substance or a pesticide or a release or a
 22 substantial threat of a release of a hazardous substance or
 23 pesticide:

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

31 (II) In or to groundwater, the defendant, as part
 32 of the Phase II Environmental Audit, shall: review
 33 information regarding local geology, water well
 34 locations, and locations of waters of the State as may be

1 obtained from State, federal, and local government
2 records, including but not limited to the United States
3 Geological Service, the State Geological Survey Division
4 of the Department of Natural Resources, and the State
5 Water Survey Division of the Department of Natural
6 Resources; and perform groundwater monitoring sufficient
7 to determine whether there is a presence or likely
8 presence of a hazardous substance or pesticide, and
9 whether there is or has been a release or a substantial
10 threat of a release of a hazardous substance or pesticide
11 at, on, to, or from the real property.

12 (III) On or to media other than soil or
13 groundwater, the defendant, as part of the Phase II
14 Environmental Audit, shall perform an investigation
15 sufficient to determine whether there is a presence or
16 likely presence of a hazardous substance or pesticide,
17 and whether there is or has been a release or a
18 substantial threat of a release of a hazardous substance
19 or pesticide at, on, to, or from the real property.

20 (vii) The findings of each Environmental Audit prepared
21 under this subparagraph (E) shall be set forth in a written
22 audit report. Each audit report shall contain an affirmation
23 by the defendant and by each environmental professional who
24 prepared the Environmental Audit that the facts stated in the
25 report are true and are made under a penalty of perjury as
26 defined in Section 32-2 of the Criminal Code of 1961. It is
27 perjury for any person to sign an audit report that contains
28 a false material statement that the person does not believe
29 to be true.

30 (viii) The Agency is not required to review, approve, or
31 certify the results of any Environmental Audit. The
32 performance of an Environmental Audit shall in no way entitle
33 a defendant to a presumption of Agency approval or
34 certification of the results of the Environmental Audit.

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

5 (7) No person shall be liable under this Section for
6 response costs or damages as the result of a pesticide
7 release if the Agency has found that a pesticide release
8 occurred based on a Health Advisory issued by the U.S.
9 Environmental Protection Agency or an action level developed
10 by the Agency, unless the Agency notified the manufacturer of
11 the pesticide and provided an opportunity of not less than 30
12 days for the manufacturer to comment on the technical and
13 scientific justification supporting the Health Advisory or
14 action level.

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

21 (k) If any person who is liable for a release or
22 substantial threat of release of a hazardous substance or
23 pesticide fails without sufficient cause to provide removal
24 or remedial action upon or in accordance with a notice and
25 request by the Agency or upon or in accordance with any order
26 of the Board or any court, such person may be liable to the
27 State for punitive damages in an amount at least equal to,
28 and not more than 3 times, the amount of any costs incurred
29 by the State of Illinois as a result of such failure to take
30 such removal or remedial action. The punitive damages
31 imposed by the Board shall be in addition to any costs
32 recovered from such person pursuant to this Section and in
33 addition to any other penalty or relief provided by this Act
34 or any other law.

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

4 (1) Beginning January 1, 1988, the Agency shall annually
5 collect a \$250 fee for each Special Waste Hauling Permit
6 Application and, in addition, shall collect a fee of \$20 for
7 each waste hauling vehicle identified in the annual permit
8 application and for each vehicle which is added to the permit
9 during the annual period. The Agency shall deposit 85% of
10 such fees collected under this subsection in the State
11 Treasury to the credit of the Hazardous Waste Research Fund;
12 and shall deposit the remaining 15% of such fees collected in
13 the State Treasury to the credit of the Environmental
14 Protection Permit and Inspection Fund. The majority of such
15 receipts which are deposited in the Hazardous Waste Research
16 Fund pursuant to this subsection shall be used by the
17 Department of Natural Resources for activities which relate
18 to the protection of underground waters. Persons engaged in
19 the offsite transportation of hazardous waste by highway and
20 participating in the Uniform Program under subsection (1-5)
21 are not required to file a Special Waste Hauling Permit
22 Application.

23 (1-5) (1) As used in this subsection:

24 "Base state" means the state selected by a
25 transporter according to the procedures established under
26 the Uniform Program.

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

30 "Participating state" means a state electing to
31 participate in the Uniform Program by entering into a
32 base state agreement.

33 "Transporter" means a person engaged in the offsite
34 transportation of hazardous waste by highway.

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

4 "Uniform Program" means the Uniform State Hazardous
5 Materials Transportation Registration and Permit Program
6 established in the report submitted and amended pursuant
7 to 49 U.S.C. Section 5119(b), as implemented by the
8 Agency under this subsection.

9 "Vehicle" means any self-propelled motor vehicle,
10 except a truck tractor without a trailer, designed or
11 used for the transportation of hazardous waste subject to
12 the hazardous waste manifesting requirements of 40 U.S.C.
13 Section 6923(a)(3).

14 (2) Beginning July 1, 1998, the Agency shall
15 implement the Uniform State Hazardous Materials
16 Transportation Registration and Permit Program. On and
17 after that date, no person shall engage in the offsite
18 transportation of hazardous waste by highway without
19 registering and obtaining a permit under the Uniform
20 Program. A transporter with its principal place of
21 business in Illinois shall register with and obtain a
22 permit from the Agency. A transporter that designates
23 another participating state in the Uniform Program as its
24 base state shall likewise register with and obtain a
25 permit from that state before transporting hazardous
26 waste in Illinois.

27 (3) Beginning July 1, 1998, the Agency shall
28 annually collect no more than a \$250 processing and audit
29 fee from each transporter of hazardous waste who has
30 filed a uniform application and, in addition, the Agency
31 shall annually collect an apportioned vehicle
32 registration fee of \$20. The amount of the apportioned
33 vehicle registration fee shall be calculated consistent
34 with the procedures established under the Uniform

1 Program.

2 All moneys received by the Agency from the
3 collection of fees pursuant to the Uniform Program shall
4 be deposited into the Hazardous Waste Transporter account
5 hereby created within the Environmental Protection Permit
6 and Inspection Fund. Moneys remaining in the account at
7 the close of the fiscal year shall not lapse to the
8 General Revenue Fund. The State Treasurer may receive
9 money or other assets from any source for deposit into
10 the account. The Agency may expend moneys from the
11 account, upon appropriation, for the implementation of
12 the Uniform Program, including the costs to the Agency of
13 fee collection and administration. In addition, funds
14 not expended for the implementation of the Uniform
15 Program may be utilized for emergency response and
16 cleanup activities related to hazardous waste
17 transportation that are initiated by the Agency.

18 Whenever the amount of the Hazardous Waste
19 Transporter account exceeds by 115% the amount annually
20 appropriated by the General Assembly, the Agency shall credit
21 participating transporters an amount, proportionately based
22 on the amount of the vehicle fee paid, equal to the excess in
23 the account, and shall determine the need to reduce the
24 amount of the fee charged transporters in the subsequent
25 fiscal year by the amount of the credit.

26 (4) (A) The Agency may propose and the Board shall
27 adopt rules as necessary to implement and enforce the
28 Uniform Program. The Agency is authorized to enter into
29 agreements with other agencies of this State as necessary
30 to carry out administrative functions or enforcement of
31 the Uniform Program.

32 (B) The Agency shall recognize a Uniform Program
33 registration as valid for one year from the date a notice
34 of registration form is issued and a permit as valid for

1 3 years from the date issued or until a transporter fails
2 to renew its registration, whichever occurs first.

3 (C) The Agency may inspect or examine any motor
4 vehicle or facility operated by a transporter, including
5 papers, books, records, documents, or other materials to
6 determine if a transporter is complying with the Uniform
7 Program. The Agency may also conduct investigations and
8 audits as necessary to determine if a transporter is
9 entitled to a permit or to make suspension or revocation
10 determinations consistent with the standards of the
11 Uniform Program.

12 (5) The Agency may enter into agreements with
13 federal agencies, national repositories, or other
14 participating states as necessary to allow for the
15 reciprocal registration and permitting of transporters
16 pursuant to the Uniform Program. The agreements may
17 include procedures for determining a base state, the
18 collection and distribution of registration fees, dispute
19 resolution, the exchange of information for reporting and
20 enforcement purposes, and other provisions necessary to
21 fully implement, administer, and enforce the Uniform
22 Program.

23 (m) (Blank).

24 (n) (Blank).

25 (Source: P.A. 91-36, eff. 6-15-99; 92-574, eff. 6-26-02.)

26 (415 ILCS 5/28.6 new)

27 Sec. 28.6. Rulemaking to update incorporation by
28 reference.

29 (a) Any person may file a proposal with the Board to
30 update an incorporation by reference included in a Board
31 rule. The Board or the Agency may also make such a proposal
32 on its own initiative.

33 (b) A rulemaking to update an incorporation by reference

1 under this Section shall be for the sole purpose of replacing
2 a reference to an older or obsolete version of a document
3 with a reference to the current version of that document or
4 its successor document.

5 (c) A rulemaking to update an incorporation by reference
6 under this Section shall comply with Sections 5-40 and 5-75
7 of the Illinois Administrative Procedure Act. Sections 27 and
8 28 of this Act do not apply to rulemaking under this Section.

9 (d) If an objection to the proposed amendment is filed
10 during the public comment period required under Section 5-40
11 of the Illinois Administrative Procedure Act, then the
12 proposed amendment shall not be adopted pursuant to this
13 Section. Nothing in this Section precludes the adoption of a
14 change to an incorporation by reference through other lawful
15 rulemaking procedures.

16 (e) The Board may adopt procedural rules to implement
17 this Section.

18 (415 ILCS 5/30) (from Ch. 111 1/2, par. 1030)

19 Sec. 30. Investigations. The Agency shall cause
20 investigations to be made upon the request of the Board or
21 upon receipt of information concerning an alleged violation
22 of this Act, ~~or of any rule or regulation adopted under this~~
23 ~~Act, promulgated thereunder, or of any permit granted by the~~
24 Agency or any term or condition of ~~a any-such~~ permit, or any
25 Board order, and may cause to be made such other
26 investigations as it shall deem advisable.

27 (Source: P.A. 92-574, eff. 6-26-02.)

28 (415 ILCS 5/31) (from Ch. 111 1/2, par. 1031)

29 Sec. 31. Notice; complaint; hearing.

30 (a)(1) Within 180 days of becoming aware of an alleged
31 violation of the Act or any rule adopted under the Act or
32 of a permit granted by the Agency or condition of the

1 permit, the Agency shall issue and serve, by certified
2 mail, upon the person complained against a written notice
3 informing that person that the Agency has evidence of the
4 alleged violation. At a minimum, the written notice
5 shall contain:

6 (A) notification to the person complained
7 against of the requirement to submit a written
8 response addressing the violations alleged and the
9 option to meet with appropriate agency personnel to
10 resolve any alleged violations that could lead to
11 the filing of a formal complaint;

12 (B) a detailed explanation by the Agency of
13 the violations alleged;

14 (C) an explanation by the Agency of the
15 actions that the Agency believes may resolve the
16 alleged violations, including an estimate of a
17 reasonable time period for the person complained
18 against to complete the suggested resolution; and

19 (D) an explanation of any alleged violation
20 that the Agency believes cannot be resolved without
21 the involvement of the Office of the Illinois
22 Attorney General or the State's Attorney of the
23 county in which the alleged violation occurred and
24 the basis for the Agency's belief.

25 (2) A written response to the violations alleged
26 shall be submitted to the Agency, by certified mail,
27 within 45 days of receipt of notice by the person
28 complained against, unless the Agency agrees to an
29 extension. The written response shall include:

30 (A) information in rebuttal, explanation or
31 justification of each alleged violation;

32 (B) a proposed Compliance Commitment Agreement
33 that includes specified times for achieving each
34 commitment and which may consist of a statement

1 indicating that the person complained against
2 believes that compliance has been achieved; and

3 (C) a request for a meeting with appropriate
4 Agency personnel if a meeting is desired by the
5 person complained against.

6 (3) If the person complained against fails to
7 respond in accordance with the requirements of
8 subdivision (2) of this subsection (a), the failure to
9 respond shall be considered a waiver of the requirements
10 of this subsection (a) and nothing in this Section shall
11 preclude the Agency from proceeding pursuant to
12 subsection (b) of this Section.

13 (4) A meeting requested pursuant to subdivision (2)
14 of this subsection (a) shall be held without a
15 representative of the Office of the Illinois Attorney
16 General or the State's Attorney of the county in which
17 the alleged violation occurred, within 60 days of receipt
18 of notice by the person complained against, unless the
19 Agency agrees to a postponement. At the meeting, the
20 Agency shall provide an opportunity for the person
21 complained against to respond to each alleged violation,
22 suggested resolution, and suggested implementation time
23 frame, and to suggest alternate resolutions.

24 (5) If a meeting requested pursuant to subdivision
25 (2) of this subsection (a) is held, the person complained
26 against shall, within 21 days following the meeting or
27 within an extended time period as agreed to by the
28 Agency, submit by certified mail to the Agency a written
29 response to the alleged violations. The written response
30 shall include:

31 (A) additional information in rebuttal,
32 explanation or justification of each alleged
33 violation;

34 (B) a proposed Compliance Commitment Agreement

1 that includes specified times for achieving each
2 commitment and which may consist of a statement
3 indicating that the person complained against
4 believes that compliance has been achieved; and

5 (C) a statement indicating that, should the
6 person complained against so wish, the person
7 complained against chooses to rely upon the initial
8 written response submitted pursuant to subdivision
9 (2) of this subsection (a).

10 (6) If the person complained against fails to
11 respond in accordance with the requirements of
12 subdivision (5) of this subsection (a), the failure to
13 respond shall be considered a waiver of the requirements
14 of this subsection (a) and nothing in this Section shall
15 preclude the Agency from proceeding pursuant to
16 subsection (b) of this Section.

17 (7) Within 30 days of the Agency's receipt of a
18 written response submitted by the person complained
19 against pursuant to subdivision (2) of this subsection
20 (a), if a meeting is not requested, or subdivision (5) of
21 this subsection (a), if a meeting is held, or within a
22 later time period as agreed to by the Agency and the
23 person complained against, the Agency shall issue and
24 serve, by certified mail, upon the person complained
25 against a written notice informing the person of its
26 acceptance, rejection, or proposed modification to the
27 proposed Compliance Commitment Agreement as contained
28 within the written response.

29 (8) Nothing in this subsection (a) is intended to
30 require the Agency to enter into Compliance Commitment
31 Agreements for any alleged violation that the Agency
32 believes cannot be resolved without the involvement of
33 the Office of the Attorney General or the State's
34 Attorney of the county in which the alleged violation

1 occurred, for, among other purposes, the imposition of
2 statutory penalties.

3 (9) The Agency's failure to respond to a written
4 response submitted pursuant to subdivision (2) of this
5 subsection (a), if a meeting is not requested, or
6 subdivision (5) of this subsection (a), if a meeting is
7 held, within 30 days, or within the time period otherwise
8 agreed to in writing by the Agency and the person
9 complained against, shall be deemed an acceptance by the
10 Agency of the proposed Compliance Commitment Agreement
11 for the violations alleged in the written notice issued
12 under subdivision (1) of this subsection (a) as contained
13 within the written response.

14 (10) If the person complained against complies with
15 the terms of a Compliance Commitment Agreement accepted
16 pursuant to this subsection (a), the Agency shall not
17 refer the alleged violations which are the subject of the
18 Compliance Commitment Agreement to the Office of the
19 Illinois Attorney General or the State's Attorney of the
20 county in which the alleged violation occurred. However,
21 nothing in this subsection is intended to preclude the
22 Agency from continuing negotiations with the person
23 complained against or from proceeding pursuant to the
24 provisions of subsection (b) of this Section for alleged
25 violations which remain the subject of disagreement
26 between the Agency and the person complained against
27 following fulfillment of the requirements of this
28 subsection (a).

29 (11) Nothing in this subsection (a) is intended to
30 preclude the person complained against from submitting to
31 the Agency, by certified mail, at any time, notification
32 that the person complained against consents to waiver of
33 the requirements of subsections (a) and (b) of this
34 Section.

1 (b) For alleged violations that remain the subject of
2 disagreement between the Agency and the person complained
3 against following fulfillment of the requirements of
4 subsection (a) of this Section, and as a precondition to the
5 Agency's referral or request to the Office of the Illinois
6 Attorney General or the State's Attorney of the county in
7 which the alleged violation occurred for legal representation
8 regarding an alleged violation that may be addressed pursuant
9 to subsection (c) or (d) of this Section or pursuant to
10 Section 42 of this Act, the Agency shall issue and serve, by
11 certified mail, upon the person complained against a written
12 notice informing that person that the Agency intends to
13 pursue legal action. Such notice shall notify the person
14 complained against of the violations to be alleged and offer
15 the person an opportunity to meet with appropriate Agency
16 personnel in an effort to resolve any alleged violations that
17 could lead to the filing of a formal complaint. The meeting
18 with Agency personnel shall be held within 30 days of receipt
19 of notice served pursuant to this subsection upon the person
20 complained against, unless the Agency agrees to a
21 postponement or the person notifies the Agency that he or she
22 will not appear at a meeting within the 30 day time period.
23 Nothing in this subsection is intended to preclude the Agency
24 from following the provisions of subsection (c) or (d) of
25 this Section or from requesting the legal representation of
26 the Office of the Illinois Attorney General or the State's
27 Attorney of the county in which the alleged violations
28 occurred for alleged violations which remain the subject of
29 disagreement between the Agency and the person complained
30 against after the provisions of this subsection are
31 fulfilled.

32 (c)(1) For alleged violations which remain the subject
33 of disagreement between the Agency and the person
34 complained against following waiver, pursuant to

1 subdivision (10) of subsection (a) of this Section, or
2 fulfillment of the requirements of subsections (a) and
3 (b) of this Section, the Office of the Illinois Attorney
4 General or the State's Attorney of the county in which
5 the alleged violation occurred shall issue and serve upon
6 the person complained against a written notice, together
7 with a formal complaint, which shall specify the
8 provision of the Act or the rule or regulation or permit
9 or term or condition thereof under which such person is
10 said to be in violation, and a statement of the manner
11 in, and the extent to which such person is said to
12 violate the Act or such rule or regulation or permit or
13 term or condition thereof and shall require the person so
14 complained against to answer the charges of such formal
15 complaint at a hearing before the Board at a time not
16 less than 21 days after the date of notice by the Board,
17 except as provided in Section 34 of this Act. Such
18 complaint shall be accompanied by a notification to the
19 defendant that financing may be available, through the
20 Illinois Environmental Facilities Financing Act, to
21 correct such violation. A copy of such notice of such
22 hearings shall also be sent to any person that has
23 complained to the Agency respecting the respondent within
24 the six months preceding the date of the complaint, and
25 to any person in the county in which the offending
26 activity occurred that has requested notice of
27 enforcement proceedings; 21 days notice of such hearings
28 shall also be published in a newspaper of general
29 circulation in such county. The respondent may file a
30 written answer, and at such hearing the rules prescribed
31 in Sections 32 and 33 of this Act shall apply. In the
32 case of actual or threatened acts outside Illinois
33 contributing to environmental damage in Illinois, the
34 extraterritorial service-of-process provisions of

1 Sections 2-208 and 2-209 of the Code of Civil Procedure
2 shall apply.

3 With respect to notices served pursuant to this
4 subsection (c)(1) which involve hazardous material or
5 wastes in any manner, the Agency shall annually publish a
6 list of all such notices served. The list shall include
7 the date the investigation commenced, the date notice was
8 sent, the date the matter was referred to the Attorney
9 General, if applicable, and the current status of the
10 matter.

11 (2) Notwithstanding the provisions of subdivision
12 (1) of this subsection (c), whenever a complaint has been
13 filed on behalf of the Agency or by the People of the
14 State of Illinois, the parties may file with the Board a
15 stipulation and proposal for settlement accompanied by a
16 request for relief from the requirement of a hearing
17 pursuant to subdivision (1). Unless the Board, in its
18 discretion, concludes that a hearing will be held, the
19 Board shall cause notice of the stipulation, proposal and
20 request for relief to be published and sent in the same
21 manner as is required for hearing pursuant to subdivision
22 (1) of this subsection. The notice shall include a
23 statement that any person may file a written demand for
24 hearing within 21 days after receiving the notice. If any
25 person files a timely written demand for hearing, the
26 Board shall deny the request for relief from a hearing
27 and shall hold a hearing in accordance with the
28 provisions of subdivision (1).

29 (3) Notwithstanding the provisions of subdivision
30 (1) of this subsection (c), if the Agency becomes aware
31 of a violation of this Act arising from, or as a result
32 of, voluntary pollution prevention activities, the Agency
33 shall not proceed with the written notice required by
34 subsection (a) of this Section unless:

1 (A) the person fails to take corrective action
2 or eliminate the reported violation within a
3 reasonable time; or

4 (B) the Agency believes that the violation
5 poses a substantial and imminent danger to the
6 public health or welfare or the environment. For
7 the purposes of this item (B), "substantial and
8 imminent danger" means a danger with a likelihood of
9 serious or irreversible harm.

10 (d)(1) Any person may file with the Board a
11 complaint, meeting the requirements of subsection (c) of
12 this Section, against any person allegedly violating this
13 Act, any rule or regulation adopted under this Act, any
14 permit or term or condition of a permit, or any Board
15 order. ~~or-any-rule-or-regulation-thereunder-or-any-permit~~
16 ~~or-term-or--condition--thereof.~~ The complainant shall
17 immediately serve a copy of such complaint upon the
18 person or persons named therein. Unless the Board
19 determines that such complaint is duplicative or
20 frivolous, it shall schedule a hearing and serve written
21 notice thereof upon the person or persons named therein,
22 in accord with subsection (c) of this Section.

23 (2) Whenever a complaint has been filed by a person
24 other than the Attorney General or the State's Attorney,
25 the parties may file with the Board a stipulation and
26 proposal for settlement accompanied by a request for
27 relief from the hearing requirement of subdivision (c)(1)
28 of this Section. Unless the Board, in its discretion,
29 concludes that a hearing should be held, no hearing on
30 the stipulation and proposal for settlement is required.

31 (e) In hearings before the Board under this Title the
32 burden shall be on the Agency or other complainant to show
33 either that the respondent has caused or threatened to cause
34 air or water pollution or that the respondent has violated or

1 threatens to violate any provision of this Act or any rule or
2 regulation of the Board or permit or term or condition
3 thereof. If such proof has been made, the burden shall be on
4 the respondent to show that compliance with the Board's
5 regulations would impose an arbitrary or unreasonable
6 hardship.

7 (f) The provisions of this Section shall not apply to
8 administrative citation actions commenced under Section 31.1
9 of this Act.

10 (Source: P.A. 92-574, eff. 6-26-02.)

11 (415 ILCS 5/33) (from Ch. 111 1/2, par. 1033)

12 Sec. 33. Board orders.

13 (a) After due consideration of the written and oral
14 statements, the testimony and arguments that shall be
15 submitted at the hearing, or upon default in appearance of
16 the respondent on return day specified in the notice, the
17 Board shall issue and enter such final order, or make such
18 final determination, as it shall deem appropriate under the
19 circumstances. It shall not be a defense to findings of
20 violations of the provisions of this Act, any rule or
21 regulation adopted under this Act, any permit or term or
22 condition of a permit, or any Board order, the-Act-or-Board
23 regulations or a bar to the assessment of civil penalties
24 that the person has come into compliance subsequent to the
25 violation, except where such action is barred by any
26 applicable State or federal statute of limitation. In all
27 such matters the Board shall file and publish a written
28 opinion stating the facts and reasons leading to its
29 decision. The Board shall immediately notify the respondent
30 of such order in writing by registered mail.

31 (b) Such order may include a direction to cease and
32 desist from violations of this Act, any rule or regulation
33 adopted under this Act, any permit or term or condition of a

1 ~~permit, or any Board order the Act or of the Board's rules~~
2 ~~and regulations any permit or term or condition thereof,~~
3 and/or the imposition by the Board of civil penalties in
4 accord with Section 42 of this Act. The Board may also
5 revoke the permit as a penalty for violation. If such order
6 includes a reasonable delay during which to correct a
7 violation, the Board may require the posting of sufficient
8 performance bond or other security to assure the correction
9 of such violation within the time prescribed.

10 (c) In making its orders and determinations, the Board
11 shall take into consideration all the facts and circumstances
12 bearing upon the reasonableness of the emissions, discharges
13 or deposits involved including, but not limited to:

14 (i) the character and degree of injury to, or
15 interference with the protection of the health, general
16 welfare and physical property of the people;

17 (ii) the social and economic value of the pollution
18 source;

19 (iii) the suitability or unsuitability of the
20 pollution source to the area in which it is located,
21 including the question of priority of location in the
22 area involved;

23 (iv) the technical practicability and economic
24 reasonableness of reducing or eliminating the emissions,
25 discharges or deposits resulting from such pollution
26 source; and

27 (v) any subsequent compliance.

28 Whenever a proceeding before the Board may affect the
29 right of the public individually or collectively to the use
30 of community sewer or water facilities provided by a
31 municipally owned or publicly regulated company, the Board
32 shall at least 30 days prior to the scheduled date of the
33 first hearing in such proceeding, give notice of the date,
34 time, place, and purpose of such hearing by public

1 advertisement in a newspaper of general circulation in the
2 area of the State concerned. The Board shall conduct a full
3 and complete hearing into the social and economic impact
4 which would result from restriction or denial of the right to
5 use such facilities and allow all persons claiming an
6 interest to intervene as parties and present evidence of such
7 social and economic impact.

8 (d) All orders issued and entered by the Board pursuant
9 to this Section shall be enforceable by injunction, mandamus,
10 or other appropriate remedy, in accordance with Section 42 of
11 this Act.

12 (Source: P.A. 85-1041; 86-1363.)

13 (415 ILCS 5/35) (from Ch. 111 1/2, par. 1035)

14 Sec. 35. Variances; general provisions. To the extent
15 consistent with applicable provisions of the Federal Water
16 Pollution Control Act, as now or hereafter amended, the
17 Federal Safe Drinking Water Act (P.L. 93-523), as now or
18 hereafter amended, the Clean Air Act as amended in 1977 (P.L.
19 95-95), and regulations pursuant thereto, and to the extent
20 consistent with applicable provisions of the Federal Resource
21 Conservation and Recovery Act of 1976 (P.L. 94-580), and
22 regulations pursuant thereto:7

23 (a) The Board may grant individual variances beyond the
24 limitations prescribed in this Act, whenever it is found,
25 upon presentation of adequate proof, that compliance with any
26 rule or regulation, requirement or order of the Board would
27 impose an arbitrary or unreasonable hardship. However, the
28 Board is not required to find that an arbitrary or
29 unreasonable hardship exists exclusively because the
30 regulatory standard is under review and the costs of
31 compliance are substantial and certain. In granting or
32 denying a variance the Board shall file and publish a written
33 opinion stating the facts and reasons leading to its

1 decision.

2 (b) The Agency Board shall grant provisional variances
3 whenever it is found, upon presentation of adequate proof,
4 ~~only--upon--notification--from--the--Agency~~ that compliance on a
5 short term basis with any rule or regulation, requirement or
6 order of the Board, or with any permit requirement, would
7 impose an arbitrary or unreasonable hardship. Such
8 ~~provisional--variances--shall--be--issued--within--2--working--days~~
9 ~~of--notification--from--the--Agency.~~

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

11 (415 ILCS 5/36) (from Ch. 111 1/2, par. 1036)

12 Sec. 36. Variances and provisional variances.

13 (a) In granting a variance the Board may impose such
14 conditions as the policies of this Act may require. If the
15 hardship complained of consists solely of the need for a
16 reasonable delay in which to correct a violation of this Act
17 or of the Board regulations, the Board shall condition the
18 grant of such variance upon the posting of sufficient
19 performance bond or other security to assure the completion
20 of the work covered by the variance. The Board shall have no
21 authority to delegate to the Agency its powers to require
22 such performance bond. The original amount of such
23 performance bond shall not exceed the reasonable cost of the
24 work to be completed pursuant to the variance. The obligation
25 under such bond shall at no time exceed the reasonable cost
26 of work remaining pursuant to the variance.

27 (b) Except as provided by Section 38 of this Act, any
28 variance granted pursuant to the provisions of this Section
29 shall be granted for such period of time, not exceeding five
30 years, as shall be specified by the Board at the time of the
31 grant of such variance, and upon the condition that the
32 person who receives such variance shall make such periodic
33 progress reports as the Board shall specify. Such variance

1 may be extended from year to year by affirmative action of
2 the Board, but only if satisfactory progress has been shown.

3 (c) Any provisional variance granted by the Agency Board
4 pursuant to subsection (b) of Section 35 shall be for a
5 period of time not to exceed 45 days. A provisional variance
6 may be extended ~~Upon receipt of a recommendation from the~~
7 ~~Agency to extend this time period, the Board shall grant~~ up
8 to an additional 45 days by written decision of the Agency.
9 The provisional variances granted to any one person shall not
10 exceed a total of 90 days during any calendar year.

11 (Source: P.A. 81-1442.)

12 (415 ILCS 5/37) (from Ch. 111 1/2, par. 1037)

13 Sec. 37. Variances; procedures.

14 (a) Any person seeking a variance pursuant to subsection
15 (a) of Section 35 shall do so by filing a petition for
16 variance with the Board and the Agency. Any person filing
17 such a petition shall pay a filing fee. The Agency shall
18 promptly give written notice of such petition to any person
19 in the county in which the installation or property for which
20 variance is sought is located who has in writing requested
21 notice of variance petitions, the State's attorney of such
22 county, the Chairman of the County Board of such county, and
23 to each member of the General Assembly from the legislative
24 district in which that installation or property is located,
25 and shall publish a single notice of such petition in a
26 newspaper of general circulation in such county. The notices
27 required by this Section shall include the street address,
28 and if there is no street address then the legal description
29 or the location with reference to any well known landmark,
30 highway, road, thoroughfare or intersection.

31 The Agency shall promptly investigate such petition and
32 consider the views of persons who might be adversely affected
33 by the grant of a variance. The Agency shall make a

1 recommendation to the Board as to the disposition of the
2 petition. If the Board, in its discretion, concludes that a
3 hearing would be advisable, or if the Agency or any other
4 person files a written objection to the grant of such
5 variance within 21 days, together with a written request for
6 hearing, then a hearing shall be held, under the rules
7 prescribed in Sections 32 and 33 (a) of this Act, and the
8 burden of proof shall be on the petitioner.

9 (b) Any person seeking a provisional variance pursuant
10 to subsection (b) of Section 35 shall make a request to the
11 Agency. The Agency shall promptly investigate and consider
12 the merits of the request. ~~The Agency may notify the Board~~
13 ~~of its recommendation.~~ If the Agency fails to take final
14 action within 30 days after receipt of the request for a
15 provisional variance, or if the Agency denies the request,
16 the person may initiate a proceeding with the Board under
17 subsection (a) of Section 35.

18 If the Agency grants a provisional variance, the Agency
19 must promptly file a copy of its written decision with the
20 Board, and ~~the Board~~ shall give prompt notice of its action
21 to the public by issuing a press release for distribution to
22 newspapers of general circulation in the county. The Board
23 must maintain for public inspection copies of all provisional
24 variances filed with it by the Agency.

25 (Source: P.A. 87-914; 88-474.)

26 (415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)

27 Sec. 42. Civil penalties.

28 (a) Except as provided in this Section, any person that
29 violates any provision of this Act or any regulation adopted
30 by the Board, or any permit or term or condition thereof, or
31 that violates any ~~determination--or~~ order of the Board
32 pursuant to this Act, shall be liable for ~~to~~ a civil penalty
33 of not to exceed \$50,000 for the violation and an additional

1 civil penalty of not to exceed \$10,000 for each day during
2 which the violation continues; such penalties may, upon order
3 of the Board or a court of competent jurisdiction, be made
4 payable to the Environmental Protection Trust Fund, to be
5 used in accordance with the provisions of the Environmental
6 Protection Trust Fund Act.

7 (b) Notwithstanding the provisions of subsection (a) of
8 this Section:

9 (1) Any person that violates Section 12(f) of this
10 Act or any NPDES permit or term or condition thereof, or
11 any filing requirement, regulation or order relating to
12 the NPDES permit program, shall be liable to a civil
13 penalty of not to exceed \$10,000 per day of violation.

14 (2) Any person that violates Section 12(g) of this
15 Act or any UIC permit or term or condition thereof, or
16 any filing requirement, regulation or order relating to
17 the State UIC program for all wells, except Class II
18 wells as defined by the Board under this Act, shall be
19 liable to a civil penalty not to exceed \$2,500 per day of
20 violation; provided, however, that any person who commits
21 such violations relating to the State UIC program for
22 Class II wells, as defined by the Board under this Act,
23 shall be liable to a civil penalty of not to exceed
24 \$10,000 for the violation and an additional civil penalty
25 of not to exceed \$1,000 for each day during which the
26 violation continues.

27 (3) Any person that violates Sections 21(f), 21(g),
28 21(h) or 21(i) of this Act, or any RCRA permit or term or
29 condition thereof, or any filing requirement, regulation
30 or order relating to the State RCRA program, shall be
31 liable to a civil penalty of not to exceed \$25,000 per
32 day of violation.

33 (4) In an administrative citation action under
34 Section 31.1 of this Act, any person found to have

1 violated any provision of subsection (o) of Section 21 of
2 this Act shall pay a civil penalty of \$500 for each
3 violation of each such provision, plus any hearing costs
4 incurred by the Board and the Agency. Such penalties
5 shall be made payable to the Environmental Protection
6 Trust Fund, to be used in accordance with the provisions
7 of the Environmental Protection Trust Fund Act; except
8 that if a unit of local government issued the
9 administrative citation, 50% of the civil penalty shall
10 be payable to the unit of local government.

11 (4-5) In an administrative citation action under
12 Section 31.1 of this Act, any person found to have
13 violated any provision of subsection (p) of Section 21 of
14 this Act shall pay a civil penalty of \$1,500 for each
15 violation of each such provision, plus any hearing costs
16 incurred by the Board and the Agency, except that the
17 civil penalty amount shall be a-first-offense-and \$3,000
18 for each violation of any provision of subsection (p) of
19 Section 21 that is the person's a second or subsequent
20 adjudicated violation of that provision offense, ~~plus any~~
21 ~~hearing costs incurred by the Board and the Agency.~~ The
22 penalties shall be deposited into the Environmental
23 Protection Trust Fund, to be used in accordance with the
24 provisions of the Environmental Protection Trust Fund
25 Act; except that if a unit of local government issued the
26 administrative citation, 50% of the civil penalty shall
27 be payable to the unit of local government.

28 (5) Any person who violates subsection 6 of Section
29 39.5 of this Act or any CAAPP permit, or term or
30 condition thereof, or any fee or filing requirement, or
31 any duty to allow or carry out inspection, entry or
32 monitoring activities, or any regulation or order
33 relating to the CAAPP shall be liable for a civil penalty
34 not to exceed \$10,000 per day of violation.

1 (b.5) In lieu of the penalties set forth in subsections
2 (a) and (b) of this Section, any person who fails to file, in
3 a timely manner, toxic chemical release forms with the Agency
4 pursuant to Section 25b-2 of this Act shall be liable for a
5 civil penalty of \$100 per day for each day the forms are
6 late, not to exceed a maximum total penalty of \$6,000. This
7 daily penalty shall begin accruing on the thirty-first day
8 after the date that the person receives the warning notice
9 issued by the Agency pursuant to Section 25b-6 of this Act;
10 and the penalty shall be paid to the Agency. The daily
11 accrual of penalties shall cease as of January 1 of the
12 following year. All penalties collected by the Agency
13 pursuant to this subsection shall be deposited into the
14 Environmental Protection Permit and Inspection Fund.

15 (c) Any person that violates this Act, any rule or
16 regulation adopted under this Act, any permit or term or
17 condition of a permit, or any Board order ~~er-an-order-er~~
18 ~~ether-determination-of-the-Board-under-this--Act~~ and causes
19 the death of fish or aquatic life shall, in addition to the
20 other penalties provided by this Act, be liable to pay to the
21 State an additional sum for the reasonable value of the fish
22 or aquatic life destroyed. Any money so recovered shall be
23 placed in the Wildlife and Fish Fund in the State Treasury.

24 (d) The penalties provided for in this Section may be
25 recovered in a civil action.

26 (e) The State's Attorney of the county in which the
27 violation occurred, or the Attorney General, may, at the
28 request of the Agency or on his own motion, institute a civil
29 action for an injunction to restrain violations of this Act,
30 any rule or regulation adopted under this Act, any permit or
31 term or condition of a permit, or any Board order.

32 (f) The State's Attorney of the county in which the
33 violation occurred, or the Attorney General, shall bring such
34 actions in the name of the people of the State of Illinois.

1 Without limiting any other authority which may exist for the
2 awarding of attorney's fees and costs, the Board or a court
3 of competent jurisdiction may award costs and reasonable
4 attorney's fees, including the reasonable costs of expert
5 witnesses and consultants, to the State's Attorney or the
6 Attorney General in a case where he has prevailed against a
7 person who has committed a wilful, knowing or repeated
8 violation of this Act, any rule or regulation adopted under
9 this Act, any permit or term or condition of a permit, or any
10 Board order the-Act.

11 Any funds collected under this subsection (f) in which
12 the Attorney General has prevailed shall be deposited in the
13 Hazardous Waste Fund created in Section 22.2 of this Act.
14 Any funds collected under this subsection (f) in which a
15 State's Attorney has prevailed shall be retained by the
16 county in which he serves.

17 (g) All final orders imposing civil penalties pursuant
18 to this Section shall prescribe the time for payment of such
19 penalties. If any such penalty is not paid within the time
20 prescribed, interest on such penalty at the rate set forth in
21 subsection (a) of Section 1003 of the Illinois Income Tax
22 Act, shall be paid for the period from the date payment is
23 due until the date payment is received. However, if the time
24 for payment is stayed during the pendency of an appeal,
25 interest shall not accrue during such stay.

26 (h) In determining the appropriate civil penalty to be
27 imposed under subdivisions (a), (b)(1), (b)(2), (b)(3), or
28 (b)(5) of this Section, the Board is authorized to consider
29 any matters of record in mitigation or aggravation of
30 penalty, including but not limited to the following factors:

- 31 (1) the duration and gravity of the violation;
- 32 (2) the presence or absence of due diligence on the
33 part of the violator in attempting to comply with
34 requirements of this Act and regulations thereunder or to

1 secure relief therefrom as provided by this Act;

2 (3) any economic benefits accrued by the violator
3 because of delay in compliance with requirements;

4 (4) the amount of monetary penalty which will serve
5 to deter further violations by the violator and to
6 otherwise aid in enhancing voluntary compliance with this
7 Act by the violator and other persons similarly subject
8 to the Act; and

9 (5) the number, proximity in time, and gravity of
10 previously adjudicated violations of this Act by the
11 violator.

12 (Source: P.A. 90-773, eff. 8-14-98; 91-82, eff. 1-1-00.)

13 (415 ILCS 5/45) (from Ch. 111 1/2, par. 1045)

14 Sec. 45. Injunctive and other relief.

15 (a) No existing civil or criminal remedy for any
16 wrongful action shall be excluded or impaired by this Act.
17 Nothing in this Act shall be construed to limit or supersede
18 the provisions of the Illinois Oil and Gas Act and the powers
19 therein granted to prevent the intrusion of water into oil,
20 gas or coal strata and to prevent the pollution of fresh
21 water supplies by oil, gas or salt water or oil field wastes,
22 except that water quality standards as set forth by the
23 Pollution Control Board apply to and are effective within the
24 areas covered by and affected by permits issued by the
25 Department of Natural Resources. However, if the Department
26 of Natural Resources fails to act upon any complaint within a
27 period of 10 working days following the receipt of a
28 complaint by the Department, the Environmental Protection
29 Agency may proceed under the provisions of this Act.

30 (b) Any person adversely affected in fact by a violation
31 of this Act, any rule or regulation adopted under this Act,
32 ~~or~~ any permit or term or condition of a permit, or any Board
33 order may sue for injunctive relief against such violation.

1 However, except as provided in subsections ~~subsection~~ (d) and
2 (e), no action shall be brought under this Section until 30
3 days after the plaintiff has been denied relief by the Board
4 in a proceeding brought under subdivision (d)(1) ~~subsection~~
5 ~~(d)~~ of Section 31 of this Act. The prevailing party shall be
6 awarded costs and reasonable attorneys' fees.

7 (c) Nothing in Section 39.4 of this Act shall limit the
8 authority of the Agency to proceed with enforcement under the
9 provisions of this Act for violations of terms and conditions
10 of an endorsed agrichemical facility permit, an endorsed
11 lawncare containment permit, or this Act or regulations
12 hereunder caused or threatened by an agrichemical facility or
13 a lawncare wash water containment area, provided that prior
14 notice is given to the Department of Agriculture which
15 provides that Department an opportunity to respond as
16 appropriate.

17 (d) If the State brings an action under this Act against
18 a person with an interest in real property upon which the
19 person is alleged to have allowed open dumping or open
20 burning by a third party in violation of this Act, which
21 action seeks to compel the defendant to remove the waste or
22 otherwise clean up the site, the defendant may, in the manner
23 provided by law for third-party complaints, bring in as a
24 third-party defendant a person who with actual knowledge
25 caused or contributed to the illegal open dumping or open
26 burning, or who is or may be liable for all or part of the
27 removal and cleanup costs. The court may include any of the
28 parties which it determines to have, with actual knowledge,
29 allowed, caused or contributed to the illegal open dumping or
30 open burning in any order that it may issue to compel removal
31 of the waste and cleanup of the site, and may apportion the
32 removal and cleanup costs among such parties, as it deems
33 appropriate. However, a person may not seek to recover any
34 fines or civil penalties imposed upon him under this Act from

1 a third-party defendant in an action brought under this
2 subsection.

3 (e) A final order issued by the Board pursuant to
4 Section 33 of this Act may be enforced through a civil action
5 for injunctive or other relief instituted by a person who was
6 a party to the Board enforcement proceeding in which the
7 Board issued the final order.

8 (Source: P.A. 91-357, eff. 7-29-99; 92-574, eff. 6-26-02.)

9 ARTICLE II. Non-IERRC provisions.

10 Section 25. The State Finance Act is amended by adding
11 Section 5.595 as follows:

12 (30 ILCS 105/5.595 new)

13 Sec. 5.595. The Oil Spill Response Fund.

14 Section 30. The Environmental Protection Act is amended
15 by adding Title VI-C as follows:

16 (415 ILCS 5/Tit. VI-C heading new)

17 TITLE VI-C: OIL SPILL RESPONSE

18 (415 ILCS 5/25c-1 new)

19 Sec. 25c-1. Oil Spill Response Fund.

20 (a) There is hereby created within the State treasury an
21 interest-bearing special fund to be known as the Oil Spill
22 Response Fund. There shall be deposited into the Fund all
23 monies recovered as reimbursement for response costs incurred
24 by the Agency from parties responsible for releases or
25 threats of release of petroleum, monies provided to the State
26 from the federal Oil Spill Liability Trust Fund, and such
27 other monies as may be received for this purpose through
28 contributions, gifts, or supplemental environmental projects,

1 pursuant to court orders or decrees, or from any other
2 source.

3 (b) Pursuant to appropriation, all monies in the Oil
4 Spill Response Fund may be used by the Agency for all of the
5 following purposes:

6 (1) Responding to releases or threats of release of
7 petroleum that may constitute a substantial danger to the
8 environment or human health or welfare.

9 (2) Contractual expenses and purchases of equipment
10 or supplies necessary to enable prompt response to
11 releases or threats of release of petroleum and to
12 provide effective mitigation of such releases or threats
13 of release.

14 (3) Costs of investigation and assessment of the
15 source, nature, and extent of a release or threatened
16 release of petroleum and any resulting injuries or
17 damages.

18 (4) Costs associated with planning and training for
19 response to releases and threats of release of petroleum.

20 (5) Costs associated with preparing and submitting
21 claims of the Agency to the federal Oil Spill Liability
22 Trust Fund.

23 (c) For the purposes of implementing this Section,
24 "petroleum" means crude oil, refined petroleum,
25 intermediates, fractions or constituents of petroleum, brine
26 or salt water from oil production, oil sheens, hydrocarbon
27 vapors, and any other form of oil or petroleum.

28 (d) In addition to any other authority provided by State
29 or federal law, the Agency shall be entitled to recovery of
30 costs incurred by it in response to releases and threats of
31 release of petroleum from any persons who are responsible for
32 causing, allowing, or threatening such releases.

33 Section 35. The Response Action Contractor

1 Indemnification Act is amended by changing Sections 4 and 5
2 as follows:

3 (415 ILCS 100/4) (from Ch. 111 1/2, par. 7204)

4 Sec. 4. (a) In the event that any civil proceeding
5 arising out of a State response action contract is commenced
6 against any response action contractor, the Attorney General
7 shall, upon timely and appropriate notice to him by such
8 contractor, appear on behalf of such contractor and defend
9 the action. Any such notice shall be in writing, shall be
10 mailed within 15 days after the date of receipt by the
11 contractor of service of process, and shall authorize the
12 Attorney General to represent and defend the contractor in
13 the proceeding. The giving of this notice to the Attorney
14 General shall constitute an agreement by the contractor to
15 cooperate with the Attorney General in his defense of the
16 action and a consent that the Attorney General shall conduct
17 the defense as he deems advisable and in the best interests
18 of the contractor and the State, including settlement in the
19 Attorney General's discretion. In any such proceeding, the
20 State shall pay the court costs and litigation expenses of
21 defending such action, to the extent approved by the Attorney
22 General as reasonable, as they are incurred.

23 In the event that the Attorney General determines either
24 (1) that so appearing and defending a contractor involves an
25 actual or potential conflict of interest, or (2) that the act
26 or omission which gave rise to the claim was not within the
27 scope of the State response action contract, or was
28 intentional, willful or wanton misconduct, the Attorney
29 General shall decline in writing to appear or defend or shall
30 promptly take appropriate action to withdraw as attorney for
31 such contractor. Upon receipt of such declination or
32 withdrawal by the Attorney General on the basis of an actual
33 or potential conflict of interest, the contractor may employ

1 his own attorney to appear and defend, in which event the
2 State shall pay the contractor's court costs, litigation
3 expenses and attorneys' fees to the extent approved by the
4 Attorney General as reasonable, as they are incurred.

5 (b) In any civil proceeding arising out of a State
6 response action contract in which notice was given to the
7 Attorney General under subsection (a), if the court or jury
8 finds that the act or omission of the response action
9 contractor was within the scope of the State response action
10 contract and was not intentional, willful or wanton
11 misconduct, the court shall so state in its judgement, and
12 the State shall indemnify the contractor for any damages
13 awarded and court costs and attorneys' fees assessed as part
14 of the final and unreversed judgment. In such event, if the
15 Attorney General declined to appear or withdrew on the
16 grounds that the act or omission was not within the scope of
17 the State response action contract, or was intentional,
18 willful or wanton misconduct, the State shall also pay the
19 contractor's court costs, litigation expenses and attorneys
20 fees to the extent approved by the Attorney General as
21 reasonable.

22 (c) Unless the Attorney General determines that the
23 conduct or inaction which gave rise to the claim or cause of
24 action was not within the scope of the State response action
25 contract, or was intentional, willful or wanton misconduct,
26 any case in which notice was given pursuant to subsection (a)
27 may be settled, in the Attorney General's discretion, and the
28 State shall indemnify the contractor for any damages, court
29 costs and attorneys' fees agreed to as part of the
30 settlement. If the contractor is represented by private
31 counsel, any settlement which obligates the State to
32 indemnify the contractor must be approved by the Attorney
33 General and the court having jurisdiction.

34 (d) Court costs and litigation expenses and other costs

1 of providing a defense, including attorneys' fees, paid or
2 obligated under this Section, and the costs of
3 indemnification, including the payment of any final judgment
4 or final settlement under this Section, shall be paid by
5 warrant from the Response Contractors Indemnification Fund
6 pursuant to vouchers certified by the Attorney General.

7 (e) Nothing contained or implied in this Section shall
8 operate, or be construed or applied, to deprive the State, or
9 any response action contractor, of any defense otherwise
10 available.

11 (f) Any judgment subject to State indemnification under
12 this Section shall not be enforceable against the response
13 action contractor, but shall be paid by the State in the
14 following manner. Upon receipt of a certified copy of the
15 judgment, the Attorney General shall review it to determine
16 if the judgment is (1) final, unreversed and no longer
17 subject to appeal, and (2) subject to indemnification under
18 this Section. If he determines that it is, he shall submit a
19 voucher for the amount of the judgment and any interest
20 thereon to the State Comptroller, and the amount shall be
21 paid by warrant to the judgment creditor solely out of funds
22 available in the Response Contractors Indemnification Fund.
23 ~~If--the--balance--in--such--Fund--is--insufficient--to--pay--any~~
24 ~~properly--certified--voucher--for--a--warrant--drawn--thereon,--the~~
25 ~~Comptroller--shall--transfer--the--necessary--amount--to--the--Fund~~
26 ~~from--the--General--Revenue--Fund.~~ In no event will the amount
27 paid for a single occurrence surpass \$100,000 ~~\$2,000,000,~~
28 ~~provided--that--this--limitation--shall--not--render--any--portion--of~~
29 ~~the--judgment--enforceable--against--the--response--action~~
30 ~~contractor.~~

31 (Source: P.A. 84-1445.)

32 (415 ILCS 100/5) (from Ch. 111 1/2, par. 7205)

33 Sec. 5. Response Contractors Indemnification Fund.

1 (a) There is hereby created the Response Contractors
2 Indemnification Fund. The State Treasurer, ex officio, shall
3 be custodian of the Fund, and the Comptroller shall direct
4 payments from the Fund upon vouchers properly certified by
5 the Attorney General in accordance with Section 4. The
6 Treasurer shall credit interest on the Fund to the Fund.

7 (b) Every State response action contract shall provide
8 that 5% of each payment to be made by the State under the
9 contract shall be paid by the State directly into the
10 Response Contractors Indemnification Fund rather than to the
11 contractor, except that when there is at least \$100,000 more
12 than--\$2,000,000 in the Fund at the beginning of a State
13 fiscal year, State response action contracts during that
14 fiscal year need not provide that 5% of each payment made
15 under the contract be paid into the Fund. When only a
16 portion of a contract relates to a remedial or response
17 action, or to the identification, handling, storage,
18 treatment or disposal of a pollutant, the contract shall
19 provide that only that portion is subject to this subsection.

20 (c) Within 30 days after the effective date of this
21 amendatory Act of 1997, the Comptroller shall order
22 transferred and the Treasurer shall transfer \$1,200,000 from
23 the Response Contractors Indemnification Fund to the
24 Brownfields Redevelopment Fund. The Comptroller shall order
25 transferred and the Treasurer shall transfer \$1,200,000 from
26 the Response Contractors Indemnification Fund to the
27 Brownfields Redevelopment Fund on the first day of fiscal
28 years 1999, 2000, 2001, 2002, and 2003~~7~~-2004~~7~~-and-2005.

29 (d) Within 30 days after the effective date of this
30 amendatory Act of the 91st General Assembly, the Comptroller
31 shall order transferred and the Treasurer shall transfer
32 \$2,000,000 from the Response Contractors Indemnification Fund
33 to the Asbestos Abatement Fund.

34 (e) Within 30 days after the effective date of this

1 amendatory Act of the 93rd General Assembly, the Comptroller
2 shall order transferred and the Treasurer shall transfer all
3 monies in the Response Action Contractor Indemnification Fund
4 in excess of \$100,000 from the Response Action Contractor
5 Indemnification Fund to the Brownfields Redevelopment Fund.
6 (Source: P.A. 91-704, eff. 7-1-00; 92-486, eff. 1-1-02.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.